

**Devendra Kumar Vs. State of Rajasthan**

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**Court :** Rajasthan

**Decided On :** Apr-18-1988

**Reported in :** 1988WLN(UC)172

**Judge :** Inder Sen Israni, J.

**Appeal No. :** S.B. Cr. Misc. Bail Application No. 548 of 1988

**Appellant :** Devendra Kumar

**Respondent :** State of Rajasthan

**Advocate for Pet/Ap. :** Shri. Pathak

**Disposition :** Application allowed

**Judgement :**

**Inder Sen Israni, J.**

1. This is a bail application under Section 439, Cr.PC, in which the petitioner is alleged to have committed offence under Sections 304B and 498A, IPC.

2. The contention of Shri Pathak learned Counsel for the petitioner is that the incident took place on 13-6-1987, when Mst. Rajni received burn injuries accidentally, while putting kerosene oil in stove for making meals. She was immediately taken to S.M.S hospital, by her husband, the petitioner, who also

received serious injuries on his hands and face by trying to save her. He was also admitted in the hospital along with his wife. In her statement given by Mst. Rajni, on the day of occurrence, she stated that the burn injuries were caused to her on account of accident while she was pouring oil from a tin at the time of preparing meal. Since she had severe burn injuries, her dying declaration was recorded on 14-6-1987, by a Judicial Magistrate, in which also she did not implicate any one including the petitioner and narrated the same version of accidental burn injuries, which was given by her on 13-6-1987. On 26-2-1988, an application was filed by Mst. Shanti Devi, mother of Mst. Rajni, in court of the C.J.M., Jaipur, alleging that her daughter has been caused burn injuries by her in-laws, therefore, her statement under Section 164, Cr.PC was again recorded by a Magistrate in hospital. In this statement, Mst. Rajni alleged that she was illtreated by her husband (petitioner) and that the burn injuries were caused to her by the petitioner and her mother-in-law, sister-in law and other family members of the petitioner. However, the police did not register any case against the petitioner. It is further submitted by the learned Counsel that a private complaint was filed by Mst. Shanti Devi, in the court of Judicial Magistrate No. 6, Jaipur City, which was sent for investigation to the Police Station on 13-7-1987. The police registered a case on 15-7-1987 and the petitioner was arrested on 17-3-1988.

3. It is contended by the learned Counsel for the petitioner Shri Pathak that the incident took place on 13-6-1987, and the petitioner was arrested on 17-3-1988. It is also emphasized that the police did not find any reason to register a case against the petitioner. It is further submitted that there is no reason to disbelieve the earlier statements dated 13-6-1987 and 14-6-1987, given by Mst Rajni, in which no allegation what so ever, has been made against the petitioner. On 5-4-1988, this Court directed that the petitioner be medically examined by a board of doctors of the S.M.S. Hospital, regarding the injuries received by him. In the report, submitted by the said Board of doctors, dated 16-4-1988, it it stated that there was no pupillary reaction direct and consensual to light reaction and that the patient denied perception of lights. Further immediate investigation had treatment and also been advised. In this report, it is also reported that he has marks of burns on dorsum of both the hands. The photographs showing the burn injuries have also been placed on record by the petitioner, which show that he received serious

burn injuries on his hands and arms.

4. Learned Public Prosecutor Shri Sharma contends that in the statement recorded by Mst. Rajni on 24-6-1987, she has clearly stated that she was illtreated by her husband and other members of his family and that she was deliberately burnt by the petitioner and Ors. . It is also stated that the previous statements recorded on 13-6-1987 and 14 6-1987 were made under influence of the petitioner and other family members of her in-laws, therefore, should not be relied upon. It is, therefore, submitted that the petitioner does not deserve to be granted indulgence of the bail.

5. The incident took place on 13-6-1987, and the police did not register any case after fully investigating the incident. The case was registered on 15-7-1987, after the complaint was filed by Mst. Shanti Devi in the concerned Court. Keeping in view the statements of Mst. Rajni, recorded on 13th June, 1987 and 14th June, 1987, and without making any observations regarding merits of the case, in the facts and circumstances of the case, I am inclined to grant bail to the petitioner Devendra Kumar, provided ,he furnishes a personal bail bond in the sum of Rs. 10,000/-with two sureties in the amount of Rs. 5,000/- each, to the satisfaction of the trial court for his appearance in that court during the pendency of this appeal.

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