

Vikas Garg and Others Vs. State and Another

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Court : Delhi

Decided On : Jun-01-2012

Judge : M.L. Mehta

Appeal No. : CRL. M.C. NO. 599 OF 2012

Appellant : Vikas Garg and Others

Respondent : State and Another

Judgement :

M.L. MEHTA, J. (Oral)

1. This is a petition U/s 482 Cr.P.C. for quashing of FIR No. 281/2011 U/s 302/304-B/498-A/34 IPC registered at P.S. Nangloi, Delhi and the related proceedings pending in the court of Learned M.M. tis Hazari Courts, Delhi.

2. The above mentioned FIR was registered on the complaint of respondent No.2 Vishnu Kumar Aggarwal, the father of the deceased Bhumi @ Bhawna. It was stated in the said FIR that the marriage of his daughter Bhawna was solemnized with petitioner No.1 Vikas Garg on 24.02.2008 and his daughter was continuously harassed by her in-laws, namely, Petitioner Nos. 2 to 8 in relation to demand of dowry. It was alleged that his deceased daughter was time and again taunted, harassed and also beaten up in order to pressurize him to fulfil their unending demand for dowry. It was further alleged that even at the time of the birth of a son, the deceased was harassed by her in-laws who complained that very few items

were given by her parents on this occasion. It was submitted that on 28th September, 2011 the complainant got a call from the father in law of the deceased at around 11.00 p.m. stating that Bhawna had consumed Salfas and was admitted in Satyabhama Nursing Home and he should reach there. Unfortunately, Bhawna passed away the same night before her family could reach Delhi. It was specifically urged in the FIR by respondent No.2 that the petitioners were responsible for untimely death of his daughter and had made her consume poison forcefully and that his grand son should not be allowed to live with the petitioners.

3. The postmortem report of the deceased was conducted and the petitioner No.1 Vikas Garg was arrested and later on released on bail by this court. The investigation in the case has been conducted and charges against the petitioners are yet to be framed. The quashing of the FIR is sought on the ground that a compromise has been arrived between the petitioners and the parents of the deceased and an MOU dated 22.12.2011 was executed between the two parties who agreed that the brother of the deceased would adopt Master Jalaj (son of petitioner No.1 and the deceased). It has been further stated by the parents of the deceased in the MOU that they have no objection to the quashing of the FIR which was registered due to some misunderstanding and in the heat of moment as they were extremely disturbed after the news of the death of their daughter.

4. The compounding of certain offences punishable under Indian Penal Code is governed by Section 320 Cr.P.C. Sub Section (1) of Section 320 provides that the offences mentioned in the table provided there under can be compounded by the persons mentioned in column 3 of the said table. Further, sub-section (2) provides that the offences mentioned in the table could be compounded by the victim with the permission of the court. As against this, sub-section (9) specifically provides that "no offence shall be compounded except as provided by this section". In view of the aforesaid legislative mandate, only the offences which are covered by Table 1 or Table 2 as stated above can be compounded and the rest of the offences punishable under IPC could not be compounded.

5. However, the embargo placed by Section 320 Cr.P.C. against compounding of certain offences does not come in the way of this court in permitting the quashing

of an FIR or a criminal complaint and the proceedings arising therefrom in the exercise of its inherent power U/s 482 Cr.P.C. if such quashing serves the ends of justice.

6. In the present case a young woman lost her life within three years of her marriage allegedly becoming a victim of the greed of dowry of her in-laws and even her husband. Even before filing of the charge sheet in the court, the parents of the deceased have presumably succumbed to the pressure from the petitioners and due to their desire to protect the interest of the minor son of deceased Bhawna. The affidavit submitted by the elder sister of the deceased is evident of the fact that the petitioners have succeeded in influencing the family members of the deceased by using the custody of the minor child as a leverage.

7. It is an unfortunate fact that even to this date young girls and women are falling victims to this blinding greed and cruelty of her in-laws. These kind of offences are a slap on the face of modern society boasting of equal rights of life and dignity to men and women and the perpetrators of such crimes should be dealt with a heavy hand. In the case of **Narayani Gautam and Ors. Vs. State 164(2009) DLT 182** this court has addressed the issue of quashing of FIR in such cases in the following words:-

“52. If the wife, who has been subjected to cruelty or harassment enters into a settlement with her husband and/or in laws either by deciding to give the marriage another try and consequently continue living with the husband or by obtaining divorce by mutual consent and decides to embark upon a new Chapter in her life, bereft of her past relationship, the courts do recognize the need for bringing an end to the criminal proceedings initiated in such a case by quashing the same in terms of the settlement between the parties. The purpose is to enable the parties to live peacefully, in future, without retaining any feeling of rancour or ill-will towards each other.

But, when the wife has died, these considerations do no exist any more and in such a situation, no useful purpose is served by quashing the criminal proceedings that were initiated against the husband and/or in-laws of the deceased. In fact, the parents or other family members of a deceased spouse are nobody to enter into a

compromise in respect of the offence which was committed against the deceased and not against them. It is the deceased and not her family members, who had to undergo the torture, cruelty and harassment at the hands of her husband and/or in-laws. It would, therefore, neither be in consonance with public policy nor in the benefit of the society at large to allow the family members of a deceased woman to enter into a compromise with her husband and/or in-laws and then come to the court seeking quashing of the criminal proceedings pursuant to such a compromise. In fact, quashing criminal proceedings in such cases, after death of victim of the crime may in some cases, encourage the accused persons to win over the family members of the deceased for considerations which may not necessarily be brought on record. To put it rather bluntly, this may encourage the accused of such offences to offer lucrative amounts in the form of compensation or otherwise to the family members of the deceased, particularly if they happen to come from rather poor strata of the society. Having already lost their daughter/sister, they may not always find any incentive to continue the criminal proceedings, if they are compensated in monetary terms or are otherwise persuaded to enter in to a settlement. Therefore, in my view, it would be contrary to public interest if the criminal proceedings are quashed pursuant to a compromise between the accused persons on one hand and family members of the deceased on the other hand.”

8. Although a compromise has been arrived at between the parties, but that itself is not a valid ground for overlooking the serious offence with which the petitioners are charged specially when a young married woman as a result of unlawful demands of dowry by her husband and parents-in-law was not only allegedly tortured and harassed, but had unfortunately met her cruel death in her matrimonial house. The custody of Master Jalaj can be sought by his maternal uncle through separate court proceedings, but it would be miscarriage of justice if on this sole ground the petitioners are let off without being held accountable for the mysterious death of the deceased Bhawna.

9. Keeping in mind the serious nature of the offence I am of the opinion that the present case does not find a place in the category of cases where quashing of the criminal proceedings can be permitted. Consequently, the petition being devoid of

any merit is hereby dismissed.

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