

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

% Judgment delivered on: 19th March 2020

+ CRL.REV.P. 83/2017

GAJENDER SINGH

..... Petitioner

versus

THE STATE (GNCT OF DELHI) & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Amit Kumar with Mr. Harsimrat Randhawa,
Advocates.

For the Respondents: Ms. Meenakshi Dahiya, APP for the State.
SI Naeem Ali, PS Bhajan Pura.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

**CRL.REV.P. 83/2017 & Crl.M.A.1317/2017 (stay),
Crl.M.A.3866/2017 (for clarification of order dated 23.01.2017)**

1. Petitioner impugns order dated 28.10.2016, whereby, the Trial Court has discharged respondent No.2 Smt. Savitri of all charges.

2. Deceased - Ms. Manisha was married on 29.04.2015 to one Akash son of Respondent No. 2. In the intervening night of 12.02.2016 and 13.02.2016, she committed suicide by hanging herself from a ceiling fan. Respondent No.2 is the mother-in-law of the deceased.

3. Incident was reported to the Police Station Bhajan Pura on 13.02.2016 and inquest proceedings were conducted by the Executive Magistrate and as per the post mortem, the cause of death was *asphyxia* as a result of ante-mortem hanging.

4. FIR was registered under Sections 498A/304B/34 IPC, Police Station Bhajanpura. Husband of the deceased – Akash, Brother-in-law of the deceased – Vikash and mother-in-law – respondent No.2 Smt. Savitri Devi were arrayed as accused.

5. After investigation, charge sheet was filed against Akash, Vikash, Neelam – wife of Vikash and Smt. Savitri Devi.

6. By the impugned order, the Trial Court has discharged Akash, Vikash, Neelam and Respondent No. 2 – Smt. Savitri Devi for the offences under Section 498A and 304B. However, charge has been framed against Akash under Section 306 IPC.

7. Subject petition has been filed by the father of the deceased impugning the order – on – charge in so far as Respondent No. 2 – Smt. Savitri Devi is concerned and contending that there was sufficient material against respondent No.2 – Savitri Devi for framing of charges.

8. It is contended that the Trial Court has erred in not noticing the statements of Ms. Anita – cousin sister of the deceased, Mrs. Renu – sister-in-law of the deceased, who are alleged to have made

statements which show commission of offence under Sections 498A/304 IPC.

9. It is contended that in their statements both Anita and Renu have stated that Smt. Savitri Devi – her mother-in-law used to ask her to bring a four wheeled vehicle and she was being harassed for not bringing a four wheeled vehicle.

10. Trial Court in the impugned judgment has noticed the provisions of Section 304B IPC and held that to bring home the guilt under Section 304B IPC, prosecution must prove that:

- (i) *The death of a woman should be caused by burns or bodily injury or otherwise than under normal circumstances;*
- (ii) *Such a death must have occurred within seven years of her marriage;*
- (iii) *Soon before death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband;*
- (iv) *Such cruelty or harassment must be for, or in connection with demand of dowry; and*
- (v) *Such cruelty or harassment is shown to have been meted out to the woman soon before her death.*

11. Trial Court has also noticed that the provisions of Section 113-B of the Indian Evidence Act as also the judgments of the Supreme Court in *Baljinder Kaur vs. State of Punjab*: 2015 [1] JCC 473 and *M. Srinivasulu vs. State of A.P.*: (2007) 12 SCC 443 wherein the Supreme

Court has enumerated the conditions for drawing presumption under Section 113-B of the Evidence Act.

12. Trial Court has thereafter considered that the crucial question is whether there was material on record to *prima facie* show that the deceased was subject to cruelty or harassment by the accused and whether such cruelty or harassment was for, and in connection with any demand for dowry.

13. Trial Court has noticed that the prosecution has relied on the statement of the complainant Gajender Singh, i.e., the father of the deceased. On perusal of the statement of Gajender Singh, the Trial Court has observed that he had not made any allegation that the accused and his family had subjected the deceased to any kind of cruelty or harassment. He had not made any allegation of dowry demand particularly that there was no allegation against respondent No.2. The only allegation in his statement were that the husband Akash used to threaten to divorce her.

14. Trial Court has also referred to the statement of Smt. Usha Devi – the mother of the deceased and also noticed that she had not made any allegation that the deceased was subjected to harassment or cruelty and there was no allegation against the respondent No.2 – Smt. Savitri. The Trial Court has noticed that there was no material in her statement also to the extent that the respondent No.2 had subjected her to harassment or cruelty for, or in connection with any demand for dowry.

15. With regard to the statement of Smt. Renu, the Trial Court has noticed that in her statement she had stated that the deceased had told her that her husband Akash had relation with his sister-in-law. She stated that the deceased had told her that her mother-in-law (Smt. Savitri) used to ask her to bring a vehicle. However, she did not state as to when the deceased told her about the demand of car made by Smt. Savitri or that Smt. Savitri was subjecting her to harassment or cruelty so as to force her to bring a car.

16. With regard to the statement of Smt. Amit in regard to the role of the respondent No.2, Smt. Anita had stated that the deceased told her that her mother-in-law used to comment that her son was getting a four wheeled vehicle in marriage and they expected that the deceased would bring a car but she brought a motor cycle. She did not give any details about when such a statement was made.

17. On perusal of the statements relied on by the prosecution, the Trial Court has returned a finding that there was no material *inter alia* against respondent No.2 for proceeding against her under Section 498A and Section 304 IPC.

18. Before this court also Petitioner has not been able to show any material to suggest that the findings returned by the Trial Court are not substantiated by record.

19. For framing of a charge against the accused, not only suspicion but grave suspicion that the accused is likely to have committed the offence is required.

20. As noticed by the Trial Court and on perusal of the statement of the witnesses recorded by the prosecution, it is apparent that there are no specific allegations made against respondent No.2 – Smt. Savitri for either harassing the deceased or treating her with cruelty for, and in connection with any demand for dowry.

21. Perusal of the record does not show that grave suspicion arises against respondent No.2, of having committed the offence under Sections 498A or 304B IPC.

22. Trial Court has rightly appreciated the material and returned a finding that grave suspicion does not arise in the facts and circumstances of the case *inter alia* against the respondent No.2.

23. I find no infirmity in the view taken by the Trial Court in holding that no charge under Section 498A and Section 304B IPC is liable to be framed against respondent No.2.

24. I find no merit in the petition. The Petition is, accordingly, dismissed.

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

SANJEEV SACHDEVA, J

MARCH 19, 2020/st