

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P.732/07 & CRL.M.A.14037-38/07

% Date of decision: 15.01.2008

PRAKASH CHANDRA ...PETITIONER
Through: Mr.K.K.Jha, Advocate

Versus

STATE OF NCT OF DELHI & ORS. ...RESPONDENTS

Through: Mr.Jaideep Malik, APP for the
State/R-1.

CORAM:
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

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| 1. Whether the Reporters of local papers
may be allowed to see the judgment? | No |
| 2. To be referred to Reporter or not? | No |
| 3. Whether the judgment should be
reported in the Digest? | No |

SANJAY KISHAN KAUL, J. (ORAL)
Crl. M.A. No.14038/2007

Allowed subject to just exceptions.

Crl. Rev. P. No.732/2007

1. The present case is an unfortunate one where a young bride committed suicide. The father of the deceased/bride alleges that it is not a case of suicide, either she has been killed or circumstances have been created where she has been compelled to commit suicide.
2. The deceased had a love marriage with her husband. Even

after the marriage the girl continued to stay with her parents for six months without informing them of the marriage. The girl's side of the family refused to accept the marriage while the boy's side of the family accepted the girl as their daughter-in-law and she started staying in their house.

3. The statement made by the petitioner herein (father of the deceased) before the Executive Magistrate is an admission of the fact that the resistance to the marriage came from the girl's side and the girl was extremely unhappy with her family for not accepting the marriage. However all persuasion on her part fell on deaf ears.
4. There is only one allegation made by the petitioner that about fifteen (15) days prior to the death of the deceased she had met with her mother and had asked her whether her father would be willing to advance about Rs.4.00-5.00 lakh to her husband, who wanted to start a business but that request was declined by her father. There is no allegation of any demand being made by the husband or his family members on the parents of the girl. In fact, there was practically no interaction on account of the girl's side not accepting the marriage.
5. It is also to be taken note of that a suicide note was also found at the place of death and the cause of death is asphyxiation.
6. The learned Additional Sessions Judge in terms of the impugned order found that there was no material on record to frame the charges and thus discharged the accused which included

practically all members of the family of the husband of the deceased, who had been arrayed as accused.

7. The learned Additional Sessions Judge has come to the conclusion that there is not an iota of evidence on record to show that any cruelty or harassment on account of dowry has taken place on the deceased. The only allegation is that the deceased, at one occasion had requested the petitioner to help her husband by advancing an amount of Rs.4.00-5.00 lakh to start a business. This is not only established from the statement recorded of the petitioner but also from the statement recorded of the wife of the petitioner. The trial court, thus, found that there was no nexus between the said request made by the deceased and her demise.

8. The trial court also found that even in the statement of the petitioner there is no whisper of any harsh language used either by the husband of the deceased or any of his family member nor any demand for dowry was made by them. In fact, the stand of the family members of the boy's side was that they wanted their daughter-in-law to live with them. The deceased was residing with her in-laws contrary to the wishes of her parents. The suicide note was shown to the petitioner, who initially admitted the hand writing of the deceased but stated subsequently that he has some doubts on account of demise of her daughter.

9. Learned counsel for the petitioner, once again, seeks to plead

that there was no appreciation of the material on record by the trial court and the trial court is not required to go into the detailed scrutiny at the stage of framing of charges. It is further submitted that the MLC report shows some anti-mortem injury and the statement was made by one of the friends of the father of the deceased which cannot be ignored.

10.It is trite to say that at the stage of framing of charges, the trial court does not have to go through the detailed scrutiny of evidence but has to sift evidence on record and other documents for the limited purpose of ascertaining whether *prima facie* case is made out against the accused. In this behalf, the judgement of the Apex Court in Niranjan Singh Karam Singh Punjabi, Advocate Vs. Jitendra Bhimraj Bijaya & Ors. (1990) 4 SCC 76 can be usefully referred to. Simultaneously it cannot be lost sight of that the trial court while framing charges is not to act merely as a post office or a mouthpiece of prosecution and has to ascertain whether a *prima facie* case has been made out. Thus, where two views equally possible and the evidence gives rise to suspicion but not grave suspicion, the accused can be discharged (Ref: Dilawar Balu Kurane Vs. State of Maharashtra (2002) 2 SCC 135).

11.If the aforesaid parameters are applied to the present case, in my considered view, no fault can be found with the impugned order of the trial court. The trial court has in depth analysed

the material produced by the prosecution and the statements recorded of the parents of the deceased are material. The statements do show that it is a case where the parents of the girl resisted to the marriage of the daughter against their wish to an extent that even on the said marriage having been solemnised in the Arya Samaj Mandir by the parties, they refused to accept the same. It is the boy's side who accepted the decision of the couple and wanted the girl to reside with them in their house. The statements do show that the deceased was bothered by the non-acceptance of her marriage by her father and that is what her mother had stated.

12.The only element of alleged financial demand is stated in both the statement of the father and mother of the deceased to be arising from the request of their daughter for some money to help her husband to start the business which the father declined. There was never any demand made nor the girl ever stated that any such demand was made by the husband or her family members. The statement of the friend of the father of the deceased has to be appreciated in that context where also the girl had expressed her unhappiness at her father not accepting the marriage and wanting the friend of her father to intervene on her behalf but to no avail. It is only at the alleged subsequent meeting at a market that a conversation is alleged to have taken place with the friend of the father stating about Rs.4.00-5.00 lakh not being paid by the father, which were

required by her husband to start a business.

13.The MLC report has also been perused and does not show any such injuries, which could give rise to suspicion of any foul play prior to the suicide committed by the deceased.

14.The demise of the deceased and her decision to commit suicide appears to have direct linkage with the factum of her family refusing to accept the marriage when it came to light almost six months after the same had taken place and the persistence of her father in not accepting the marriage even thereafter.

15.There is no merit in the petition.

16.Dismissed.

CRL.M.A.14037/2007

The application does not survive for consideration and is disposed of.

JANUARY 15, 2008
b'nesh

SANJAY KISHAN KAUL, J.