
Basanti Devi Vs State

Criminal M.C. 2231 of 2010 and Criminal M.A. 8726-27 of 2010

Court: Delhi High Court

Date of Decision: July 16, 2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€” Section 482#Penal Code, 1860 (IPC) â€” Section 34, 406, 498A

Hon'ble Judges: Hima Kohli, J

Bench: Single Bench

Advocate: J.C. Gupta, for the Appellant; M.N. Dudeja, APP, for the Respondent

Judgement

Hima Kohli, J.

The present petition is filed by the petitioner u/s 482 Cr.P.C. IPC for grant of permanent exemption from personal

appearance in the trial court in respect of the case on the basis of FIR No. 272/2006 registered with PS Timarpur by Ms. Meenakshi Sharma, her

daughter-in-law, against her son and other members of the family, u/s 498-A/406/34 IPC.

2. At the outset, counsel for the petitioner states that while the prayer in the petition is for grant of permanent exemption from personal appearance

in the aforesaid case, he confines his prayer to exemption from personal appearance in the aforesaid pending case till the matter is committed to the

Sessions Court.

3. Notice. Learned APP for the State accepts notice and states that in view of the limited relief sought by the petitioner and considering her age

and indifferent health condition, he does not seriously oppose the present petition.

4. It is the case of the petitioner that pursuant to the complaint lodged by her daughter-in-law, Ms. Meenakshi Sharma on 11.6.2006, a charge

sheet was filed by the police on 2.3.2010, wherein her two daughters and their respective husbands and a minor child of one of the daughters,

have been admitted to regular bail. Thereafter, an order directing the arrest of the petitioner was issued. As a result, the petitioner filed an

application for anticipatory bail before the Sessions Court, which was duly granted. It is the case of the petitioner that she has been appearing

thereafter before the trial court and has been granted regular bail.

5. Counsel for the petitioner states that the petitioner, who is an 82 years old lady, suffering from various ailments, is a permanent resident of

Village Gobriya Khan, PO Bhawali, District Nainital, Uttarakhand, and that she is finding it extremely difficult to undertake such a long journey to

attend the hearings fixed in the case so frequently, particularly, when the dates of hearing are fixed in a gap of 10-12 days. He submits that till date,

the petitioner has been appearing in the case regularly and has had to visit Delhi for the hearings held on 12.5.2010, 22.5.2010, 29.5.2010,

5.6.2010, 25.6.2010 and 6.7.2010, and now the matter is fixed for 20.7.2010. It is further stated that though the petitioner filed an application on

12.5.2010 for grant of permanent exemption from personal appearance taking into consideration her poor health condition, the same was rejected

on the ground that the matter was still at the stage of committal.

6. Having regard to the averments made in the present petition, particularly, in view of the advance age of the petitioner, her frail health condition,

and the fact that she is living in a remote village in District Nainital, Uttarakhand, and has to attend frequent hearings in the case in Delhi fixed within

such short span of time, it is deemed appropriate to exempt the petitioner from her personal appearance in the matter pending before the trial

court, till the same is committed to the Sessions Court.

7. Needless to state that after the matter is committed to the Sessions Court, in the event, the petitioner wishes to file an application for seeking

exemption from her personal appearance in the said proceedings, nothing shall preclude her from doing so and the said application shall be

considered by the concerned court in accordance with law.

8. The petition is disposed of along with the pending applications.

Dasti.