

Sushil Kumar @ Sushil Kumar Batra Vs. State

Sushil Kumar @ Sushil Kumar Batra Vs. State

SooperKanoon Citation : sooperkanoon.com/695304

Court : Delhi

Decided On : Feb-21-1994

Reported in : 1994IAD(Delhi)794; 1994(3)Crimes20; 54(1994)DLT123

Judge : V.B. Bansal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439; [Indian Penal code, 1860](#) - Sections 34 and 306

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 3267 of 1993

Appellant : Sushil Kumar @ Sushil Kumar Batra

Respondent : State

Advocate for Pet/Ap. : K.K. Sud,; Rakesh Sherawat,; Meenakshi Jain,;

Judgement :

V.B. Bansal, J.

(1) Sushil Kumar @ Sushil Kumar Batra has filed this application for bail for the offences under Section 304/498A and in the alternative Section 306 read with Section 34, Indian Penal Code in case Fir No. 536/92, Police Station Paschim Bihar.

(2) According to the prosecution story the petitioner, Sushil Kumar @ Sushil Kumar Batra, was married to Seema on 7.3.1991 and out of this wedlock one female child was born on 31.1.1992. Seema died on 1.11.1992 and the post-mortem examination was conducted on 2.11.1992. After the receipt of report of CfsI the doctor gave his opinion that death was due to Baigon poisoning. Case was registered on the basis of the statement of Vipin Babbar, brother of the deceased, recorded by the S.D.M. It was inter alias stated by the complainant, Vipin Babbar, that his sister Seema was married to Sushil Kumar @ Sushil Kumar Batra on 7.3.1991 as per Hindu rites and for about one month everything was normal but, thereafter, her in-laws started taunting her for not bringing sufficient dowry. It was also stated by him that her husband used to taunt her for not bringing different articles and initially she did not disclose this fact to them but when they came to know of it he and his family member consoled her by saying that everything would get settled. He had also narrated about his visits to the house of Seema and having found injury on her forehead and informed by Seema that it was inflicted by her husband with a flower-pot. He has also claimed that Seema came to their house on the occasion of Bhai Duj and expressed a desire for not being sent back to the in-laws as she apprehended that she would be killed and that even on an earlier occasion she wanted to come back to the house of her mother but a request was made to her not to do so by Ashok, elder brother of her husband. It was also claimed by him that on 1.11.1992 it was the birth day of her younger sister Renu where Seema and Sushil Kumar @ Sushil Kumar Batra were to participate and at about 8.30 p.m. a telephone was received from Seema that they would not be able to join them and that Renu gave advice to Seema not to feel agitated and that she should not do anything and that about 20/25 minutes later they received a telephone that Seema was lying and that they did not have any vehicle for removing her. He claimed that they reached the house of Seema after about half an hour when Usha, wife of Chander, elder brother of Sushil Kumar @ Sushil Kumar Batra, met them and on persistent enquiry was told that she has been removed to West City Hospital, Mansrover Garden and on reaching there they came to know that she was dead. It was further stated that at that time Sushil Kumar @ Sushil Kumar Batra admitted his guilt and begged to be excused.

(3) During investigation of the case, statements of the witnesses were recorded, including those of Smt. Narinder Kumari, mother; Naresh, brother; Ms. Renu, sister, of the deceased and Smt. Sudesh Arora, a relation of Smt. Narinder Kumari.

(4) Learned Counsel for the petitioner has submitted that there has never been any demand for dowry nor was there any harassment caused to the deceased by the petitioner. He has further claimed that it was a love marriage between the petitioner and Seema, who was more educated than the petitioner. He has further submitted that the petitioner took great care of his wife and daughter and got huge amount deposited in the name of the minor child and, thus, there could possibly be no question of demand of any dowry from his in-laws since the financial status of the petitioner was much higher than that of the family of his in-laws. He has also submitted that only relations have made false statements and that other relations of the petitioner have already been released on bail. A prayer has, therefore, been made for the petitioner to be allowed bail.

(5) This application has strongly been opposed by the learned Counsel for the State, who has submitted that there has been continuous harassment of the deceased ever since the deceased was married to the petitioner and there were continuous demands for dowry. He has further submitted that the petitioner had even made a demand for Rs. 1, 00,000.00 so as to enable him to change his old car and that the deceased having died of unnatural death in less than two years of the marriage, the case is fully covered by the provisions of Sections 498A, 304B and could be even under Section 306, Indian Penal Code. A prayer has, therefore, been made that the application may be dismissed.

(6) I have gone through the statement of Vipin Babbar and Naresh Babbar, brothers; Smt. Narinder Kumari, mother of the deceased; as also the statement of Smt. Sudesh Arora, a relation of Smt. Narinder Kumari.

(7) There are clear allegations against the petitioner with regard to harassment, demand of dowry and complaints of having given less dowry by the in-laws of Seema. It has also come in the statement of the witnesses that the petitioner had even inflicted injuries to Seema, which were noticed by Vipin Babbar

on his visit to the house of the petitioner. Vipin Babbar and Smt. Sudesh Arora have been stated with regard to the petitioner having admitted before them that he has committed a mistake and begged to be pardoned. There is no doubt that the petitioner has claimed that his financial position is sound and there was no necessity for him to make any demand and that he had even deposited huge amount in the name of his minor daughter, but these facts need to be gone into during trial. Considering all the facts contained in the statements of the witnesses relied upon by the petitioner, I do not find sufficient grounds for the release of the petitioner on bail. As a result the application stands dismissed.

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