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

Date of Decision: May 18, 2015

+ CRL.M.C. 2076/2015 & Crl. M.A.No.7386/2015

ANIL KUMAR AGGARWAL Petitioner

Through: Mr. K. S. Negi, Advocate

versus

GOVT OF NCT & ANR. Respondents

Through: Mr. Parveen Bhati, Additional
Public Prosecutor for respondent-
State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Petitioner had filed a criminal complaint for the offence of murder etc. regarding untimely death of his daughter- *Priyanka Kumari*, who was married to the accused just a year back prior to unfortunate death of petitioner's daughter. After recording the pre-summoning evidence, petitioner's complaint has been dismissed by the trial court by holding that there is no incriminating material on record to justify summoning of the accused. The aforesaid order of 2nd August, 2014 of the learned trial court has been affirmed by the learned Revisional Court vide impugned order of 17th November, 2014.

According to the complainant, the factual background of this case, as noticed in the impugned order of 17th November, 2014 of the learned

Revisional Court is as under:-

'According to the complainant, his daughter was married to Ranjit Kumar Aggarwal (respondent) on 26.06.2009. She died on 29.09.2010. The respondent/accused demanded Rs.4 lacs at the time of said marriage, in addition to other household articles. Said amount was also paid to him. After marriage, couples started residing together. In May, 2010 respondent further demanded a sum of Rs.5 lacs to purchase a car. He (complainant) did not take it seriously and ignored. Ranjit Kumar Aggarwal (respondent) joined Jindal Group of Companies, having office at Bhikaji Cama Place, New Delhi. His daughter was thus went to Delhi. Although, the victim had some trivial complaints against her husband but same were ignored by him to save her matrimonial life. All of sudden on 25.09.2010, respondent/accused called his (complainant's) wife and asked them to come to Delhi. He came to Delhi. He was asked to reach Mohinder Hospital, Green Park, New Delhi. After coming here, he (complainant) found his daughter semiconscious and unable to speak. It was disclosed to him that she (daughter of complainant) had some gastro problem and loose motion etc. Respondent/accused started requesting doctors to discharge the victim and due to his persistent requests, she was discharged from the hospital. When the victim was taken to her matrimonial house by respondent/accused, complainant was informed that she was serious and taken to Fortis Hospital, Vasant Kunj. He was

asked to wait outside the hospital. In this hospital, the victim Priyanka was declared dead on 29.09.2010 at 11.50 am.

The five circumstances, which weighed with the courts below in dismissing petitioner's complaint at the summoning stage, are as under:-

'(i) There was no previous complaint lodged by the victim or her parents to the police or any other authority like CAW Cell etc. alleging demand of dowry or the domestic violence committed on her.

(ii) There was evidence on record to verify that after falling ill the victim was given treatment in best hospitals including Mohinder Hospital, Green Park and Fortis Hospital, Vasant Kunj. She was given immediate treatment and there was no delay in taking her to hospital by the accused.

(iii) The deceased had history of taking poison twice. She was a case of drug abuse.

(iv) According to post mortem report, the victim died due to Panriearitis. The patient was opined as having consumed strip of Paracetamol. She was admitted to Mohinder Hospital for diarrhea and later on shifted to Fortis Hospital. According to death summery, the deceased was habitual of intravenous drug abuse in marijuana and was patient of depression. She was also a chain smoker.

(v) A per forensic report given by Safdarjung Hospital, the death of the said victim was due to hemorrhagic Panriearitis. Immediately before death of his daughter i.e. victim, the

complainant gave statement before the Executive magistrate mentioning that the relation of accused and his daughter were cordial. Both of them used to live happily and peacefully. His daughter died due to disease and no one should be made responsible for it. Maternal grandfather of deceased was also examined by the Executive magistrate. This witness also stated that they had no complaint against anybody and the victim died due to disease. (underlined to supply emphasis)

At the hearing, learned counsel for petitioner submitted that the impugned order erroneously proceeds on the ground that there is no incriminating material against the accused persons and the pre-summoning evidence of petitioner as well as grandfather of deceased clearly makes out an offence of murder against the accused persons and so, the impugned order deserves to be quashed and accused persons ought to be tried in accordance with the law.

Upon hearing and on perusal of the impugned order and the material on record, I find that in the pre-summoning evidence of petitioner and the grandfather (*nana*) of the deceased, the fact of deceased earlier trying to take her life is nowhere questioned and nothing material has come in pre-summoning evidence regarding alleged cruelty being meted out to the deceased to come to a conclusion that grave doubt exists regarding the involvement of accused persons in causing the death of deceased.

The Apex Court in *State of Orissa v. Ujjal Kumar Burdhan* (2012) 4 SCC 547 has reiterated that inherent powers of this Court under Section 482 of the Cr.P.C. are to be exercised in exceptional cases. Pertinent

observations of the Apex Court in *Ujjal Kumar (supra)* on this aspect are as under: -

“It is true that the inherent powers vested in the High Court under Section 482 of the Code are very wide. Nevertheless, inherent powers do not confer arbitrary jurisdiction on the High Court to act according to whims or caprice. This extraordinary power has to be exercised sparingly with circumspection and as far as possible, for extraordinary cases, where allegations in the complaint or the first information report, taken on its face value and accepted in their entirety do not constitute the offence alleged. It needs little emphasis that unless a case of gross abuse of power is made out against those in charge of investigation, the High Court should be loath to interfere at the early/premature stage of investigation.”

In the instant case, this Court is of the considered opinion that there is no palpable error in the impugned order to justify interference by this Court.

This petition and application are accordingly dismissed.

**(SUNIL GAUR)
JUDGE**

MAY 18, 2015

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