

GRM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 181 OF 2022

Shabana Saudagar W/o. Raju alias	
Abdul Saudagar & Anr.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

Mr. Shivraj N. Kunchge, Adv. for the Applicants.

Mr. A. R. Patil, APP for the State/Respondent.

Mr. S. S. Ramkar, PSI attached to Chunabhatti Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 21, 2022

P.C.:

1. The applicants are challenging the order dated 22nd September, 2021 rejecting their discharge in a prosecution for offence under Sections 498(A) & 304-B r/w 34 of Indian Penal Code, 1860.

2. The First Information Report bearing no. 133 of 2017 was registered with Chunabhatti Police Station, Mumbai on 27th July, 2017 with the accusation that the applicants along with others treated the daughter of informant with cruelty by demanding the amount of Rs. 51,000/- towards dowry. It is alleged that the accused administered large number of sleeping tablets to the deceased through food and juice and, therefore, she was admitted in the local hospital at Mumbai on 30th May, 2017. Thereafter, the

informant took her to the private hospital and ultimately on 23rd June, 2017, she died. After completion of investigation, the charge-sheet was filed. The applicants thereafter filed an application under Section 227 of Code of Criminal Procedure, 1973 seeking their discharge on the ground that there is no material to raise grave suspicion against the applicants and there is no ground to proceed against the applicants, as the applicants are falsely implicated. The learned Additional Sessions Judge by impugned order dated 22nd September, 2021, rejected the discharge application of applicants holding that there is sufficient material on record in the form of statements of parents of deceased/victim and an elaborate inquiry at this stage is not contemplated.

3. The learned Advocate for the applicants submitted that there is absolutely no material on record to implicate the applicants. According to him, the material on record is not sufficient even to raise suspicion against the applicants, much less grave suspicion. According to him, the allegations against the applicants in the statements of father and brother of victim are vague in nature. He relied on the judgment of the Hon'ble Apex Court in the case of **Kanchan Kumar v/s. The State of Bihar** reported in **Criminal Appeal No. 1562 of 2022 arising out of SLP (CRL) No. 9601 of 2016**.

4. *Per-contra*, the learned APP for the State invited my attention to the statements of father and brother of victim, wherein applicant no. 2 is named and applicant no. 1 is referred as

his wife. He submitted that the statements of father and brother of victim are sufficient to raise grave suspicion against the applicants and, therefore, the learned Additional Sessions Judge is justified in rejecting the application of discharge.

5. Having considered the submissions on both the sides, it appears that the investigating officer has recorded the statement of father of victim, who, in paragraph no. 4 of his statement, has stated that the applicants along with others harassed the victim on the ground of non-payment of dowry amount. The statement of brother of victim also states that the applicants along with others harassed the victim for non-payment of dowry amount of Rs. 51,000/-. The statement of brother of victim specifically names the applicants for being administered sleeping tablets for killing the victim.

6. The parameters for discharge of accused under Section 227 of Code of Criminal Procedure, 1973, have been laid down by the Hon'ble Apex Court in the judgment passed in the case of **Union of India v/s. Prafulla Kumar Samal and Another** reported in (1979)3 SCC 4 dated 6th November, 1978.

7. On perusal of the statements of father of victim and her brother, in my opinion, it raises sufficient ground to proceed against them. The learned Additional Sessions Judge has rightly rejected the application for discharge of the applicants.

8. In so far as the judgment of the Hon'ble Apex Court in the

case of **Kanchan Kumar** (*supra*), the said case arose out of the proceeding under the provisions of Prevention of Corruption Act, 1947, wherein the mathematical calculation relating to the income-tax during the check period was wrong and, therefore, the Hon'ble Apex Court allowed the discharge.

9. In that view of the matter, there is no merit in this criminal revision application. Hence, the same is dismissed. No costs.

(AMIT BORKAR, J.)