

* **HIGH COURT OF DELHI AT NEW DELHI**
 + **Writ Petition (Crl.) No.2319/2006**

Date of decision : 25.04.2008

SHRI PRABHU DAYAL PETITIONER

! Through : Mr. L.B. Rai, Advocate

Versus

\$ THE STATE (GOVT. OF NCT OF DELHI) & ORS.
RESPONDENTS

^ Through : Mr. Rajat Katyal, APP for the
 State along with IO SI Rajveer
 Singh, PS Uttam Nagar.

%

CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J. (Oral)

1. Petitioner Pradhu Dayal's daughter Jamuna was married to Paras and after her marriage she started living separately with Paras. Subsequently, she shifted

her residence at House No.A-24, Rajan Vihar, Uttam Nagar, Delhi. Two children were born out of this wedlock. Jamuna died of unnatural death under suspicious circumstances by strangulation on 19.08.2006. On her death Petitioner lodged an FIR with Police Station Uttam Nagar, being FIR No.723/2006 dated 19.08.2006. This FIR was registered under Section 306/34 IPC. The respondents did not take any action against Paras, husband of the deceased. Petitioner filed complaint with DCP (West Delhi), DCP (Vigilance) as well as SHO, Uttam Nagar, Delhi on 7.09.2006 and another complaint on 15.09.2006 for including the name of Paras in the FIR and also adding the offences under Section 304-B IPC read with Section 406/498-A/34 IPC in the impugned FIR. Since the respondents did not take any action on his subsequent complaints, he has filed the present writ petition seeking directions to respondent No.2 SHO, Police Station Uttam Nagar to include Section 304-B/406/498-A IPC in the said FIR with directions to arrest respondent Nos. 3 to 7 as named in the said FIR.

2. Notice of this petition was served upon the

respondent Nos. 1 and 2 who filed Status Report dated 2.04.2007.

3. I have heard Mr. L.B. Rai, learned counsel for the Petitioner, Mr. Rajat Katya, APP for the State and have carefully perused the record.

4. FIR was lodged by the petitioner on the same day of occurrence. In the FIR Petitioner levelled allegations of torture for abetting Jamuna to commit suicide, against Badami mother-in-law, Champa Ram, father-in-law, Ashok, brother-in-law and Sharda, sister-in-law. Petitioner completely exonerated Paras from having committed cruelty to Jamuna for demand for dowry or for any other cause. Rather he stated in the FIR that he was told by her deceased daughter Jamuna that her in laws named above wanted to dis-possess Jamuna and her husband Paras from their house and for that purpose they had tortured Jamuna and her husband Paras who were depressed due to the harassment caused to them by respondent Nos. 3 to 7.

5. At the time of registration of the FIR Petitioner suspected that his daughter had committed suicide due

to torture by her in-laws for vacating the house and wanted legal action to be taken against aforementioned four accused persons.

6. Thus, it is clear that at the time of lodging of FIR, the Petitioner had no grievance against his son-in-law Paras for abetting Jamuna to commit suicide. It seems that subsequently Petitioner thought of involving Paras in this very FIR as a person who abetted Jamuna by acts of cruelty for demand for dowry. In the subsequent complaint filed by the Petitioner there is sole incident of 9.08.2006 when Jamuna had come to the Petitioner and informed him that her in-laws had threatened her to bring Rs.50,000/- or they would kill her. Even this averment in no manner indicates the involvement of Paras in the alleged acts of cruelty and harassment towards Jamuna for demand of Rs.50,000/-. Similar is the complaint dated 15.09.2006.

7. As per the Status Report submitted by respondent Nos. 1 and 2, this is an afterthought of the Petitioner seeking arrest of Paras and addition of offence under Section 304-B read with Section 406/498-A IPC besides

Section 306 IPC. The Petitioner did appear before the SDM on 23.08.2006, though no inquest proceedings were conducted. The Petitioner was satisfied with the manner in which the investigation was carried out by the police.

8. Mr. L.B. Rai, learned counsel for the Petitioner has alleged that as per the statement of Paras he had given two slaps to his wife Jamuna. However, this statement of Paras does not involve him in any manner for having committed an offence under Section 304-B or 498-A and 306/34 of IPC. Learned Additional District & Sessions Judge while considering the bail application of the other co-accused persons observed as under:-

“A perusal of statement of Paras husband of the deceased shows that he had also given two slaps to the deceased primarily out of growing tensions between the parties owing to the property dispute.”

Prima facie there seems to be property dispute between Paras, Jamuna and their other family members which enticed Jamuna to commit suicide.

9. As per the averment in the petition itself, the marriage between Paras and Jamuna had taken place on

9.07.1999. The alleged incident took place on 19.08.2006. Jamuna committed suicide after seven years of her marriage. Learned counsel for the Petitioner has tried to state that the date was wrongly mentioned in the FIR, whereas Jamuna had got married to Paras on 9th July, 2000. Therefore, Jamuna died within six years of marriage. The documents placed on the record by the Petitioner prima facie do not indicate if marriage of Jamuna was performed on 9th July, 2000 at Community Service Hall, Multistory Building, Rajpur Road, Delhi. Therefore, provisions of section 304-B IPC are not attracted under the circumstances of the case.

10. Hence, I find no merit in the present writ petition and the directions as sought by the Petitioner are not warranted to be issued to Respondent Nos. 1 and 2 for adding offence under Section 304-B/406/498-A/34 of IPC to the FIR which is registered under Section 306/34 of IPC. Hence, the petition is hereby dismissed.

April 25, 2008
vk

ARUNA SURESH
(JUDGE)