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

+ **CRL.M.C. 7083/2024**

AMRIK SINGH RATHOR

.....Petitioner

Through: **Mr. Gurvinder Singh, Adv.**

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: **Ms. Priyanka Dalal, APP with SI
Manjit Singh, PS Kirti Nagar**

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **28.11.2024**

CRL.M.A. 27040/2024

Exemption allowed, subject to all just exceptions.

The application is disposed of.

CRL.M.C. 7083/2024

1. This is a petition seeking setting aside of the impugned order and judgment dated 13.05.2024 passed in Criminal Revision 217/2022 passed by the learned Additional Sessions Judge wherein the order dated 06.07.2022 passed by learned CMM dismissing the application under section 156(3) of Cr.PC was upheld.
2. As per the facts of the case, the petitioner who is the brother of the deceased Late Shri Ravinder Singh Rathore filed an application under Section 156(3) of Cr.PC for registration of FIR against his sister-in-law, i.e. respondent No. 2.
3. In the complaint, it is stated that Late Mr. Ravinder Singh Rathore expired in Khetarpal Hospital on 08.05.2021 with symptoms of malnutrition, food poisoning and extreme weakness.



4. It is stated that the respondent No. 2, who is the widow of Late Ravinder Singh Rathore, neglected the victim and he was made to stay on the top floor of the house without any emotional and social support.

5. It is further stated that respondent No. 2 got part of immovable property, i.e. B-7/4, First and Second Floor, Rajouri Garden, New Delhi, transferred in her name from her father-in-law (who is alleged to be mentally unfit) by virtue of gift deeds, for which civil suit is pending.

6. It is further alleged that on 05.10.2016, respondent No. 2 also got the share of the victim transferred in her favour.

7. Further, it is stated that the victim was not given proper food, basic amenities and respondent No. 2 was aware that her acts would lead to the death, which so happened.

8. The Action Taken Report was filed before the concerned CMM, wherein the factual matrix regarding transferring of property in favour of respondent No. 2 was duly verified, inquiry was conducted and the learned CMM on 06.07.2022 came to a finding that the allegations against the respondent were vague, no specific dates were given and that there was no record to show any dispute between the victim and his wife. The learned CMM was pleased to deny invocation of Section 156(3) of the Cr.P.C. on the following grounds:

- “1. No facts are needed to be unearthed as the same are well within the knowledge of the complainant.*
- 2. Custodial interrogation of alleged accused is not necessary.*
- 3. The evidence is well within the reach of complainant & no assistance of police is required to gather the same.*
- 4. The facts of the case is not such that would warrant a detailed and complex investigations to be carried out by the State Agency.”*



9. The order of the learned CMM was challenged and the Sessions Court upheld the order *vide* impugned order dated 13.05.2024 and found no infirmity in the same.

10. Mr. Singh, learned counsel for the petitioner has urged before this Court that both the orders are incorrect and it is the acts of neglect of respondent No. 2 which caused the death of the victim.

11. He further states that the acts of respondent No. 2 in not giving food to the victim as well as not taking care of the victim resulted in his death and it is the serious offence for which an FIR needs to be registered.

12. I am unable to agree.

13. In the present case, there are concurrent findings of the Courts that there is no record of any fight between the complainant and respondent No. 2. Respondent No. 2 till the last date was the duly wedded wife of the victim.

14. There are two children borne out of the wedlock, who also have not made any complaint regarding the conduct of respondent No. 2.

15. Further, with respect to the challenge to the gift deed in favour of respondent No. 2, the same is already pending adjudication before the competent court of jurisdiction.

16. Additionally, in the complaint case the petitioner is free to lead pre-summoning evidence to substantiate the allegations made therein. Further, the learned CMM has recorded that in case any requirement of investigation arises at a later stage *qua* some disputed facts the provisions of section 202 CrPC could be resorted to.

17. In view of the aforesaid, I see no infirmity in the impugned order and judgment dated 13.05.2024 passed in Criminal Revision 217/2022 passed by



the learned Additional Sessions Judge. The learned CMM has given detailed reasons for dismissal of the application under section 156(3) of Cr.PC and this aspect has been correctly analysed by the learned Sessions Court in its revisional jurisdiction.

18. For the said reasons, the petition is dismissed.

JASMEET SINGH, J

NOVEMBER 28, 2024/DM

Click here to check corrigendum, if any