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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.REV.P. 149/2007

KHEM CHAND

..... Petitioner

Through: Mr. A.K. Goyal, Advocate.
versus

TRILOK SINGH & ORS.

..... Respondents

Through: Ms Urvi Kuthiala, Advocate.

CORAM:**HON'BLE MS. JUSTICE MUKTA GUPTA****ORDER****07.09.2011**

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1. By the present revision petition, learned counsel for the Petitioner challenges the judgment dated 23rd December, 2006 passed by the learned Addl. Sessions Judge acquitting the Respondents of the charges under Section 498A/304/306/34 IPC.

2. Learned counsel for the Petitioner contends that the order passed by the learned Addl. Sessions Judge is perverse, against the facts and law. Learned Addl. Sessions Judge has failed to appreciate the clear and cogent testimonies of the prosecution witnesses. It is contended that PW1 Khem Chand has clearly deposed that the Respondents were harassing the deceased and also made illegal demand of dowry and committed cruelty upon her due to which she committed suicide. Also the letters placed on record which were written by

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the deceased to various authorities against the Respondents speak volumes about the wrong done to her and the malafide intentions of the Respondents to cause harm to the deceased. It is contended that the deceased was married to the Kishan Kumar in May, 1994 and she was found dead otherwise than under normal circumstances within seven years of marriage. The letters and the testimonies of the prosecution witnesses clearly prove that she was subjected to cruelty and harassment by the Respondent. Thus the presumption as to abetment of suicide by a married woman should have been drawn against the Respondents. Also the medical evidence placed on record has not been appreciated properly by the learned Trial Court. Thus the order acquitting the Respondents is perverse and liable to be set aside.

3. Per contra, learned counsel for the Respondents states that the judgment passed by the learned trial judge suffers from no illegality requiring interference of this Court. The testimonies of the witnesses are full of material contradictions which do not inspire confidence. There is no evidence placed on record by the prosecution to prove the cruelty soon before death PW 1 Khem Chand has deposed that the accused/Respondents gave telephonic threats to his daughter i.e. the deceased and after about ten months his daughter was found dead in the bathroom of her house. Thus there was no proximity of time between her death and the alleged cruelty. The order passed by the learned trial

court is based on correct appreciation of evidence. The present petition being devoid of any merit is liable to be dismissed.

4. I have heard learned counsels for the parties and perused the record.

5. Briefly the facts of the case are that Sushila wife of Kishan Kumar had committed suicide on 28th February, 2001 by consuming poison. The husband pre-deceased her. On the basis of the statement made by the father and brother of the deceased before the S.D.M. case against the Respondents who are brothers and sister-in-law of the husband of the deceased, was registered under Section 498A/304/34 IPC.

6. PW 1 Khem Chand the father of the deceased deposed that his daughter was married with Kishan Kumar in the month of May, 1992. Accused Kripal Singh and Manju were the Jeth and Jethani of his daughter Sushila and accused Trilok Singh was her Dever. He stated that after marriage all the three accused told him that if he had given scooter, 30-40 thousand cash the marriage would have been more attractive. After 2-3 years of marriage he gave a scooter. Thereafter, the accused person asked his daughter and son in law to live separately who took their share in ancestral property and started living separately. But accused persons continued harassing them to leave the said house and take a separate place to live. Due to this harassment his son in law died on 9th May, 2000. Thereafter, the accused persons gave telephonic threats

to his daughter to leave the house failing which they would get his daughter and her son kidnapped.

PW7 Kishan Pal is the real brother of deceased Sushila. This witness has deposed that after the birth of the child of his sister he started living with her and lived there for about two and a half years. He stated that accused persons used to harass his sister and also demanded dowry immediately after the marriage of his sister. This witness has given his date of birth as 17th July, 1986 and he came to reside with his sister in 1998. In his cross-examination this witness has stated that his brother in law at the time of his death used to reside in a house in NOIDA. The distance between the house where his brother in law resided and the house where accused persons used to reside was less than half a furlong. This witness has further stated that he had no knowledge if any case had been filed against his father by the accused persons for the murder of his brother in law.

8. PW 2 Dr. S.K. Verma deposed that he conducted postmortem of the deceased and opined the cause of death to be "phosphide poisoning". Learned trial court after appreciating the evidence placed on record acquitted the Respondents observing that there were material contradictions in the statements of PW1 and PW7. It is noted that year of marriage of Sushila with Kishan Kumar has been given as May, 1992 by PW 1 whereas PW7 deposed that his



sister was married in May, 1994. PW 1 has deposed that although his son in law also joined in demanding scooter and 30-40 thousand rupees but later on he desisted whereas the accused persons kept harassing his daughter for the said demand. This witness has further deposed he had given the scooter to the accused person whereas no registration number or mode of payment of said scooter has been given by the prosecution. Ex. P1 to P2 purportedly the photocopies of complaint lodged to different authorities by deceased Sushila and her husband do not mention anything in regard to the demand of dowry by the present accused persons.

9. Also the opinion given by doctor S.K. Verma, in regard to the death of Sushila was phosphide poisoning but he could not give any definite opinion as to whether it had been consumed by herself or given by someone else. As per the postmortem report Ex. PW2/A there were no signs of external injury or pressing of neck. There is no immediate proximate cause shown by the prosecution that the deceased was abetted to commit suicide by consuming phosphide. The partition of ancestral property had already taken place and thus the pendency of any dispute regarding the property cannot be termed as immediate and proximate cause instigating Sushila to commit suicide.

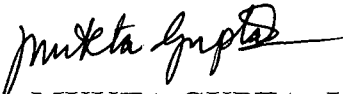
10. Thus keeping in view the circumstances and the evidence placed on record learned trial court concluded that the prosecution failed to prove the fact

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that the deceased committed suicide due to cruelty meted out to her by the Respondents and accordingly acquitted the Respondents of the charges against them.

11. Keeping in view the facts of the case, I find that the view taken by the learned trial court is a plausible view as no allegation of demand of dowry soon before death or cruelty is proved by the prosecution. Also nothing on record has been placed by the prosecution to prove the charges of culpable homicide or abetment of suicide against the Respondents. I find no illegality much less any infirmity in the impugned order which requires interference of this Court.

Petition is dismissed.


MUKTA GUPTA, J.

SEPTEMBER 07, 2011
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