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(2012) 04 DEL CK 0467

Delhi High Court

Case No: Criminal L.P. 593 of 2011 and Criminal M. A. No. 19616, 19617/11

State	APPELLANT
Vs	
Rajender Pal Singh @ Kaka and Anr	RESPONDENT

Date of Decision: April 16, 2012

Acts Referred:
Penal Code, 1860 (IPC) â€" Section 304B, 34, 498A

Citation: (2012) 04 DEL CK 0467

Hon'ble Judges: S.P. Garg, J; S. Ravindra Bhat, J

Bench: Division Bench

Advocate: Sanjay Lao, APP State, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

Mr. Justice S. Ravindra Bhat

Crl. M.A. 19616/2011 (Under Limitation Act) & Crl. M.A. 19617/2011 (for exemption)

For the reasons mentioned in the applications, Crl. M.A. 19616/2011 and Crl. M.A. 19617/2011 are allowed.

Crl. L.P. 593/2011

1. The petitioner seeks leave to appeal against the judgment and order of the learned Additional Sessions Judge dated 18March, 2010 in which

she acquitted the respondent/accused of the charges for committing the offences punishable under Sections 498A/304-B/34 IPC. The

prosecution"s case in brief was that within seven years of the marriage of the deceased Pinky with one of the accused Rajinder Singh, the latter had

continuously harassed the victim Pinky in connection with dowry demands and according to the prosecution story, the deceased got married on

25December, 2005. She was found dead on 7March, 2009 in unnatural circumstances, i.e, hanging from the ceiling fan. It is not disputed that the

deceased and the accused had a 21/2 years old child out of the said wedlock. The prosecution totally based its case upon the statements recorded

by the persons who deposed as PW-6 and PW-9, during the trial. These statements, it was alleged were recorded immediately after the incident

i.e, 7 March, 2009.

2. This Court had called for the Trial Court''s record in order to consider whether the impugned judgment discloses any substantive ground, prima

facie, for the grant of leave. The Court has considered the record.

3. PW-6, the mother of the deceased Pinky apparently stated nothing damaging in her deposition. Her statement is said to have been recorded by

the SDM, during the investigation. All that she deposed to was that petitioner''s marriage was solemnized through one Balvinder Kaur. She has

stated that her daughter used to telephone her and complain about Rajinder Singh and her mother-in-law harassing her for dowry. However, she

did not support the prosecution and the statement said to have been recorded during the investigation. PW-9 also completely resiled from the

statement recorded during the investigation and on the contrary stated that he did not wish to state anything and that he had made allegations on

account of rage and biased behaviour to the SDM. The Trial Court pertinently records in its judgment at paras 15 and 16 as follows :

It may also be mentioned here that both PWs 6 and 9 have admitted that they were not in proper senses when they had made their statements to

the SDM. PW6 has deposed in her cross examination that ""At the time when my statement was recorded by SDM, I was not in my full sense, Vol.

At that time I was in anger. It is correct that I made my statement before the SDM in anger and excitement. Vol. ""jo hona tha so ho gaya"". I came

from Ludhiana when my statement was recorded by SDM. I was not in my full senses when my statement was recorded by the SDM. I was in

anger to see my daughter dead, which I stated before the SDM was in anger. "" The evidence of PWs 6 and 9 indicates that it is out of sheer anger

and excitement that they had given their respective statements to the SDM against both the accused persons and not due to any demand of dowry

or harassment to the deceased.

It may be observed here that when the parents of the deceased have not deposed anything incriminating against both the accused persons, the

evidence of PWs 1, 7, 8 and 15 does not any relevance.

4. This Court recalls that the principles which permit the State to appeal against acquittal require the Court to be satisfied that the Trial Court''s

reasoning, prima facie, discloses substantial or compelling grounds for the High Court to exercise its appellate jurisdiction. In the present case,

none of the circumstances constituting the offences alleged in the case i.e, cruelty of such kind that would lead the deceased to commit suicide on

account of dowry, have been proved. The Court is, therefore, of the opinion that the Trial Court''s reasoning is justified and sound.

5. Before concluding this case, we would wish to record that the impugned judgment has listed out the evidence and started the discussion and

analysis of the circumstances without giving the essential facts leading to the marriage and circumstances alleged by the prosecution or conceded to

by the parties, such as the date of marriage, the date of death, the brief narration of the alleged incident of demands of dowry etc. The Court had

to glean view of the facts, after going through the analysis of the various facts. This Court is of the opinion that for the sake of coherence and

proper appreciation, it would be better if Trial Courts set out briefly the prosecution case, at the outset, in their judgments. For the above reasons,

the Court finds no merit in the petition; it is therefore dismissed.