
(2010) 10 AHC CK 0403
In the Allahabad High Court
Case No : Criminal Revision No. 3772 of 2010

Shishupal Singh

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 21-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 319, 397, 401
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 304B, 498A

Citation : (2011) 1 ACR 927

Hon'ble Judges : S.C. Agarwal, J

Bench : Single Bench

Judgement

S.C. Agarwal, J.—Heard learned Counsel for the revisionist and learned A.G.A. for the State.

2. No notice is issued to private opposite party in view of the order proposed to be passed today, however, liberty is reserved for private opposite party to apply for variation or modification of this order if he feels so aggrieved.

3. This revision under Sections 397/401, Code of Criminal Procedure is directed against the order dated 18.8.2010, passed by Additional Sessions Judge/Fast Track Court No. 1, Firozabad in S.T. No. 25 of 2010. State v. Ravindra Pratap Singh and Ors. under Sections 498A, 304B. I.P.C. and Section 3/4, Dowry Prohibition Act, P.S. Sirsaganj, district Firozabad, whereby the application of the complainant (opposite party No. 2) u/s 319, Code of Criminal Procedure for summoning Luvkush, Shishupal (revisionist) and Smt. Renu was partly allowed and the revisionist Shishupal was summoned to face trial under Sections 498A, 304B, I.P.C. and Section 3/4, Dowry Prohibition Act.

4. As per the F.I.R., Vineeta sister of the complainant was married on 4/5.3.2003 to accused Ravindra Pratap Singh. After marriage, she was harassed by her husband Ravindra Pratap Singh, father-in-law Ram Bharosey Lal, Luvkush and Shishupal -jeths and Smt. Renu - jethani on account of demand of dowry.

Vineeta informed the complainant many times in person and also on cell phone that she was apprehending her murder by the accused persons. Vineeta died in her matrimonial home in the intervening night of 23rd and 24th of May, 2009. F.I.R. was lodged on 24.5.2009. It was also alleged in the F.I.R. that the complainant had paid a sum of Rs. 1 lac to Luvkush, the jeth of the deceased, for service, even then the accused persons committed murder of his sister.

On autopsy, the death of the victim was found due to asphyxia as a result of hanging.

After investigation, Investigating Officer submitted charge-sheet against Ravindra Pratap Singh and Ram Bharosey Lal.

During investigation, the prosecution examined Girish Chandra as P.W. 1, Kripal Singh as P.W. 2. Smt. Vidyawati as P.W. 3, Ajay Kumar as P.W. 4 and Rajaram as P.W. 5.

5. An application 21B was" moved by the complainant before the trial court u/s 319, Code of Criminal Procedure for summoning Luvkush, Shishupal and Smt. Renu for trial on the ground that they were also responsible for the death of his sister and were wrongfully exonerated by the police during investigation.

6. Relying on the statements of the five witnesses examined by the prosecution, learned Sessions Judge found that there was no good ground to summon Luvkush and Smt. Renu, but Shishupal is a shiksha mitra and lives in the same village and there was no evidence that he lives separately, therefore, the trial court found that there were sufficient grounds to summon Shishupal for trial. His presence at the time of incident is apparent and the evidence of such nature could result in conviction of Shishupal. Consequently, Shishupal was summoned u/s 319, Code of Criminal Procedure

7. Learned Counsel for the revisionist submitted that revisionist is innocent. The deceased had two daughters aged about 5 and 2 years respectively and had no male issue and on account of this reason she committed suicide. It was further submitted that the deceased had ligature mark on her body and there was no other injury. The Investigating Officer exonerated the revisionist on the ground that he was living separately with his own family and Girish Chandra (P.W. 1) has given false statement in Court.

8. Reliance has also been placed by learned Counsel for the revisionist on the statements of Smt. Vidyawati (P.W. 3) and Ajay Kumar (P.W. 4) - the mother and another brother of the deceased, who turned hostile and did not depose about any dowry demand or harassment by the revisionist. Learned Counsel also relied upon a photostat copy of the parivaar register to show that the revisionist was living separately.

9. Learned A.G.A. supported the impugned order and contended that the question of separate living will be considered by the trial court after defence evidence and this is not the proper stage to give a finding on the point of

separate living. It was contended that the deceased died in her sasural within 7 years of her marriage under circumstances other than normal and before her death, she was subjected to cruelty by the accused persons including the revisionist on account of demand of dowry. Learned Sessions Judge did not commit any illegality in summoning the accused.

10. Admittedly, the deceased died within 7 years of her marriage in her matrimonial home due to hanging. P.W. 1 Girish Chandra has specifically stated that her sister was being harassed by the accused persons including the revisionist on account of demand of dowry. When the complainant reached the house of the accused persons and found the dead body of her sister, the inmates of the house were missing and had absconded. Her sister had disclosed to him that she was being harassed and beaten by the accused persons on account of demand of dowry. In these circumstances, I do not find any illegality in the impugned order. Learned Sessions Judge has also found that the evidence is of such a nature that if unrebutted, the same may be sufficient for conviction.

11. In these circumstances, the order summoning the revisionist to face trial is fully justified. I do not find any error or illegality in the impugned order and no interference of this Court is required.

12. However, in view of the fact that the police did not file the charge-sheet against the revisionist, the revision is disposed of with a direction that if the revisionist Shishupal Singh surrenders before the Court concerned within a period of three weeks from today and applies for bail, his prayer for bail be considered by the trial court expeditiously, if possible on the same day in accordance with law.