



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

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Date of Decision: 23.04.2024

+ **CRL.M.C. 9405/2023 and CRL.M.A. 35182/2023**

GITA KUMARI

..... Petitioner

Through: Mr. Awadh Bihari Kaushik, Mr.
Rishabh Kumar and Mr. Anil Kumar,
Advocates.

versus

THE STATE NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Nawal Kishore Jha, APP for State
with SI Sachin, P.S. Khajuri Khas.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner has challenged the order dated 09.05.2023 passed by Ld. ASJ-02, Karkardooma Courts, Delhi, whereby in a revision petition preferred by respondent No.2 against the summoning order dated 06.01.2023 passed by the Trial Court thereby summoning respondent No.2 as an accused, came to be allowed.

2. Pithily put, the facts as relevant and necessary for disposal of the present petition, are that an FIR being FIR No. 555/2019 came to be registered on 19.10.2019 at P.S. Khajuri Khas, District North East under Sections 304B/498A/406/34 IPC, at the instance of the petitioner. In the FIR, the petitioner claimed that marriage of her daughter *Abha* (now deceased) was solemnised with *Abhimanyu Singh* on 05.02.2017. At the time of her marriage, a cheque for Rs.7 lacs and cash of Rs.4 lacs were given. It was further alleged that her daughter had been subjected to cruelty



on the ground of demand of dowry by her in-laws and the said allegations were levelled against the husband of the deceased, parents of the husband, elder brother of husband i.e. *Abhay Singh*/present respondent No.2 and his girlfriend namely *Shweta*. After investigation, charge-sheet came to be filed wherein the name of respondent No.2 and his girlfriend *Shweta* were kept in Column 12. It was stated that *Abhay Singh* and *Shweta* were found to be residing in Noida, UP for the past 2 years and that no connection was found between these persons and the deceased.

Against the same, a protest petition came to be filed by one *Kalpana Kumari*, another daughter of the petitioner wherein she was aggrieved by the fact that the name of respondent No.2 and *Shweta* were kept in Column 12. Vide order dated 06.01.2023, learned MM issued summons only against respondent No.2. In reaching the said conclusion, learned M.M. referred to the statement of sister of the deceased i.e. *Kalpana Kumari*, wherein she stated that two days prior to her death, the deceased had called her and stated that her in-laws including *Abhay Singh*/respondent No.2 were demanding dowry for the purchase of a flat. Another circumstance which was also taken into consideration by the learned M.M. was that the nameplate of the matrimonial house of the deceased also had the name of respondent No.2 mentioned on it. Notably, *Shweta* was not summoned vide the said order.

3. Respondent No.2 preferred a revision petition against the said order which came to be allowed vide the impugned order. The learned Sessions Court came to the conclusion that sweeping accusations had been made against all the accused persons and that merely because nameplate affixed at the matrimonial house had the name of respondent No.2 on it, would not be a ground enough to summon him to face trial in the subject FIR.



4. Learned counsel for the petitioner has assailed the impugned order by contending that sufficient allegations exist against all the accused persons including respondent No.2. It is contended that learned M.M. had appreciated the facts in the correct perspective and after doing the same, rightly summoned respondent No.2.

5. I have heard learned counsels for the parties and have also gone through the material as well as TCR which is placed on record.

6. As noted above, FIR was registered at the instance of the present petitioner, being the mother of the deceased. In her initial statement, she stated that in-laws of her daughter namely *Ajay Singh* (father-in-law), *Manju Devi* (mother-in-law), *Abhay Singh @ Manu* (brother-in-law) and *Shweta* (friend of Abhay) collectively used to cause physical and mental cruelty to her daughter and also demanded dowry. Five/six months prior to the death of the deceased, a demand of Rs.3 lacs for purchase of a flat was made, however the same was refused as her family was not in a financial position to pay this amount. Besides the statement of complainant, Investigating Officer has also recorded statement of *Jitender Prasad Singh* (father of the deceased) and *Kalpana Kumari* (sister of deceased).

While summoning respondent No.2, learned M.M. has relied on the nameplate affixed at the matrimonial house wherein name of respondent No.2 has been mentioned and statement of sister of deceased i.e. *Kalpana Kumari*. While statement of *Jitender Prasad Singh* is cumulative to the statement of complainant, a perusal of statement of *Kalpana Kumari* would show that she had stated about the demand of Rs.3 lacs for purchase of flat. She further stated that 2/3 days prior to her death, the deceased had spoken to her and stated that her in-laws were harassing her for demand of dowry.



However, she has not levelled any specific allegations against respondent No.2. Further, in the investigation, it has come on record that respondent no.2 was residing separately in Noida with his friend.

7. In the considered opinion of this Court, the investigating agency has rightly put the name of the answering respondent No.2 in Column 12, there being no material evidence appearing against him in evidence. The learned Sessions Court has rightly set aside the summoning order passed against respondent No.2. Accordingly, I find no ground to interfere with the order passed by the learned ASJ. Consequently, the same is upheld.

8. The petition alongwith miscellaneous application is dismissed.

9. Copy of the order be communicated to the concerned Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

APRIL 23, 2024

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