

HIGH COURT OF MADHYA PRADESH

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Cr.R.No.1799/2021

Raghunandan Dhakad Vs. The State of M.P.

Gwalior Bench: Dated; 03-03-2022

Shri R.K. Sharma, learned senior counsel with Shri V.K. Agrawal, learned counsel for the petitioner.

Shri Rohit Shrivastava, learned PL for the respondent/State.

With consent heard finally.

1. Present petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 has been preferred by the petitioner/revisionist for quashment of order dated 16-07-2021 passed by learned Second Additional Sessions Judge, Sabalgarh District Morena in S.T.No.201/2021 whereby the charge under Section 304-B read with Section 109 of IPC has been framed.
2. Precisely stated facts of the case are that on 29-04-2017 marriage of deceased -Priyanka and Santosh was solemnized according to Hindu Rites and Rituals. After marriage, in-laws of the deceased Priyanka started harassing her for fulfillment of their dowry demand of Rs.50,000/- or motorcycle. Thereafter family mediation took place and Priyanka went to her in-laws house but on 17/18-12-2020 she committed suicide by hanging within seven months of her marriage. Marg was registered and on the basis of marg investigation, FIR was registered against mother-in-law, husband and paramour of mother-in-law of the deceased (present

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petitioner). Charge-sheet was filed by the prosecution for the offence under Sections 304-B, 120-B, 34 of IPC and Sections 3/4 Dowry Prohibition Act was filed. Thereafter, vide impugned order, trial Court framed the charge against the petitioner as referred above.

3. According to learned senior counsel for the petitioner, trial Court erred in framing the charge under Section 304-B read with Section 109 of IPC against the petitioner because petitioner does not fall within the category of blood relation and family members of the husband of deceased Priyanka. It is further submitted that since petitioner is neither relative nor in blood relation of husband of deceased, therefore, charge of Section 304-B of IPC cannot be framed against him. Petitioner had never abetted or instigated the deceased or relative of husband of the deceased for making dowry demand. Merely on the basis of allegation of paramour of mother-in-law of the deceased, petitioner cannot be grilled. To bolster his submission, reliance has been placed over the decision of Apex Court in the matter of **State of Punjab Vs. Gurmit Singh, (2014) 9 SCC 632**. Thus, prayed for setting aside of impugned order.
4. On the other hand, learned Public Prosecutor for the respondent/State opposed the prayer made by the petitioner and submitted that charges have been framed against the

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petitioner and now petitioner has to prove his innocence before the trial Court by leading evidence. Thus, prayed for dismissal of petition.

5. Heard learned counsel for the parties and perused the documents appended with petition.
6. This is a case where as per allegation itself as contained in FIR, petitioner appears to be paramour of mother-in-law of the deceased because his relationship is referred in FIR and in statements of prosecution witnesses. Therefore, as per ambit of Section 304-B of IPC and judgment rendered by the Apex Court in the matter of **Gurmit Singh (supra)** since he is not in blood relation and family member of the deceased, therefore, he cannot be termed as family member of the husband of the deceased for the purpose of Section 304-B and 498-A of IPC. Moreso, he can be accused of any other offences of IPC.
7. In the matter of **Gurmit Singh (supra)**, the Apex Court has given guidance in following words:

“It is well known rule of construction that when the Legislature uses same words in different part of the statute, the presumption is that those words have been used in the same sense, unless displaced by the context. We do not find anything in context to deviate from the general rule of interpretation. Hence, we have no manner of doubt that the word “relative of the husband” in

Section 304 B of the IPC would mean such persons, who are related by blood, marriage or adoption. When we apply this principle the respondent herein is not related to the husband of the deceased either by blood or marriage or adoption. Hence, in our opinion, the High Court did not err in passing the impugned order. We hasten to add that a person, not a relative of the husband, may not be prosecuted for offence under Section 304B IPC but this does not mean that such a person cannot be prosecuted for any other offence viz. Section 306 IPC, in case the allegations constitute offence other than Section 304B IPC.”

8. However, this is the case in which deceased was daughter-in-law of other co-accused and she committed suicide because of pressure of demand of dowry and alleged harassment meted out to her on such pretext. Here, in the present case, as per allegations of prosecution itself, petitioner is paramour of mother-in-law of the deceased. Therefore, although, petitioner may not be tried for offence under Section 304-B read with Section 109 of IPC but trial Court is given liberty to reframe the charge as per law and explore whether any incriminating material is existing for offence under Section 306 read with Section 109 of IPC or other related offence or not and thereafter ensure appropriate framing of charges accordingly against the petitioner.

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9. Revision petition preferred by the petitioner stands disposed of in above terms.

Anil*

(Anand Pathak)
Judge