

Lt. Arun Kumar Vs. State

Lt. Arun Kumar Vs. State

SooperKanoon Citation : sooperkanoon.com/463191

Court : Allahabad

Decided On : Dec-14-1994

Reported in : I(1995)DMC456

Judge : C.A. Rahim, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 304B and 498A

Appeal No. : Cr. Application No. 1432 of 1994

Appellant : Lt. Arun Kumar

Respondent : State

Disposition : Application allowed

Judgement :

C.A. Rahim, J.

1. Heard both the sides on the point of admission. Learned Counsel for the petitioner has submitted that there is no allegation in the First Information Report against the petitioner. The victim was shifted to the hospital at 11.20 a.m. i.e. within 20 minutes after it came to the notice of the petitioner. The victim died in the hospital at 11.50 a.m. He has claimed that the petitioner also informed the parents of the victim about the poison consumed by her. The only allegation against the petitioner is that did not protect the victim i.e. his wife, even after it was known to

him that his parents and inmates were committing torture on her. In one of the letters (at page 26 of the counter affidavit) it was written by him to his wife that she might shift to her father's residence, if situation so demanded.

2. Learned Counsel for the respondent No. 2 has submitted that in two letters and the Audio Cassette, it is evident that the petitioner was responsible for the murder. He has referred to Section 113 of the Indian Evidence Act in this connection.

3. It appears that the First Information Report was lodged 7 days after the occurrence, though the inquest report shows that father of the victim i.e. complainant was present at that time. None of the Doctor is forthcoming to support the prosecution case that it was a case of poisoning. The Chemical Examiners report is also missing. As regards the allegation against the petitioner it appears that he was posted at Cochin and his wife was residing with his parents. He had nothing to do about the torture if any committed to her. It is clear that he was not suspected in the F.I.R. for the alleged murder of the victim even though he was present there. The allegation is that he did not extend proper protection to his wife from on the hands of his parents. He was staying at a distance so he used to instruct his wife to bear the things and to leave the house of his parents, if things turned hostile. From the letters it appears that he advised the victim in that respect. From the letter of the victim it does not appear that the torture, if any, was made to her for the purposes of extracting dowry. The conduct of the petitioner is that he immediately rushed to the hospital to offer treatment and informed the parents of the victim. All these things go to show that he was not responsible for the murder in any way. The charge which was brought against him was an after thought. Since there is merit in the contention of the petitioner I find that this is a fit case where inherent power of this Court can be invoked.

4. The petition is, therefore, allowed. Criminal proceeding against the petitioner in Crime Case No. 458/93 under Sections 304-B/498-A I.P.C. and 3/4 Dowry Prohibition Act giving rise to Criminal Case No. 657/93, pending in the Court of Munsif Magistrate, Haldwani, District Nainital is hereby quashed. I may make it clear that the above observation is restricted to the petitioner only. The trial of other accused persons shall continue and no part of the above observation can be

used for and against other co-accused persons, which is to be decided according to its own merit and according to law.

With these observations the petition is disposed of.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com