

State Vs. Mohd Hasan and ors

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Court : Delhi

Decided On : Jul-21-2014

Judge : Pradeep Nandrajog

Appellant : State

Respondent : Mohd Hasan and ors

Judgement :

§~36 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.L.P. 440/2014
STATE Represented by: Petitioner Mr.Feroz Khan Ghazi, APP. versus MOHD
HASAN & ORS Represented by: Respondents None. CORAM: HON'BLE MR.
JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

2107.2014 % 1. Having heard the learned counsel for the State we find no case made out to issue notice to the respondents in the criminal leave petition.

2. The impugned decision dated May 08, 2014 is well considered.

3. The deceased Shanno was married to accused No.3 Mohd.Imran @ Guddu on March 08, 2009. Accused No.1 Mohd.Hasan is the father of Mohd.Imran. Mohd.Zamil accused No.2 is the brother of Mohd.Imran.

4. Shanno committed suicide on July 29, 2010, a fact not disputed in the appeal.

5. The three accused faced trial for offence punishable under Sections 498A/304B/34 IPC.
6. Evidence has surfaced that the deceased was suffering from depression and was under treatment at IHBAS, Shahdara. She remained admitted at the hospital from August 29, 2009 to September 16, 2009 and as deposed by Dr.Rajesh, Professor of Psychiatry who had treated her. Shanno was suffering from adjustment disorder and was evincing depressive reaction with emotionally unstable personality disorder.
7. The three witnesses of the prosecution who deposed regarding the dowry demand are Zahir Ahmed, the father of the deceased, Afsar Jahan, the mother of the deceased and one Mohd.Israil, the brother-in-law of the deceased.
8. The learned trial judge has rightly noted that in his statement made to the Sub-divisional Magistrate after Shanno died, Zahir Ahmed did not speak a word of any dowry being demanded. In his statement made to the Subdivisional Magistrate even Mohd.Israil did not utter a word of any dowry being demanded. Afsar Jahans statement under Section 161 Cr.P.C. was recorded on October 02, 2010 i.e. after two months and three days of the unfortunate incident when Shanno committed suicide. For the first time in said statement vague allegations pertaining to dowry harassment were made. The learned trial judge has highlighted the time gap between the date when the deceased died and Afsar Jahans statement under Section 161 Cr.P.C was recorded.
9. The learned trial judge has also referred to a complaint filed by Afsar Jahan to the DCP, Crime against Women Cell and the proceedings in relation to the said complaint which bring out that Afsar Jahan had not made any grievance concerning dowry. Her concern pertained to her daughter not being given proper medical aid concerning her depression.
10. The learned judge has noted that before the Dowry Cell, Shanno had evinced desire to live with her husband.

11. A writing Ex.PW-2/A stated to be in the hand of the deceased was attempted to be used by the prosecution to bring home the point that the deceased was under a tension concerning a dowry demand. The learned trial judge has noted cutting and interpolation in the said writing Ex.PW-2/A. The learned judge has noted that said papers were never handed over to the Police. PW-2 produced the same when she appeared in Court. No handwriting expert was summoned to prove that the writing was of ShanNo.12. The learned trial judge has referred to a reason for the deceased committing suicide being evidenced from the medical papers concerning her treatment when she was admitted as an indoor patient at IHBAS and prior thereto was being given medicine at the OPD. The learned trial judge has opined that the deceased was having psychiatric problems. She was having adjustment disorder. She had emotionally unstable personality. This could be the probable reason why Shanno committed suicide.

13. Leave petition is dismissed. PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JULY21 2014 vn

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