

indal Ram Vs. State

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Court : Madhya Pradesh

Decided On : Sep-28-2005

Reported in : 2006(1)MPHT326

Judge : U.C. Maheshwari, J.

Acts : Dowry Prohibition Act - Sections 3 and 4; Indian Penal code - Sections 304B, 306 and 498A; Code of Criminal Procedure (CrPC) , 1974 - Sections 438

Appeal No. : Misc. Criminal Case No. 6877/2005

Appellant : indal Ram

Respondent : State

Advocate for Def. : Ramesh Shukla, Govt. Adv.

Advocate for Pet/Ap. : M.B. Shrivastava and; Jitendra Shrivastava, Adv.

Disposition : Application dismissed

Judgement :

ORDER

U.C. Maheshwari, J.

1. This is an application under Section 438 of Cr.PC for grant of anticipatory bail.

2. The applicant is under apprehension of arrest in connection with Crime No. 357/05 registered at P.S. Multai, under Sections 304B, 306, 498A of IPC and Sections 3 and 4 of Dowry Prohibition Act.

3. Counsel for the applicant submits that any of the applicants have not committed any alleged offence, no demand of dowry has been made by them, their behaviour was never cruel towards the deceased Chhaya Bai @ Maya Bai. They further submit that no abatement to commit suicide was given to the deceased by any of the applicant. They have been falsely implicated. They further submit that applicant No. 1 is 62 years old while applicant No. 2 being wife of applicant No. 1 is also old in age. They are father-in-law and mother-in-law of the deceased, if they are arrested and taken into custody then they would suffer from difficulties. Their family has a great respect in their locality. Besides this applicant No. 1, not only a social worker but also president of Block Congress Committee and Sahu Samaj of Multai and having good position in different institutions. Applicant Nos. 3 and 4 are also having good reputation and lastly it was submitted that there is no criminal history against any of the applicant and prayed for anticipatory bail.

4. While on other hand Counsel for State has submitted that the matter is under investigation and the same is in progress and if during investigation any of the applicant is released on anticipatory bail then proper investigation would not be held by the agency and prayed for dismissal of the application.

5. On consideration, without expressing any opinion on merits of the case and regarding respect and status of any of the applicant in the society and the locality, they do not deserve for anticipatory bail in view of decision of the Apex Court in the matter of Samunder Singh v. State of Rajasthan : (1986)ILLJ290SC in which held as under :-

The widespread belief that dowry deaths are even now treated with some casualness at all levels seems to be well grounded. The High Court has granted anticipatory bail in such a matter. We are of the opinion that the High Court should not have exercised its jurisdiction to release the accused on anticipatory bail in disregard of the magnitude and seriousness of the matter. The matter regarding the unnatural death of the daughter-in-law at the house of her father-in-law was

still under investigation and appropriate course to adopt was to allow the concerned Magistrate to deal with the same on the basis of the Material before the Court at the point of time of their arrest in case they were arrested. It was neither prudent nor proper for the High Court to have granted anticipatory bail which order was very likely to occasion prejudice by its very nature and timing. We therefore consider it essential to sound a serious note of caution for future. The High Court is under no compulsion to exercise its jurisdiction to grant anticipatory bail in a matter of this nature. So far as the present matter is concerned, since it has become infructuous, we do not propose to pass any order. Subject to these observations, the appeal is dismissed.

6. In view of aforesaid dictum of the Apex Court, I am of the considered view that investigation is in progress, anticipatory bail to any of the applicant should not be granted in the facts and circumstances of the case. Thus, the application for anticipatory bail is hereby dismissed.

C.C. as per rules.

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