

Usha Rani Vs. State

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Court : Delhi

Decided On : Feb-06-2013

Judge : P.K.Bhasin

Appellant : Usha Rani

Respondent : State

Advocate for Pet/Ap. : Mr. Atul T.N, Mr. M.N. Dudeja

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % CRL.REV.P. 653/2012
Date of decision:

6. h February, 2013 DILIP SINGHPetitioner Through: Mr. Atul T.N., Advocate versus STATERespondent Through: Mr. M.N. Dudeja, APP WITH CRL.REV.P. 664/2012 NANNU SINGH Petitioner Through: Mr. Atul T.N., Advocate versus STATE Respondent Through:Mr. M.N. Dudeja, APP AND CRL.REV.P. 665/2012 USHA RANI Petitioner Through: Mr. Atul T.N., Advocate versus STATE * Respondent Throug: Mr. M.N. Dudeja,APP CORAM: HON'BLE MR. JUSTICE P.K.BHASIN JUDGMENT P.K. BHASIN, J: These revision petitions have been filed by the three accused persons under Sections 397, 401 & 482 of the Code of Criminal Procedure,1973 for quashing the order dated 26-10-2012 passed by the learned Additional Sessions Judge for the trial of these accused persons for the commission of offences punishable under Sections 498-A/304-B/34 and also under Section 302/34 IPC.

2. The petitioner Dilip Singh is the husband of the deceased, Nannu Singh is her father-in-law while Usha Rani is her mother-in-law. The marriage of the deceased with petitioner Dilip Singh was solemnized on 25th April, 2007 and on 23rd June, 2012, the deceased allegedly committed suicide by consuming poison. On the date of death itself statements of the parents of the deceased and her brother were recorded, firstly, by a Sub-Divisional Magistrate and then by the investigating officer under Section 161 of the Code of Criminal Procedure, 1973. As per the statements recorded by the Sub-Divisional Magistrate, the deceased was harassed and treated with cruelty by the three petitioners on account of their being unhappy with the dowry brought by her at the time of her marriage. The petitioners used to make a demand for motorcycle in particular and she was told at one time to bring motorcycle from her parental home otherwise she should not come back from there to her matrimonial home. During the course of investigation supplementary statements of the parents and brother of the deceased were also recorded by the investigating officer and in those statements also same allegations were reiterated. Additionally, it was also claimed that the deceased had told them few days before her death when she had come to her parental home about the cruelty meted out to her by the three petitioners and demand for motorcycle and ` 50,000/- in cash and that a sum of ` 10,000/- was given to the deceased on 19th June, 2012.

3. The learned Additional Sessions Judge at the time of consideration of charge found a case against all the three petitioners for their trial for the offences punishable under Sections 498-A/304-B/34 IPC and also under Sections 302/34 IPC being made out.

4. Though separate revision petitions were filed by the three petitioners-accused but all of them were heard together and since common submissions were advanced at the time of hearing of the petitions, the same are being disposed of by this common order.

5. It was contended by the counsel for the petitioners- accused that ingredients of the offence of dowry death cannot be said to be present in the case in hand on the basis of statements being made before the SDM as well to the police by the

parents and the brother of the deceased since all of them had given contradictory versions in their different statements recorded on the date of death and on subsequent dates. It was also contended that even otherwise in none of the statements, specific allegations of demand of dowry and harassment of the deceased because of her failure to fulfill their demands of dowry were mentioned and therefore, in the absence of any witness from the neighbourhood of the accused persons they could not be ordered to be charged for any of the offences.

6. Learned Additional Public Prosecutor, on the other hand, supported the order of the trial Court directing framing of charges against all the three petitioners-accused under Sections 304-B/498A/34 IPC. As far as the charge under Sections 302/34 IPC is concerned, the learned prosecutor very fairly submitted that as far as father-in-law and mother-in-law of the deceased are concerned they were not residents of Delhi and there is no evidence of their being present in the house of their son Dilip Singh on the date of the death of the deceased and so they can be given the benefit of discharge for the offence of murder of the deceased. As far as the husband of the deceased is concerned, learned prosecutor submitted that since he himself had claimed before doctor in the hospital where he had taken the deceased and where she was declared as brought dead that she had consumed poison, it would be for him to come out with necessary information which can be within his special knowledge only as to how he could say that his wife had consumed poison and under what circumstances and also as to what could be the reason for her consuming poison considering the fact that they had two small children and so it was a fit case for framing of a charge against him under Section 302 IPC also.

7. After having given my due consideration to the rival submissions I find no merit in these revision petitions as far as the decision of the learned trial Court to try the three petitioners-accused for the offences under Sections 304-B/498-A/34 IPC is concerned since there are allegations against each one of them regarding demands of dowry by them and their harassing and treating the deceased with cruelty because of her not fulfilling those demands. The fact that police had recorded supplementary statements of the parents and brother of the deceased during the course of investigation in which they had claimed that the deceased had

come to their house some days before her death and at that time also she had informed them that the petitioners accused were making a demand of motorcycle and ` 50,000/- in cash would not be sufficient to reject their statements as also the entire prosecution case at the threshold on the ground that all these details were not mentioned by them in their statements made on the date of the death of the deceased as was the submission of the counsel for the petitioners. The effect of their stating some additional facts in their supplementary statements, which undoubtedly are permissible in law to be recorded during the course of police investigation, can be seen only after trial is over and explanation of the witnesses is elicited during cross examination. Suffice it would be to say that the statements made by the parents and brother of the deceased raise strong suspicion against each one of the three petitioners that they were responsible for committing the offence of dowry death.

8. I am also in full agreement with the submission of the learned Additional Public Prosecutor that for the reasons given by him the charge against the husband of the deceased under Section 302 IPC could also be framed and has rightly been framed by the trial Court. However, as far as the father-in-law and mother-in-law of the deceased are concerned, there is admittedly no evidence against them, either direct or circumstantial, from which it could be inferred at the stage of charge that they were also involved in the commission of offence of murder with their son Dilip Singh. They are, therefore, entitled to be discharged of the offence under Section 302/34 IPC.

9. In the result, the petitioners challenge to the framing of charges against them under Sections 304-B/498-A/34 IPC is rejected and their revision petitions to that extent stand dismissed. Similarly the challenge of petitioner Dilip Singh to the framing of charge against him under Section 302 IPC also fails and his revision petition is rejected. The revision petitions of the father-in-law and mother-in-law of the deceased are, however, allowed partly and charge under Section 302/34 IPC framed against them is set aside. P.K. BHASIN, J FEBRUARY 6 2013