

Pushpa Devi Sharma and ors. Vs. the State

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Court : Delhi

Decided On : Apr-13-2005

Reported in : 119(2005)DLT535; II(2005)DMC554; 2005(82)DRJ102

Judge : Badar Durrez Ahmed, J.

Acts : Indian Penal Code (IPC) - Sections 34, 307 and 498A; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 438

Appeal No. : Bail Appln 876/2004

Appellant : Pushpa Devi Sharma and ors.

Respondent : The State

Advocate for Def. : M.N. Dudeja, Adv.; Chandra Prakash and ; P.S. Tomar, Ad

Advocate for Pet/Ap. : Anand Maheshwari, Adv

Judgement :

Badar Durrez Ahmed, J.

1. These three applications are taken together for hearing and are being disposed of by this common order and/or judgment.

2.The learned counsel for the parties submit that there is no possibility of any reconciliation in this matter. Accordingly, the counsel were heard on merits. The

learned counsel for the petitioners submitted that at an earlier stage, upon the registration of the FIR under Section 498A and 34 IPC, four of the petitioners, namely, Pushpa Devi Sharma, Sita Devi, Jyoti Mishra and Deepak Sharma (the husband) were taken into custody and they were granted regular bail. Thereafter, Section 307 was added in the FIR and, therefore, they have approached this court under Section 438 of the Code of Criminal Procedure, 1973 for the grant of anticipatory bail in respect of these four petitioners as well as the other petitioners. The learned counsel for the petitioners submits that, as would be indicated from a reading of the FIR itself, various attempts had been made by the complainant's husband and his family members to show that the marriage between the complainant and her husband somehow works. He submitted that initially there were some difficulties between the complainant and her husband and, as a result, the complainant started residing at her parents home. This happened when she was pregnant and, thereafter, a child was born while she was in her parental home. After some time, the couple reconciled and the complainant returned to the matrimonial home. However, there was discord amongst the two and as a result of which she went back to her parental home. Things came to such a pass that ultimately the husband of the complainant even attempted to save the marriage by residing Along with the complainant in her parents' home. That also did not work. The father-in-law of the complainant arranged a separate flat for the couple to reside in and the couple started residing in that flat. However, the couple lived in that flat for about two and a half months and, thereafter, they separated [the husband going to the house of his parents and the wife (the complainant) going to her parents' home].

3. The learned counsel for the petitioners submitted that in this background, it is quite apparent that all attempts at reconciliation had been made. However, for some reason or the other, the marriage could not be rescued. therefore, the allegation of the complainant, as disclosed in the FIR, whereby it is alleged that the petitioners and all of them attempted to pour kerosene on her would appear to be quite improbable.

4. The learned counsel for the State as well as the counsel for the complainant were also heard in this matter and the counsel for the complainant showed

anguish over the conduct of the petitioners inasmuch as they are not willing to reconcile, while the complainant was willing to go back to the husband. The fact that the complainant, after having made allegations that the petitioners were about to burn her after pouring kerosene on her, is still ready and willing to go back to the husband is also an application that prima facie, the case under Section 307 is not made out insofar as the petitioners are concerned.

5. Having considered the arguments of the counsel for the parties, I feel that this is a fit case in which pre-arrest bail should be granted. Accordingly, the petitioners are directed to be released on bail, in the event of their arrest, on furnishing personal bonds in the sum of Rs.15,000/- each with one surety each of the like amount to the satisfaction of the arresting officer. It is, however, made clear that all observations made in this order are purely prima facie in nature and shall not be taken into consideration at the time of the trial of the case. dusty.

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