

Ram Dhari Vs. State

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Court : Delhi

Decided On : May-14-1999

Reported in : 79(1999)DLT723; II(1999)DMC194

Judge : S.N. Kapoor, J.

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

Appeal No. : Crl. M(M) 111 of 1999

Appellant : Ram Dhari

Respondent : State

Advocate for Def. : Mukta Gupta, Adv.

Advocate for Pet/Ap. : K.K. Sud, Adv

Disposition : Application dismissed

Judgement :

S.N. Kapoor, J.

1. Heard the learned Counsel for the parties on bail application. According to the statement of Mr. Suresh Kumar real brother of the deceased, marriage of Manju deceased was solemnized with Ramesh Kumar on 19.7.1991. After the marriage Manju lived in the joint family of her husband for three years but thereafter she

started living separately from her in-laws in a flat Along with her husband. Her husband was running a Kirana shop under the house. Ramesh Kumar husband of deceased Manju died on 21.9.1997. The deceased had a child aged four and a half years. ' After the death of her husband Manju started living with her mother-in-law Roshni Devi, father-in-law Ram Dhari and Dever Naresh in M-17/B-4, Dilshad Garden. After the death of Ramesh Kumar, Manju's' Dever' Naresh, father-in-law Ramdhari, mother-in-law Roshni Devi and Kamlesh (Nand) started maltreating her. The deceased also told Suresh Kumar that they all wanted to get rid of her at any cost and she suspected that anything could happen to her. Once Prabhu Chand Gupta also went Along with -Suresh to her-in-laws' house and on that point of time Manju's father-in-law, mother -in-law and Devar and Nand abused her. He tried to pacify them. When Manju came to stay with Suresh from 9th December to 11th December and from 20th December to 1.1.1998 the deceased told Suresh that her in-laws were trying to grab her property and ornaments and they had forcibly taken the papers of her property. In-laws of the , deceased according to Suresh used to say that Vikas was their only property and the deceased came empty handed and she might leave their home or she might die; she was not their concern. On 1.1.1998 he left his sister Manju deceased father in-laws house and on 2:1.1998 at 11.40 a.m. he received a telephone call from Manju informing him that some poison had been given to Manju the deceased after some discussion between her Sas, Sasur, Devar and Nand and they started saying that then she could no more live and went away. The deceased asked him to come over to her place and take the deceased to the Doctor. Suresh immediately came to her house and reached there at about 1.00 p.m. He found that she was lying on the floor and was crying for water.He asked her again what had happened. She repeated thereupon the earlier story informed on the phone. Thereafter she became unconscious and Suresh became nervous. One Virender (Bhanja of the deceased) came and they took her to private nursing home. Seeing her condition she was referred to Government hospital. She was admitted in G.T.B.P. Hospital and there he left her with the Doctor and went to make a phone call to his relatives and in the meanwhile his sister had also come. When his parents reached there he told mat every thing, including that Manju has been murdered by administrating poison by her Saas, Sasur, Devar, Nand to grab her property.

2. The learned Counsel for the accused contends that this story of dying declaration is just a concoction for the deceased neither told any sudi thing to the doctors nor she stated anything to Virender. He also submitted that Virender contradicted Suresh about the time of arrival of Suresh at the place of the deceased. According to the statement of Virender he reached only at about 3.00 p.m. and by then Manju had already expired. Statement of Virender was recorded under Section 164, Cr.P.C. It is submitted by the learned Counsel that as a matter of fact in-laws of the deceased wanted that she should remarry her brother in-law Naresh and there was no fault in making that suggestion. It is submitted that all the allegations made by Suresh were false.

3. In so far as dying declaration made on phone is concerned, there is neither any contradiction between the statements of the witnesses so far as the information furnished by the deceased to his brother Suresh on telephone nor there could be as phone was received by Suresh at his residence. It is not the case of the accused that any relation of the accused Suresh informed by phone or otherwise to reach at the house. It is not disputed that Suresh reached there. Suresh claims that he had gone to call his relatives after leaving the deceased and Virender with the doctor in hospital.

4. At this stage it would not be appropriate to make any further observation in regard to any of the points which have been argued by the learned Counsel for the accused. Taking into consideration over all her facts and circumstances, I do not feel that it is an appropriate case to release the accused on bail. Accordingly, the bail application is dismissed.