

Seema Puri and ors. Vs. State

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Court : Delhi

Decided On : May-09-1990

Reported in : 41(1990)DLT660; II(1990)DMC374; 1990(19)DRJ347

Judge : Y.K. Sabharwal, J.

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

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 1682 of 1989

Appellant : Seema Puri and ors.

Respondent : State

Advocate for Pet/Ap. : K.K. Sud,; D.C. Mathur,; Rajesh Batra and;

Judgement :

Y.K. Sabharwal, J.

(1) Rashmi, the deceased was married to Navin Puri, petitioner No. 3 on 17-2-1988. Seema Puri, petitioner No.1 and D.R.Puri, petitioner No 2, are parents of Navin Puri. Rashmi committed suicide on 3rd April 1989 by drinking two glasses of kerosene oil and then by dousing herself with kerosene oil and setting herself ablaze. The petitioners are being prosecuted for offences under Sections 304B/406/498A IPC. On 21st July 1989 the bail applications of the petitioners were dismissed as withdrawn by orders made by R.L Gupta. J (Cr. Misc. Main

793/89 and Cr. Misc. Main 928/89) Another application filed by Seema Puri was dismissed by Gupta, J. on 21st August 1989 by a detailed order (Cr. Misc Main 1245/89). On 3rd October 1989 the bail application filed by the petitioners was dismissed as withdrawn by Santosh Duggal, J. (Cr. Misc. (M) 1547/89). By the present application petitioners have again approached this court. seeking bail.

(2) The dismissal of earlier bail applications cannot operate as a bar So the petitioners again approaching this court. In Babu Singh & Ors v. State of Uttar Pradesh : 1978 CriLJ651 , Justice Krishna Iyer speaking for the Supreme Court said 'But an order refusing an application for bail does not necessarily preclude another. on a later occasion, giving more materials, further developments and different considerations.' The present application is not barred and thus I proceed to consider the contentions of learned counsel for the parties,

(3) Firstly, it is contended that the deceased on learning that she may be exposed that she had number of abortions may have decided to end her life. It is urged that the medical check up of the deceased in March 1989 had revealed that she had enlarged multifarious type of uterus which according to the learned counsel for the petitioners is demonstrative of the fact that she had number of abortions. It appears that in Cr. Misc. 1245/89 a medical certificate purported to be issued by Madan's Ultra Sound Centre was filed The said certificate was verified by the investigating Officer from Dr. A K. Gupta of the aforesaid Madan Ultra Sound Centre who mentioned in a note appended on the said certificate that the word is 'Nulliparnus. 'Nulliparnus' means a woman who has never born a viable child. Learned counsel for the petitioner vehemently criticised the said note on the certificate However, the criticism of learned counsel will be done into during the course of the trial. From reading of the certificate, prima facia, at this stage. it is not possible to agree with the contention that the deceased had multifarious uterus Reliance was also placed on a certificate issued by Dr. Deepak Chawla according to, which the examination of Rashmi Puri on 24 March 1989 shows 'enlarged multifarious type of .uterus'. The certificate from Dr. Deepak Chawla was filed Along with the present application for bail. it had not been filed with the earlier applications. The Investigating Officer has filed an affidavit, inter alia, stating that when he went to verify the certificate dated 24th March 1989 given by Dr. Deepak

Chawla, firstly, he avoided to meet the Investigating Officer and then on meeting the Investigating Officer the doctor was hesitant to commit definitely and specifically in regard to the certificate. The doctor is stated to have told the Investigating Officer that he does not remember any Mrs. Rashmi Puri having been examined by him, he did not know whether she was wife of Navin Puri; he did not maintain any receipt of the charges for examining her; he did not maintain any record with regard to the said case stating that probably it was a free case. The doctor, however, admitted his signature on the certificate. In this background much reliance on this certificate cannot be placed at this stage, in support of the contention that the deceased had enlarged multifarious type of uterus. Those aspects will be examined during the trial.

(4) The statement of Rashmi, prima facie, seems to have been recorded by Sdm at about 11.30 Am on 3rd April 1989. Her statement also seems to have been recorded by the police sometime before recording of statement by SDM. The said statements purport to have the thumb impressions of Rashmi Puri. According to both the statements the deceased was being harassed by the petitioners. The statement recorded by police purports to have been recorded in the presence of the father and brother of the deceased and also mentions about some quarrel a day earlier. That statement also bears the signatures of the father purports to have been recorded before 11 Am on 3rd April 1989. In the said statement the father has, inter alia, stated that the petitioners were harassing the deceased as she had, according to them, brought less dowry. According to the said statement they used to give beatings to the deceased for having brought less dowry. All these statements, prima facie, appear to have been recorded soon after the burning incident.

(5) Learned counsel for the petitioners made elaborate submissions in their criticism of the aforesaid statements. It is contended that the said statements have been fabricated and certain words added, it is urged that a photocopy of the purported statement recorded by Sdm, as given to the petitioners is different than the one on record. These facts have been controverted by the respondent. An affidavit of Sub Inspector Mr. Bhim Singh has been filed, inter alia, stating that the copy of the dying declaration filed with the petition seems to be wrong and

enclosing a copy of the dying declaration an Annexure R-I Along with the said affidavit. The copy of the dying declaration filed Along with the affidavit of Sub-Inspector Bhim Singh seems to be correct as per the original on judicial file which had been summoned. At this stage, this court has to proceed on the basis of the dying declaration as it exists on the file and the contention raised by counsel for the petitioner about the different copy supplied to .the accused can appropriately be gone into during the trial. The contention that the setting or placement of some line or words in the dying declaration recorded by the Sdm throws doubt about the genuineness of the raid document and other such infirmities pointed out in support of the plea for bail, will be decided during trial. Reference is also made to the statements of the neighbours recorded under Section 161 Criminal Procedure Code . in support of the contention that the deceased could not have prima facie made the statements purported to have been recorded by the police and the SDM. It is also contended that . the deceased was an educated lady and thus the putting of thumb impression by her instead of signing the statements also casts a doubt. Regarding the thumb impression it is contended that from the medical record, it is evident, that thumbs and finger of the deceased were badly burnt and, thereforee, it was not possible for the deceased to put her thumb impression The deceased was having 98% burns and absence of her signatures on the statement is thus, prima facie, understandable. It does not necessarily follow from 98% burns that deceased was not in a position to place her thumb impression or her thumbs had been completely burnt and she could not have thumb marked the statements. These minute details cannot be gone into at this stage. Prima facie, I do not find any substance in the aforesaid contentions and wish to say no more at this stage lest the defense of the accused may be prejudiced.

(6) Further the contention that in Rashmi's statement no reference has been made to demand of dowry, is to be seen in the light of the fact that the deceased had 98% burns and may not have been in a position to give a complete statement, prima facie, the statement of the father of the deceased recorded soon after the incident and in which reference has been made to demand for dowry cannot be overlooked at this stage. Another discrepancy pointed out is that the time recorded in D.D. No. 5A dated 3-4-89 is 11.00 Am and the time recorded when the Rukka was forwarded by Bhim Singh, Si, from the hospital is 11:05 Am and it is urged

that how could D.D. was recorded earlier than Sending of the Rukka by Sub-Inspector This aspect again cannot be properly gone into at this stage and will be gone into at the time of trial and in totality of the circumstances is not of such a significance so as to direct release of the petitioners on bail.

(7) Prima facie ensure of both the statements, one recorded by police and the other by the Sdm, points accusing fingers towards the petitioners, more so, read with the statement of the father of the deceased. The death of Rashmi was caused by burns. The death occurred within about 14 months of the marriage. There is prima facie material in regard to harassment in connection with demand for dowry. There is a presumption against the petitioners under Section 304B, Indian Penal Code read with Section 113B of the Evidence Act. There are no such inherent infirmities that it may be possible at this stage to say that the presumption stands rebutted. Considering the totality of the circumstances, the case for grant of bail has not been made out. The observations made in this order will not. In any manner, prejudice the rights and contentions of the parties during the trial. With the observations the application is dismissed.