

Sharda Devi Vs. State of Raj. and ors.

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Court : Rajasthan

Decided On : Jul-31-2003

Reported in : RLW2004(2)Raj961

Judge : Khem Chand Sharma, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439(2); ;Indian Penal Code (IPC) - Sections 306

Appeal No. : S.B. Criminal Misc. Cancellation of Bail Application No. 1627 of 2002

Appellant : Sharda Devi

Respondent : State of Raj. and ors.

Advocate for Def. : B.M. Sharma, Public Prosecutor and; A.K. Gupta, Adv.

Advocate for Pet/Ap. : Shailendra Balwada, Adv.

Disposition : Application dismissed

Judgement :

Khem Chand Sharma, J.

1. Heard the learned counsel for the complainant applicant, learned Public Prosecutor as well as the learned counsel for accused non-petitioners.

2. The complainant petitioner is the wife of deceased Kanwar Lal Sharma who committed suicide on the abetment alleged to have been made by the accused non-petitioners. Regarding the incident FIR No. 140/2001 was registered at Police Station Lal Kothi. Jaipur for offence under Section 306 IPC. Apprehending their arrest, the accused non-petitioners first approached the learned Sessions Judge, Jaipur City, Jaipur for grant of anticipatory bail, who by his order dated 17.09.2001 dismissed the bail application. Therefore, the petitioners moved bail application for grant of anticipatory bail before this Court which was registered as S.B. Criminal Misc. Bail Application No. 4382/2001. This Court after hearing learned counsel for accused-non-petitioners, learned Public Prosecutor as well as learned counsel appearing for the complainant Sharda Devi, petitioner herein, vide order dated 11.10.2001 granted anticipatory bail to the accused non-petitioners.

3. As per the facts mentioned in this application, after grant of bail to the accused non-petitioners, on completion of investigation, the police has filed a charge sheet against the accused non-petitioners for offence under Section 306 IPC and the trial of the case is in progress.

4. The complainant petitioner has filed this application for cancellation of bail on the allegations that the non-petitioners, after their release on bail, started threatening and terrorising the prosecution witnesses so that they may turn hostile. It is alleged that one Sanwat Ram Yadav, who is a witness in the case and is an employee of the Commercial Taxes Department, Jaipur was given threatening, regarding which he made a complaint to the Commissioner Sales Taxes Department and the Commissioner has reported the matter to the Superintendent of Police, thereupon a FIR was registered against the accused non-petitioners' and others for threatening the witnesses. However, no copy of the FIR so registered has been placed on record.

5. Yet another allegation seeking cancellation of bail is that on 1.3.2002 accused non-petitioner Hanuman Prasad along with few other persons came to the house of the petitioner and the petitioner and her children were given beating and an attempt was made to 'commit rape with the daughter of petitioner. As per the allegations, her clothes were torn but because of intervention of the neighbours,

no such incident could happen. Accused non- petitioner Hanuman Prasad and others threatened the petitioner to leave the locality and to enter into compromise in the matter. According to the petitioner the above incident was reported to the Deputy Superintendent of Police, Jhotwara, Jaipur on the same day as the local police refused to accept the report. As per the case of the petitioner, on 7.3.2002, FIR No. 52/2002 came to be registered at Police Station Harmara for offence under Sections 452, 147, 148, 149, 323, 376/511 and 354 IPC.

6. On the basis of the above allegations, learned counsel for the petitioner contended that the accused non-petitioners are misusing the liberty granted to them and thus, the anticipatory bail granted to them be cancelled.

7. In reply to the allegations made in the application, the accused non-petitioners have submitted that neither copy of the complaint/report made by Sanwat Ram Yadav has either been filed along with the application nor the same has been supplied to the accused non-petitioners and therefore, in the absence of such complaint or report nothing can be said. However, it is submitted that Sanwant Ram Yadav had made the alleged complaint on 14.8.2001 i.e. before granting anticipatory bail to the accused non-petitioners on 11.10.2002 and thus the possibility that while granting bail to the accused non-petitioners, the said complaint was also taken into consideration, cannot be ruled out. It is also submitted that Sanwat Ram Yadav has not filed any affidavit in support of the contentions made in the application. Regarding allegation in connection with registration of FIR No. 52/2002 at Police Station Harmada, Jaipur it is submitted that the police after investigation has not submitted any charge sheet against non-petitioner Hanuman Prasad and has submitted a charge sheet against Om Prakash, Rahul, Ashish and Rajendra only that too under Sections 451 and 323 IPC.

8. I have considered the rival submissions.

9. The anticipatory bail was granted to the accused non- petitioners vide order dated 11.10.2001 while the alleged complaint by Sanwant Ram Yadav was made on 14.8.2001 i.e. much prior to the grant of anticipatory bail. Sanwat Ram Yadav also not submitted any affidavit in support of the above allegations. In connection

with the FIR No. 52/2002, investigation was made and charge sheet was submitted against Om Prakash, Rahul, Ashish and Rajendra only for offence under Sections 451 and 323 IPC. No charge sheet was submitted against accused non-petitioners. Therefore, I am of the view, that it cannot be inferred that accused non-petitioners are misusing the liberty of bail granted to them, Hence, there is no force in this application for cancellation of bail and the same deserves to be dismissed.

10. Consequently, the application for cancellation of bail is, dismissed.

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