

Madan Mohan Sharma Vs. State

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Court : Delhi

Decided On : Apr-11-2012

Judge : The Honourable Ms. Justice Mukta Gupta

Appeal No. : CRL.REV.P. 102 OF 2008

Appellant : Madan Mohan Sharma

Respondent : State

Judgement :

1. By the present petition, the Petitioner challenges order dated 15th November, 2007 passed by the learned Additional Sessions Judge directing and framing of the charge under Sections 498A/306 IPC against the Petitioner herein.

2. Learned counsel for the Petitioner contends that there is no evidence against the Petitioner for abetting the suicide of his wife. The marriage between the parties was performed on 23rd April, 1994. The wife of the Petitioner fell down on 10th July, 2002 and could not come out of the coma. She finally succumbed to the injuries on 17th July, 2002. A complaint by Seeta Sharma, mother of the deceased was filed on 16th July, 2002 alleging that the Petitioner used to taunt her daughter Vandana Sharma for bringing less dowry and used to create mental tension for her. The Petitioner used to harass and demanded her to bring more dowry and used to bring other girls in the house. Initially, a complaint was lodged at P.S. R.K. Puram, however later the parties entered into a compromise. Even thereafter, the

Petitioner continued harassing the Complainant's daughter for bringing less dowry. On 10th July, 2002 the Petitioner picked up a quarrel with her daughter, gave an injury upon her head and made an excuse that she had fallen down. According to the complaint, the injury on the head of the deceased was given by the Petitioner with some instrument. Thus, according to the Petitioner, there is neither instigation nor overt act abetting the suicide of the deceased. Thus, no charge under Section 306 IPC could be framed against him. Earlier also the Petitioner had challenged the previous order on charge framed by the learned Trial Court before this Court. This Court vide order dated 11th July, 2006 passed in Crl. Rev. Petition No. 657/2004 set aside the order to the extent it directed framing of charge under Section 306 and remanded the matter back to the learned Additional Sessions Judge for considering the arguments afresh on the question of framing charge under Section 306 IPC. After remand, the learned Trial Court reheard the parties and again framed the charge under Section 306 IPC.

3. Learned APP for the State, on the other hand, contends that the statement of Seeta Sharma, on the basis of which the FIR was registered, her supplementary statement and statement of witnesses clearly implicated the Petitioner. As per the opinion of the doctor, who conducted the postmortem, the cause of death was due to fall from height. In view of the fact that the Complainant in her supplementary statement had stated that her daughter told her that she would rather die, which clearly shows that she committed suicide in view of the conduct of the Petitioner and thus there is no infirmity in the impugned order and the petition be dismissed.

4. I have heard learned counsels for the parties. Smt. Seeta Sharma, the Complainant in her complaint stated that she married her daughter Vandana Sharma to the Petitioner on 23rd April, 1994. The Petitioner used to taunt Vandana for bringing less dowry and wanted her to bring more dowry. He further used to bring girls in the house. They had earlier lodged a complaint in P.S. R.K. Puram however the matter was settled. But the Petitioner continued harassing her daughter for bringing less dowry. In the supplementary statement of the Complainant recorded on 20th July, 2002 and 3rd September, 2002 she stated that the Petitioner never permitted the deceased to go to her sister's house and used to misbehave with her. The Petitioner used to send Vandana with great

difficulty to her parental house at Faridabad also. In the year 1996 after the abortion of her daughter when the Complainant went to the house of her daughter and talked to the Petitioner in regard to the harassment meted out to her daughter, the Petitioner got angry and stated that why she did not take her daughter with her and as to how long he would continue taking care of her. In case she dies he will live in peace. She further stated that in the year 2001 when her husband died, the Petitioner along with Vandana came to their house and asked Vandana to claim her share in the property left behind by the husband of the Complainant. On this, a quarrel took place and Vandana was quite upset. She also stated that on 10th July, 2000 she was unwell, she called up the Petitioner on phone and told him to come with Vandana at her house on which the Petitioner stated that all of you should die, he had no concern with them and they should not call him up again. Since her daughter was too upset, she considered dying better than living in that condition. Thus, the Petitioner has instigated her to commit suicide.

5. Statement of Sanjay Sharma has been recorded who stated that on 10th July, 2002 the Petitioner beat the deceased due to which she was hospitalized. However, it may be noted that Sanjay Sharma was not the eye-witness and he did not state from whom he received this intimation. He further stated that the petitioner used to harass the deceased for bringing less dowry for which he used to beat and abuse her. In November, 2001 when his father died, the Petitioner demanded a share in the property. The Petitioner further stated that they were entitled to a share in the property of his deceased father in law and in case he did not get the share they could keep Vandana with them. While reiterating the allegations made by his mother, this witness has stated that the Petitioner was too greedy and used to misbehave with the deceased due to which she committed suicide finding no other solution.

6. Statement of Shyam Nath Sharma and his wife i.e. aunt and uncle of the deceased were also recorded wherein they stated that the deceased called up a number of times after her abortion in 1996 informing that the Petitioner gave her nothing to eat and the deceased was living a tense life. On 10th July, 2002 the Complainant told them that the Petitioner stated that he had no connection with them and all of them were dead for him. It may be noted that the deceased was

married to the Petitioner in April, 1992.

7. As per allegations, there was harassment for bringing less dowry and the Petitioner did not give her food to eat when she aborted in the year 1996. Besides, it is alleged that in November, 2001 when the father of the deceased died, the Petitioner demanded share in the property. The only proximate incident is of 10th July, 2002 wherein the complainant has stated that on 10th July, 2002 when she called her daughter as she was unwell the Petitioner stated that all of them should die, he had no concern with them and they should not call again. The issue that requires consideration is whether this conduct amounts to instigation/abetment to commit suicide. It may be noted that the marriage between the parties lasted more than seven years and presumption under Section 113A of the Indian Evidence Act is not available in the present case. The Hon'ble Supreme Court in *Sanju @ Sanjay vs. State of Madhya Pradesh, (2002) 5 SCC 371* held that where the accused told the deceased to go and die, no offence under Section 306 IPC was made out. It may be noted that the Petitioner severed all relationship with his in-laws and stated that they were dead for him. The conduct of the Petitioner may have hurt the deceased, however it cannot be said that there was any positive act or omission which instigated the deceased to commit suicide.

8. Thus there is no strong suspicion that the Petitioner committed an offence of abetment of suicide, thus charge under Section 306 IPC is not made out against him. It may be noted that charge under Section 498A IPC was not set aside by this Court in the earlier petition filed by the Petitioner and no case to set aside charge under Section 498A IPC is made out in this petition also. The impugned order is set aside to the extent it directed and framed charge under Section 306 IPC. Petition stands disposed of. Trial Court record be sent back forthwith.

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