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

% Judgment delivered on: 05.02.2019

+ CRL.REV.P. 720/2017

STATE OF NCT OF DELHI

..... Petitioner

versus

SHYAMLAL & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Avi Singh, ASC with Ms. Purnima, Advocate.
SI Sunil Kumar, PS Govind

For the Respondent: Mr. Nitish Chaudhary, Advocate for respondent Nos.1 and
2 with respondent Nos.1 and 2 in person.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. State has filed this revision petition impugning order dated 20.02.017, whereby, respondents have been discharged of the offences under Section 498A/34/304B IPC. Respondents are the father-in-law and mother-in-law of the deceased. The husband of the deceased is already facing trial.

2. Learned Additional Standing Counsel for the State submits that the Trial Court has erred in not appreciating the entire material that was placed on record along with the chargesheet and bare reading of the order shows that what was taken into account by the Trial Court

was only the statement of the complainant and on reading of the statement of the complainant, the Trial Court had formed an opinion that there is no material to frame charge against the respondents.

3. Learned Additional Standing Counsel for the State submits that there were statements and other material on record filed along with the chargesheet, *inter alia*, the statement of the sister of the deceased, who is also married into the same family and resided with the deceased and the respondents as also the statement of the brother of the deceased, which clearly show that grave suspicion arises against the respondents.

4. Learned counsel for the respondents submits that even if the entire material as filed along with the chargesheet is taken into account, there is no incriminating material against the respondents of having made any demand for dowry or of harassment of the deceased.

5. Perusal of the impugned order shows that the examination by the Trial Court has been restricted to the statement of the complainant.

6. The Trial Court has *inter alia* held as under:-

“I have examined the statement of the complainant on which present case was registered. In the entire complaint made to the SDM, the complainant has nowhere alleged any demand/torture/harassment committed by either of the accused persons upon the deceased related to dowry. Hence, I have no hesitation in holding that no offence under section 498A IPC is made

out against either of the accused persons. Accordingly, they are discharged for the said offence.....”

7. No doubt, the Trial Court does not have to give detailed reason at the stage of framing of charge. However, as noticed above, in the instant case, the Trial Court has given reasons and the reason given by the Trial Court is that on examination of the statement of the complainant, there is no incriminating material found against the respondents and hence they have been discharged. From the order it is apparent that the Trial Court has not taken into account other material that was placed along with the chargesheet by the prosecution.

8. Since the entire order of the Trial Court discharging the two respondents is based solely on the statement of the complainant and does not show consideration of the other material, I am of the view that the impugned order dated 20.02.2017 requires to be set aside and the matter remitted to the Trial Court for re-examination of the entire material filed by the prosecution along with the chargesheet to ascertain if grave suspicion arises against the respondents, sufficient to frame charge.

9. In view of the above, the impugned order dated 20.02.2017, insofar as it discharges the respondents, is set aside. The matter is remitted to the Trial Court for re-examination of the chargesheet and the evidence enclosed therewith for consideration of framing of

charge.

10. It is further directed that the Trial Court, for framing of charge, shall restrict its examination to the chargesheet and enclosed evidences and shall not take into account evidence that has come before the Trial Court in the trial against the husband of the deceased.

11. All rights and contentions of the parties are reserved.

12. It is clarified that this Court has neither considered nor expressed any opinion on the merits of the case.

13. It is informed that the next date before the Trial Court is 12.03.2019. The respondents shall appear before the Trial Court on the next date, i.e., 12.03.2019.

14. Petition is allowed in the above terms.

15. Order *Dasti* under signatures of the Court Master.

FEBRUARY 05, 2019
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SANJEEV SACHDEVA, J