



\$~38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 283/2019 CRL.M.A. 5284/2019**
PRAVESH & ORSPetitioner

Through: Mr. Gaurav Kochar, Adv.

versus

THE STATE (GOVT. OF NCT) DELHIRespondent
Through: Mr. Hitesh Vali, APP for State with SI
Akash Kumar, PS: Bhajan Pura.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
23.10.2024

%

1. This petition has been filled seeking assailing the order dated 31st October, 2018, passed by ASJ in SC no. 244/2018 in FIR no. 144/2017 registered at PS Bhajan Pura. By the said impugned order, charges were framed under Sections 498A/304B/302/34 IPC against the accused petitioners.
2. While the petitioner no.1 is the husband of the deceased, petitioner no. 10 is the mother-in-law of the deceased. Petitioner no.11, the father-in-law of the deceased has since passed away. Petitioners no. 2-3 are the sister-in-law and brother-in-law of the deceased, who do not reside at the matrimonial home, on which there is no denial by the counsel for respondent no.2.
3. The petitioners 4, 5, 6, 7, 8 and 9 are the three couples, viz., brother-in-laws of the deceased and their respective wives, who reside on a



different floor of the same premises, as the matrimonial home in Subhash Vihar, North Ghonda, Delhi.

4. It is stated by the counsel for petitioner that charges could not be framed against all the relatives of the deceased, considering that there are no specific allegations against them. For this, he relies upon the statement of the mother of the deceased recorded under Section 161 Cr.P.C, where she makes a general allegation about dowry demands, but does not name anybody in particular. The testimony recorded of PW-2, the father of the deceased, also names all the accused, but, however, there is no specific allegation against any particular person and a general statement has been made of demands by “*in-laws*”.

5. He further contends that charges under Section 302 IPC at the very least ought not to survive, considering that there is no allegation of any pre-meditation relating to the death of the deceased.

6. Counsel for the respondent No. 2, however, contends that a careful perusal of PW2's testimony would show that he has named all the accused and identified them in court and stated that his daughter was harassed and tortured for demand of dowry at her matrimonial house by “*aforesaid husband and in-laws*”. It is further noted that “*she had also told that aforesaid accused persons had demanded double door fridge, AC and four-wheeler car from her. My daughter had told the aforesaid facts to me and to my wife weepingly*”. Subsequently he states that when he visited the matrimonial house, the daughter told him that her “*husband and aforesaid in-laws*” used to demand dowry articles from her.

7. He states that in these circumstances, the charges framed against the petitioners are justified and they ought to face trial in this regard. The death of



the deceased occurred on 19th April, 2017, within 7 years of marriage, at her matrimonial home.

8. Having perused the records and after hearing the submissions of the parties, even though, an allegation has been made by the PW-2, as per his testimony, regarding the named “*in-laws*”, this Court is of the opinion that charges cannot subsist against the petitioner nos. 2 and 3 who did not even stay at the matrimonial home.

9. Allegations by PW-2, are relatable to the demands which were made at her matrimonial home and, therefore, at best could subsist against the petitioner Nos. 4-9 as the brother-in-laws and their wives who were staying on different floors of the same premises and for petitioner no. 1, (the husband), and petitioner no. 10 (the mother-in-law).

10. Counsel for petitioner has relied on the decision in ***Kahkashan Kausar @ Sonam & Ors v. State of Bihar***, (2022) 6SCC 599, where the Supreme Court has stated in para 18 *that general omnibus allegations made in course of matrimonial disputes result in violation of process of law.*

11. However, having perused the testimony of PW-2 and considering that the mother of the deceased is still to be examined, the Court is not inclined to interfere with the impugned order *qua* petitioners 1, 4-10.

12. All charges against petitioner nos. 2 and 3 shall accordingly be dropped and they stand discharged.

13. Charges under Section 302 IPC, however, with respect to all other petitioners shall also be dropped, considering that there is nothing on the record to suggest that there was a premeditated attempt to kill the deceased.

14. As per the charge sheet, the cause of death is *asphyxia* because of *ante-mortem* hanging. No external injuries were found on the deceased body.



15. Accordingly, all the petitioners are discharged of charges under Section 302 IPC.
16. The trial has been stayed by this court, by order dated 03rd May, 2023; accordingly, the Trial Court is directed to proceed ahead with the trial in light of these modified charges.
17. Copy be sent to the concerned Trial Court by the Registry.
18. The petition is disposed of with the above directions.
19. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 23, 2024/RK