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

+ **Crl.L.P.No.59/2012 and Crl.M.A.No.1467/2012**

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Date of decision: 17<sup>th</sup> May, 2012

STATE

..... Petitioner

Through : Ms. Ritu Gauba, APP.

versus

SATISH KUMAR & ORS

..... Respondents

Through : Mr. K.B. Andley, Sr. Adv. with  
Mr. M.K. Yadav, Mohd.  
Shamik, Mr. Lokesh Chandra  
and Mr. P.K. Sharma, Adv.

**CORAM:**

**HON'BLE MS. JUSTICE GITA MITTAL**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**JUDGMENT (ORAL)**

**Crl.M.A.No.1467/2012**

We have heard learned APP for the State and learned senior counsel for the respondents. For the reasons stated above, the delay in filing the petition is condoned. This application is allowed.

**Crl.L.P.No.59/2012**

1. We have received the record of the trial court which has been carefully examined with the assistance of learned counsel for both the parties.

2. The present petition has been filed by the State under Section 378(3) of the Code of Criminal Procedure praying for

grant of leave to appeal against the judgment dated 8<sup>th</sup> September, 2011 passed by Shri Rakesh Tiwari, ASJ rejecting the case of the prosecution in the case arising out of FIR No.521/04 under Section 498A/304B/34 IPC registered by the Police Station, Uttam Nagar.

3. The case set-up by the prosecution before the trial court, briefly stated, was that information was received by S.I. Khemender Pal Singh on the night of 26<sup>th</sup> and 27<sup>th</sup> June, 2004 to the effect that informant's sister had been killed by her in-laws at house of one, Dr. Hukum Singh Punia, Shukar Bazar Road, Tyagi Enclave, Mohan Garden, Uttam Nagar, New Delhi. When the police proceeded to the said house, one Smt. Rekha wife of Shri Pradeep Kumar was found lying dead on the first floor. Her in-laws as well as relatives of the parental side were found present. The father of the deceased, Dori Lal lodged the complaint that his daughter, Rekha was married to Pradeep Kumar only on 18<sup>th</sup> February, 2003 and that her in-laws were harassing her for dowry. Her death had occurred within one year of the marriage.

In this background, the SDM of the area concerned was informed and investigation into the case was initiated.

4. It is to be noted that the police station, Uttam Nagar registered the FIR No.521/04 under Section 498A/304B/34 IPC

against Shri Dr. Hukum Singh Punia (father-in-law of the deceased), Pradeep Kumar (husband of the deceased), Shri Satish Kumar and Shri Vinay Kumar (brothers-in-law of the deceased) and Smt. Shakuntala (mother-in-law of the deceased).

5. The challan was filed before the Metropolitan Magistrate who committed the case to the Court of Session vide an order passed on 6<sup>th</sup> October, 2004.

6. In support of the case, the prosecution examined eight witnesses and the matter proceeded for recording of the statement of the accused persons under Section 313 of the Code of Criminal Procedure wherein they pleaded their innocence.

7. We find from the judgment assailed before us that the husband of the deceased, Pradeep Kumar expired during the pendency of the case on 14<sup>th</sup> December, 2006 as a result proceeding against him stood abated. Smt. Shakuntala (mother-in-law of the deceased), also accused in the present case, expired on 26<sup>th</sup> October, 2010 and the proceeding against her also stood abated.

8. The learned Trial Judge has considered the evidence placed before him in detail and by the judgment dated 8<sup>th</sup> September, 2011 found that the prosecution has miserably

failed to bring home the guilt of the accused so far as Section 304B/34 IPC is concerned. The trial court has also found that the prosecution has failed to prove the charges under Section 498A/34 IPC and under Section 3 of the Dowry Prohibition Act beyond reasonable doubt and for the said reason, the accused was held entitled to the benefit of doubt and acquitted of the charges under Section 304B/498A/34 IPC as well as Section 3 of the Dowry Prohibition Act.

9. This judgment has been assailed by the State before us urging that the learned Trial Judge has erred in concluding that the prosecution had failed to make out that the deceased was subjected to cruelty or harassment by her husband or any of his relative(s) or that there was any cruelty or harassment inflicted for or in connection with the demand of dowry. The learned Trial Judge has carefully analyzed the evidence and testimony of the relatives of the deceased who had testified against the respondent herein. It has been found that the deposition of the witnesses was full of glaring and material contradictions even going to the extent of killing each other. It was noticed that though most of the relatives stated that there was no harassment or demand for dowry for three months after the marriage, however, contradictorily one relative has stated that there was harassment and demand for dowry right

after the marriage.

10. So far as the demands are concerned, the learned Trial Court has found that the allegations of dowry demand made by one witness were not corroborated by other witness who was stated to be also present at the spot when the said demand was made. Furthermore, the witness to whom the demand for dowry is stated to have been made, has not given any deposition of any such demand. For instance, PW-5 deposed that Shri Pradeep Kumar demanded a sum of ₹40,000/- in the presence of PW-10. However, when PW-10 appeared in the witness box, he has made no deposition about any such demand. It is the same with regard to the evidence of the other allegations of dowry demands.

11. Some other witnesses were also examined to establish that Pradeep Kumar had demanded a Bullet motorcycle against the motorcycle of the Freedom brand. However, the allegation of such demand having been made is not supported by the deposition of PW-9 who was allegedly present at the place where this demand was allegedly made. The learned Trial Judge has also noticed the allegation of the demand of ₹10,000/- made in May or June, 2003 from the witness. However, this demand is not supported by the deposition of PW-9 who was stated to be present at the spot. PW-10

deposed that Pradeep Kumar had raised a demand of ₹50,000/- to the appellant. However, the statement of PW-10 is not supported or corroborated by the deposition of any other witness. So far as the demand of the life insurance policy to the tune of ₹5,00,000/- is concerned, PW-8 and PW-9 made no such deposition with regard to the same. However, in cross-examination, the said demand of insurance was answered by PW-10.

12. In the light of the above discussion, we are unable to find any material in support of the contentions of the prosecution that there was ample material to return a finding of guilt of the appellant.

13. The allegation that Pradeep Kumar was a drunkard and used to beat the deceased under the influence of liquor is again not supported by any material placed on record. The learned trial court has noticed that Pradeep Kumar had demanded insurance cover. It has also been alleged that accused Pradeep (husband of the deceased) had demanded ₹50,000/- for purchase of car/van. Neither of these alleged demands could be held to be covered under the definition of dowry. After this detailed consideration, the learned Trial Judge has concluded that the prosecution has miserably failed to bring home the guilt of the accused person so far as the

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offences with which he was charged is concerned and he was acquitted of the same. The learned Trial Judge had also directed that their personal bond and surety bond would stand discharged.

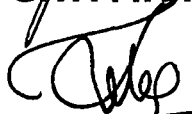
14. The learned APP for the State has placed reliance on the pronouncement reported at (2011) 4 SCC 427, Bachni Devi & Anr. v. State of Haryana in support of her contention that a stringent view must be accorded to the allegations against the accused. We find that in Bachni Devi, the demand of dowry as made by the in-laws of deceased was established. Therein it was also established by the evidence of the prosecution witnesses that owing to the inability of the deceased's family to meet with the demands of the accused for a motorcycle, the deceased was subjected to harassment and ill-treatment by the accused. In the instant case, the testimony of the prosecution witnesses suffers from contradictions and discrepancies. The prosecution has failed to establish the allegations of the demands or that the same could be treated as a 'demand for dowry'. It is pertinent to point out that these contradictions in the testimonies have been carefully noted in the impugned judgment.

15. We have noticed above that in the instant case, the allegations were primarily leveled against Pradeep Kumar, son

of Shri Hukum Chand and his mother Smt. Shakuntala, wife of Shri. Hukum Chand. On account of their death on 14<sup>th</sup> December, 2006 and 26<sup>th</sup> October, 2010 respectively, the proceedings against them stood abated.

16. The impugned judgment deals at length with the vagueness of these allegations and also the fact that they were unspecific. We also find that the judgment carefully noted the contradictions in the testimony of the various witnesses. We see no reason to differ with the findings and conclusion reached by the learned Trial Judge.

For all the foregoing reasons, we find no merit in this petition which is hereby dismissed.

  
**GITA MITTAL, J**  
  
**J.R. MIDHA, J**

**MAY 17, 2012/mk**