

Ram Sarup Vs. the State and ors.

Ram Sarup Vs. the State and ors.

SooperKanoon Citation : sooperkanoon.com/695191

Court : Delhi

Decided On : Jun-01-1987

Reported in : 32(1987)DLT329

Judge : R.N. Aggarwal and; Jagdish Chandra, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Criminal Writ Appeal No. 247 of 1987

Appellant : Ram Sarup

Respondent : The State and ors.

Advocate for Pet/Ap. : Rita Rao,; Sakesh Kumar,; S.T. Singh and;

Judgement :

R.N. Aggarwal, J.

(1) The deceased Smt. Rumali (M, Roopmati was the daughter of Ram Sarup petitioner and she was married to Chhatarpal respondent no. 7 on 6.3.1987. As per custom prevailing in the petitioner's region a ceremony called 'Gauna' takes place after the marriage and according to that custom the bride is taken to the matrimonial home after the 'Gauna'ceremony. In the case of the deceased she was sent only for three days to stay in her husband's house after the marriage and thereafter she was brought back to her parents' house in order that she could be

sent to the matrimonial home ceremoniously after the Gauna. The Gauna ceremony took place on 19.4.1987 and it was after that ceremony that the deceased was taken to the matrimonial home on that very day by her husband Chhatarpal around 9.00 P.M. after the Gauna ceremony. The house of the husband being premises No. X-520, J.J. Colony, Mangolpuri, Delhi comprised only one room tenement of 25 sq. yds. and it comprised of one room with the small court-yard in front of which the stairs led to the terrace. Underneath the stairs there is a makeshift kitchen and adjoining the stairs, there is a bath room and a door leading to the by-lane. In the early hours of the morning of the next day, i.e. on 20.4.1987 at about 5.00 A.M. there was fire in the said room of this house and on the opening of the door of the room from outside the deceased bride Smt. Rumali was found dead with fire burn injuries and she was at that time in a kneeling position when she was burning. In this room only the deceased and her husband were there in the night intervening 19th and 20/04/1987 whereas the remaining members including the in-laws of the deceased were on the terrace.

(2) Mrs. Jai Kumari is Assistant Commissioner of Police (Crime against Women Cell) New Delhi. She is respondent no. 5 in this case and she has deposed to an affidavit wherein she has stated that she went to the spot on 21.4.1987 and again on 6.5.1987 and recorded the statements of the following persons :-

1. Sh. Chhatar Pal, husband of the deceased. 2. Smt. Bhagwan Devi, mother-in-law of the deceased. 3. Smt. Anandi Devi, neighbour of her in-laws. 4. Smt. Shanti Devi, neighbour of her in-laws. 5. Sh. Sumer Singh, mediator. 6. Sh. Hoti Lal, uncle of the deceased.

She has also deposed that on 3.5.1987 all the goods given to the deceased by her father in her marriage were returned to him by the in-laws of the deceased in her presence as also in the presence of a Social Worker Smt. Satya Chadha. She further deposed that the enquiries conducted by her revealed that the deceased Smt. Rumali committed suicide because she was not at all satisfied with the physical and mental calibre of her husband Chhatarpal who was not even a good looking boy and was a simpleton and that the deceased was not prepared to go to her in-laws' house on 19.4.1987 but was persuaded to go there by her parents in

the late evening on that day. According to her the enquiry further revealed that Chhatarpal was a person who was much below the expectations of the deceased. The enquiry was also conducted by Shri U.C.Shringi, Executive Magistrate under S. 176 of the Code of Criminal Procedure 1973 at the spot on 20.4.1987 and he recorded the statements of the following persons:-

'1.Smt.Angoree, mother of the deceased.2. Smt. Shanti Devi r/o X-522.3. Sh. Ram Kishan, father-in-law of deceased.4. Sh. Chhatar Pal, husband of the deceased.5. Smt. Anandi Devi r/o X-539.'

The report of the learned magistrate is dated 26.5.1987 and his ultimate opinion is given therein and is reproduced below :-

'FROM the fore-going facts I am of the considered view that the death is due to burning and may be termed as suicide in the absence of any other evidence to the contrary. A surmise may be hazarded that the girl probably was below 18 years of age and was married against her wishes. She did not desire to live with her husband. This child marriage had led to a trauma leading to the death by burning.'

(3) In the present petition under Article 226 of the [Constitution of India](#) by the petitioner Ram Sarup father of the deceased, the petitioner has asserted that on 24.3.1987 after the marriage of the deceased but before the Gauna ceremony, there was a fair (Budho Mata Ka Mela) in the same area where the deceased was living along with her parents. Respondent No. 7 Chhatarpal husband of the deceased came to the house of the petitioner and took the deceased to the fair. Under the garb of merry making and enjoyment but infact he had the intention to convey that she should bring more dowry and he(Chhatarpal) asked the deceased in a very clear and unequivocal terms that she must get a sofa-set, television and a ceiling fan more and in case she failed to bring the same, she would be killed. He has asserted that the mystery of the death of the deceased on the very next morning of the Gauna ceremony in the matrimonial home with fire burns was very shocking and it was not a case of suicide but was a case of murder and bride burning. He has also challenged the omission of registering a case against the husband and the in-laws of the deceased as illegal by asserting that there has been failure on the part of respondents 1 to 6 by refusing to exercise the power

vested in them under the law. He has also asserted that the police has not only failed to comply with the mandatory provision of law by not recording the Fir but instead they threatened the petitioner who wanted to complain that if he went on insisting like that he would be in trouble.

(4) The learned counsel for the petitioner contended that in the room in the matrimonial home wherein the husband of the deceased is alleged to be sleeping despite the fire and made to come out after the deceased had died and he came out of the room after the door of the room was opened from outside by the father of the husband, tended to make the occurrence a foul play.

(5) The report of Shri Shringi, Executive Magistrate, shows that the father of the bride had made allegations of dowry demand against the in-laws of the deceased and that he assured them that he would try his level best to meet their demands and that they had demanded dowry on 12th and 13/04/1987 when they came to his house. The petitioner and his wife have also stated before the Magistrate that her in-laws had demanded dowry FROM the deceased during the 'mela' and had also threatened her when she was taken by them there.

(6) It would be necessary to refer to the presumption contemplated by section 113A of the Indian Evidence Act, 1872 and this provision is reproduced below:

'113A. When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such other suicide had been abetted by her husband or by such relative of her husband. Explanation.-For the purposes of this section: 'cruelty' shall have the same meaning as in section 498. of the Indian Penal Code.'

(7) As in the Explanation attached to section 113A set out above as the word 'cruelty' is to have the same meaning as assigned to it in section 498A of the Indian Penal Code. Section 498A of the Indian Penal Code is also set out below:

'498A.Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.Explanation-For the purposes of this section, 'cruelty' means.

(A)any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(B)harassment of the woman where such harassment is with view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.'

As the marriage of Smt. Rumali (deceased) with respondent no. 7 Chhatarpal had taken place about 1' months prior to her alleged suicide which is, thus, within a period of 7 years from the date of her marriage, and her husband and her in-laws are alleged by both the parents of the deceased as having caused harassment to the deceased with a view to coercing her and her parents to meet their unlawful dowry demand and consequently the presumption referred to in S. 113A of the Indian Evidence Act, 1872 can be raised that such suicide had been abetted by the husband and the in-laws of the deceased Smt. Rumali and this fact appears to have been lost sight of by Mrs. Jai Kumari, Assistant Commissioner of Police (Crime against Women Cell) respondent no. 5 as also by the learned Executive Magistrate Mr. U.C. Shringi who held the enquiry under S. 176 of the Code of Criminal Procedure, 1973.

(8) Under the aforesaid circumstances, the police ought to have recorded the first information report on the complaint of the petitioner who is the father of the deceased and registered a case on the basis thereof and then should have investigated the case thoroughly, and as the investigation was not done in this fashion, the grievance of the petitioner cannot be, thus, said to be without justification.

(9) We are, thus, of the view that on the material collected by Smt. JaiKumari, Assistant Commissioner of Police (Crime against Women Cell) New Delhi during investigation and the material collected by the Executive Magistrate Mr. U.C. Shringi during enquiry held by him under section 176 of the Code of Criminal Procedure, 1973, a prima facie case is made out for the registration of a case under the relevant provisions of law and so we direct that a case be registered and investigated. We further direct that after theregistration of the case the investigation of the case shall be entrusted by the Commissioner of Police to an officer not below the rank of the Deputy Commissioner of Police. With these observations, the petition is disposed of. A copy of this order be sent to Commissioner of Police.

--- *** ---

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