

**Mohan Vs. State**

**Mohan Vs. State**

**SooperKanoon Citation :** [sooperkanoon.com/693325](http://sooperkanoon.com/693325)

**Court :** Delhi

**Decided On :** May-28-1993

**Reported in :** 50(1993)DLT633

**Judge :** Sat Pal, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

**Appeal No. :** Criminal Miscellaneous (Main) Appeal No. 3456 of 1992

**Appellant :** Mohan

**Respondent :** State

**Advocate for Pet/Ap. :** B.K. Sharma and; H.J.S. AhLuwalia, Advs

**Judgement :**

**Sat Pal, J.**

(1) His is a petition for grant of bail under Section 43911of the Code of Criminal Procedure.

(2) Briefly stated the case of the prosecution is that deceased Maya Devi was married to the petitioner about two years before the date of occurrence. It has been alleged by the father of the deceased that he had given dowry worth Rs. 11,000.00 one cycle, watch, radio, wall clock etc. It is further alleged that the father

of the deceased paid a sum of Rs. 20,000.00 to the petitioner to start a factory, but inspired by this the petitioner and his mother used to demand further dowry. It is then alleged that the deceased had come to the house of her parents 15 days before the date of occurrence and she had told her father that her-in-laws were demanding money and against that demand the father had paid Rs. 1300.00 and had given one saree and blouse. It is further alleged that on 31/05/1992, the deceased was burnt by the petitioner, his mother Gomati and his brother Montu.

(3) Mr. Sharma, the learned Counsel appearing on behalf of the petitioner submitted that deceased had filed a complaint before the Crimes Against Women Cell, New Delhi on 29.11.91, but no allegation was made against the petitioner. He drew my attention to the said complaint copy of which is at page 20 of the paper book, wherein it was stated by the deceased that her mother-in-law Gomati, sister-in-law Bhagwan Devi, brother-in-law (Devar) Gole and elder brother-in-law (Jeth) and sister-in-law (Jethani) used to beat her and told her to bring more money from her parents. In this complaint she, however, stated that if her husband was ready to keep her safely she was ready to live with him in a separate house. The learned Counsel drew my attention to the proceedings held before the C.A.W. Cell from December, 1991 to 30/04/1992. On 30/03/1992 the deceased stated that her in-laws should be directed to return her articles of dowry but on 30/04/1992 she stated that she had started living with her husband separately and thereafter the case was closed. The learned Counsel, therefore, submitted that no case is made out under Section 304B Indian Penal Code as there was no demand of dowry by the petitioner. He submitted that for return of articles of dowry, a case could be made out under Section 406 IP Code and for that offence the maximum punishment was three years.

(4) Learned Counsel further submitted that the petitioner himself burnt his arms and thigh while saving the deceased and in this connection he drew my attention to Dd No. 71-B dated 1/06/1992 (copy of which is at page 24 of the paper book wherein it has been stated that petitioner was admitted in the hospital in burnt condition and was brought by H.C. Dharam Singh to the hospital. He also drew my attention to the MLC of the petitioner which shows that the petitioner was admitted in the J.P.N. Hospital on 1.6.92 and he got burnt injuries to his left arm, forearm,

left thigh and right arm. Learned Counsel also submitted that the petitioner was granted interim bail by the Sessions Court from 4.7.92 to 16.12.92 because of the burnt injuries he had suffered. He, therefore, contended that the petitioner should be released on bail.

(5) Mr. Ahluwalia, learned Counsel appearing on behalf of the State drew my attention to the statement of the father of the deceased recorded under Section 161 Code of Criminal Procedure wherein it has been alleged that the petitioner tried to kill his wife twice earlier. The learned Counsel also drew my attention to DD-5A dated 27.1.92 wherein it is stated that the deceased has alleged that the petitioner had abused her. Learned Counsel also drew my attention to the MLC of the petitioner which shows that the petitioner was admitted in the J.P.N. Hospital on 1/06/1992, but no date of discharge has been mentioned therein. The learned Counsel submitted that in fact the petitioner had left the hospital on the same day without permission of the hospital authorities and this fact will be proved by the prosecution during the course of trial of the case. Learned Counsel submitted that though the Counsel for the petitioner got burnt injuries when he tried to save the deceased (wife) but the M.L.C. shows that he informed the doctorate the time of admission in the hospital that he was burnt by his own wife. The learned Counsel, therefore, contended that in the light of the aforesaid facts and circumstances a case is prima facie made out against the petitioner under Section 304B/498A or under Section 498A/302 IPC. He further contended that even in case the deceased has committed suicide because of the ill-treatment by the petitioner, a case is made out against the petitioner under Section 306 Indian Penal Code and even in that case the petitioner is not entitled to bail.

(6) I have given my thoughtful consideration to the submissions made by the learned Counsel for the parties and I have perused the records. According to the submissions made by the learned Counsel for the petitioner, the petitioner and the deceased were living in a separate house from 30/04/1992. The father of the deceased in his statement before the S.D.M. on 1.6.92 alleged that the petitioner and his mother used to demand money and articles of dowry. He specifically alleged that the deceased came to his house about 15 days before the date of occurrence (i.e. on or about 15/05/1992) and had told him that her in-laws were

demanding money and the complainant had paid Rs. 800.00 on that date and another sum of Rs. 500.00 Along with one Saree and one blouse a week before the date of occurrence. From these allegations, it appears that the money etc. was demanded by the petitioners at that time the deceased was living with the petitioner and not with any other members of her in-laws. The father of the deceased had also alleged that the petitioner, his mother and younger brother had tried to burn his daughter twice earlier. The deceased admittedly had died because of burn injuries and it appears to be an unnatural death. At the time of burning of the deceased, besides petitioner none else was present. Further in para 6 of the petition it has been stated that the petitioner was severally injured while extinguishing the fire and trying to save the deceased but the M.L.C. of the petitioner shows that the petitioner stated before the doctor that he got burnt injuries because he was burnt by his own wife. Keeping in view the aforesaid facts. I am of the view that the petitioner is not entitled to be released on bail. Accordingly, the bail petition is dismissed.

(7) Lower Court records be sent back forthwith. The observations given hereinabove will not have any bearing on the merits of the case.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**