

Court No. - 29

Case :- CRIMINAL REVISION No. - 268 of 2024

Revisionist :- Smt. Manju Mishra Alias Manjulata Mishra

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko And Another

Counsel for Revisionist :- Sarvesh Kumar Dubey, O.P. Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Shri Anil Kumar Tiwari, Advocate has filed his Vakalatnama on behalf of opposite party No.2. The same is taken on record.

Heard Shri O.P. Tiwari and Shri Sarvesh Kumar Dubey, learned counsel for the revisionist and Shri Anil Kumar Tiwari, learned counsel for opposite party No.2 and Shri Anant Pratap Singh, learned AGA for the State.

The revisionist is aggrieved by the order passed by the trial court declining the discharge application filed on behalf of the revisionist. The revisionist is mother-in-law of the deceased. The trial court has examined the facts and contents of the prosecution set out in the FIR and evidences collected in the following manner:

"8. The brief facts for the disposal of the case is that the applicant Omshankar Shukla submitted a written Tehrir alleging that her daughter Shambhavi aged about 24 years was married to Anand Prakash Mishra alias Mohan S/o Shivakant Mishra R/o Adarsh Nagar, near Rani Avanti

Bai School, P.S. Kotwali, District Unnao on 30.01.2022. He gave A.C., Fridge, L.E.D., double bed, Almira, Dressing Table and other household articles and 6 Tola gold for dowry and also gave cash of Rs. 5 lac in Bariksha and Tilak along with Ginni, Silver plate, two golden chain, silver coconut. He spent Rs. 15 Lac in marriage, but applicant's daughter's husband Anand Prakash Mishra, father-in-law Shivakant Mishra, mother-in-law Manju Mishra and daughter-in-law Dipika Dixit and brother-in-law Anup Kumar Dixit started taunting and harassing mentally and physically for demand of car and a plot. Her daughter told them that her father has given sufficient dowry and he has now nothing to give in additional dowry. Whenever applicant called his daughter to ask for her wellbeing, then her daughter Shambhavi told about mental and physical harassment by the in-laws. On 25.08.2022, when his son Anupam Shukla went to meet his daughter then she started crying and said "brother, please give them plot and car, otherwise they will kill me." His son also requested her in-laws to send Shambhavi to her parental house, but her in-laws refused and asked him to go away. Thereafter, the applicant went to his daughter's in-laws house and requested not to harass his daughter but the in-laws refused to do so and on 31.08.2022 he received the death information of his daughter. Her in-laws have killed his daughter by

strangulating her throat. On the basis of the written Tehrir given on 31.08.2022, the first information report No. 0175 of 2022 dated 31.08.2022 1U/s 498A, 304B I.P.C. and 3/4 D.P. Act was lodged against Shri Anand Prakash Mishra alias Mohan (Husband), Shivakant Mishra (father-in-law), Manju Mishra (mother-in-law), Dipika Dixit (sister-in-law) and Anup Kumar Dixit (brother-in-law).

9. Panchayatnama of deceased was done on 31.08.2022 at 10:42 in District Hospital in which Ramashankar Dwivedi, Pramod Kumar Sharma, Lakshmi Shankar Shukla, Vimal Prakash Shukla and Om Shankar Shukla were the Panch, appointed by the Investigating Officer, in which the cause of death was found to be Ante-mortem hanging. The Autopsy was done by the medical officer and in which the following injury was found.

10. Antimortem Injury:-

Ligature mark of size 26x2cm present in front of neck below chin above for thyroid cartilage and on back of neck. Obscurely interrupted. 4cm below left ear. Mark is present 2.5cm below right ear 5cm below chin. 5cm below right ear. Both of groove is blown and of parchment like margins abraded on cutting subcutaneous tissue ligature mark is white hard and glazing.

Thereafter the learned trial court has found that a prima

facie case of commission of offence is disclosed against the revisionist by holding that:-

"22. As per the perusal of the record, it is evident that the deceased was married with accused Anand Prakash Mishra alias Mohan on 30.01.2022 and she died on 31.08.2022 that is within 8 months of her marriage. As per the Post-mortem Report she died due to Asphyxia and due to Ante-mortem hanging. It means the death was unnatural. So far as the investigation is concerned the suicide note was available in which she has stated that "Sry mummy papa ujjwal मुझे माफ कर दीजिए जो मैं कर रही हूँ मेरा खुद का फैसला है मेरे ससुराल वाले जिम्मेदार नहीं है। पापा आपको मेरी कसम है, आप खुश रहेंगे यहां वालों को कुछ नहीं बोलेगें बस आप मम्मी उज्ज्वल खुश रहो रोज रोज रोने से अच्छा एक बार रो ले बस। Sry"

23. In her statement given U/s 161 Cr.P.C. Smt. Rekha Shukla aged about 49 years W/o Om Shankar Shukla has stated that her daughter's marriage was solemnized with Anand Prakash Mishra S/o Shivakant Mishra on 30.01.2022. They have given sufficient amount of dowry but after the marriage her in-laws Anand Prakash Mishra alias Mohan, father-in-law Shivakant Mishra, mother-in-law Manju Mishra, sister-in-law Dipika Dixit and brother-in-law Anup Kumar Dixit started harassing her daughter for Car, Sofa and plot in additional dowry. Her

daughter talked with her on 30.08.2022 at 9:16 A.M. and told about the harassment. She said that she will send her father to her in-laws house to convince her. On 31.08.2022 also on mobile she was saying about physical and mental harassment for the additional dowry by her in-laws and after the conversation within two hours she received the information about the death of her daughter. She has specifically stated that her daughter was being harassed by her husband Anand Prakash Mishra alias Mohan, father-in-law Shivakant Mishra, mother-in-law Manju Mishra, sister-in-law Dipika Dixit and brother-in-law Anup kumar Dixit. In her statement about the implication of Anup Kumar Dixit and Dipika Dixit she has stated that her daughter had two more sisters-in-law and brothers-in-law, but they have not implicated in the matter as they are innocent but Dipika Dixit and Anup Kumar Dixit have harassed her daughter. She said "साहब मेरी पुत्री आक्षांशी को उसके पति आनन्द प्रकाश मिश्र उर्फ मोहन व ससुर शिवाकान्त, सास मंजू मिश्रा व ननद दीपिका दीक्षित व नन्दोई अनूप कुमार दीक्षित ने मार दिया है। साहब मेरी बेटी आक्षांशी की और भी ननद और नन्दोई है, जिनका दोष नहीं है। इसलिए उनको नहीं लिखाया गया है, जो दोषी है उन्ही को मुकदमें में लिखाया गया है।"

24. The statement of Om Shankar Shukla F/o deceased Akshanshi and statement of Ujjawal Shukla was recorded U/s 161 Cr.P.C. There is Whatsapp chatting available on record in which she has stated to her brother that:- "April

17, 2022 Ujjwal Aaj Sabra khatam Ho rha 22:50 Bhoot
Jada mental torchar Kiya ja raha hme ॐ 22:50 Bs Tum
logo KO ulta sidha kha krti 22:51 Ar ab hme bhi mohan
suna rhe Kali Ho koi bhoot intelligent bhi nahi Ho fir bhi
Sadi KR Li to hmne KH Diya do do baar dekha tha mna
KR dete to chid Gye mlb HM bs sunte rhe Jo bhi yeh ulta
sidha bole 22:54 Kha TK sune ar Mummy Ji bhi yhi taunt
mara karti ye bhi n sochti hm pregnant hai in sb se mental
health kitni kharab hogi 22:55 Ar ab hme bt April 17,
2022 the Kali Ho koi bhoot intelligent bhi nahi Ho fir bhi
Sadi KR Li to hmne KH Diya do do baar dekha tha mna
KR dete to chid Gye mtlb HM bs sunte rhe Jo bhi yeh ulta
sidha bole 22:54 Kha TK sune ar Mummy Ji bhi yhi taunt
mara karti ye bhi n sochti hm pregnant hai in sb se mental
health kitni kharab hogi 22:55 BSS roya hi krte hai hum
22:56 Dekho kitne din sh payenge 22.56 aana pdega hme
LG rha 23:00 bat krni pdegi 23:01 kya chahte hai ye log
do month hue 23:01."

It is established from the findings of the trial court as well as material in the record that the victim was married to the son of the revisionist. The revisionist and other accused persons harassed the deceased for dowry. The marriage was solemnized one year prior to the death of the victim. The victim died an unnatural death. The correctness of the suicide note is a triable issue. Pr ima facie offence is clearly disclosed.

The criminal revision is dismissed.

Order Date :- 20.3.2024
Ashutosh