

[2013] 10 S.C.R. 521

L. KRISHNA REDDY

v.

STATE BY STATION HOUSE OFFICER & ORS.
(Criminal Appeal No. 1833 of 2013)

OCTOBER 24, 2013

[T.S. THAKUR AND VIKRAMAJIT SEN, JJ.]

Penal Code, 1860 - ss.302, 498A r/w s.34 - Charges under - Abated qua husband-accused due to his death - Parents-in-law (accused) discharged - Held: In the facts of the case, prima facie case not made out against the accused-parents in law - Hence, rightly discharged - Code of Criminal Procedure, 1973 - s.227.

Charges u/ss. 302, 498-A r/w s.34 IPC were framed against the three accused including respondent Nos.2 and 3. The charges abated against the husband-accused as he committed suicide. The proceedings continued against the respondent Nos. 2 and 3 (the parents-in-law of the deceased). The discharge petition of respondent Nos. 2 and 3 u/s.227 Cr.P.C. was allowed. Hence the present appeal by the complainant.

Dismissing the appeal, the Court

HELD: 1. The Court is neither a substitute nor an adjunct of the prosecution. On the contrary, once a case is presented to it by the prosecution, its bounden duty is to sift through the material to ascertain whether a prima facie case has been established which would justify and merit the prosecution of a person. The interest of a person arraigned as an accused must also be kept in perspective lest, on the basis of flippant or vague or vindictive accusations, bereft of probative evidence, the ordeals of a trial have to be needlessly suffered and

A endured. [Para 7] [528-E-F]

Union of India vs. Prafulla Kumar Samal (1979) 3 SCC 4: 1979 (2) SCR 229 - relied on.

B 2. In the present case, the Charge-Sheet does not
 indicate any complicity so far as the parents-in-law of the
 deceased (accused Nos. 2 and 3) are concerned. Obviously, if the murder has been committed in
 Pondicherry a direct role in that unfortunate event cannot
 be ascribed to them. It is theoretically possible that they
 C may have abetted or conspired in the crime or persuaded
 their son (accused No.1) to have perpetrated the crime. However, this version is not forthcoming from the Charge-Sheet. The Appellant-complainant, in his statement, had
 D alleged that as per the plans of the three accused,
 accused-husband had killed the deceased due to dowry
 harassment. This is the only statement which contains an
 allegation pertaining to the possible conspiracy of the
 husband's parents who, it must be kept in focus, were
 not in Pondicherry at the time when the deceased was
 E done to death by her husband. It is not sufficient to
 merely make a bald statement but further catenation
 should exist linking all the conspirators together. Sifting
 through the evidence, i.e., the statement made by several
 witnesses, there is no direct imputation that either of the
 F respondent nos. 2 and 3 had either independently or
 along with their deceased son, made a demand for
 dowry. The deceased couple had earlier been living with
 the wife's family, and thereafter independently of either
 of the parents-in-law. In order to make good the
 G commission of an offence of criminal conspiracy, it
 should be evident that an agreement between the
 conspirators should have been in existence at the
 material time. Since the prosecution would be an exercise
 in futility it should be brought to a quick end. [Paras 6 and
 H 8] [526-G-H; 527-A-E, F-G; 529-A]

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Central Bureau of Investigation vs. K. Narayana Rao **(2012) 9 SCC 512:2012 (9) SCR 54**; *State of Haryana vs. Bhajan Lal* **1992 Supp. (1) SCC 335:1991 (1) Suppl. SCR 387**; *Stree Atyachar Virodhi Parishad vs. Dilip Nathumal Chordia and Anr.* **(1989) 1 SCC 715: 1989 (1) SCR 560** -
relied on. A
B

Case Law Reference:

2012 (9) SCR 54	relied on	Para 6	
1991 (1) Suppl. SCR 387	relied on	Para 6	C
1989 (1) SCR 560	relied on	Para 7	
1979 (2) SCR 229	relied on	Para 7	

**CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 1833 of 2013.** D

From the Judgment and Order dated 18.10.2011 of the High Court of Judicature at Madras in CrI. R.C. No. 761 of 2010.

D. Rama Krishna Reddy, D. Bharathi Reddy for the Appellant. E

Altaf Ahmed, P. Venkat Reddy, Anil Kumar Tandale for the Respondent.

The Judgment of the Court was delivered by F

VIKRAMAJIT SEN, J. 1. Leave granted. This Appeal assails the Order of the High Court of Judicature at Madras while exercising its Criminal Revisional Jurisdiction. The facts disclose a human tragedy. Ramachandra Reddy was married to Sujatha on 2.5.1999. At the initial stages of their marriage the deceased couple was staying with the bride's relatives, significantly, not with her parents-in-law who are the remaining accused. They had set up their own separate residence about six months prior to the unfortunate incidents. On 26.3.2006 G
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A Sujatha was found murdered in the hotel room in Pondicherry [now Puducherry] rented by her soon to be deceased husband. Her body bore several stab wounds. Thereupon, Crime No.86/2006 under Section 302 IPC dated 26.3.2006, leading to Charge Sheet No.59/2007 dated 31.5.2007 under Sections
 B 302, 498-A read with 34, IPC was registered. It then transpires that the husband of the deceased, namely, Ramachandra Reddy, possibly suffering from guilt and remorse, committed suicide shortly thereafter. The question before us is whether the
 C criminal proceedings could or should have been continued against his parents, namely Vidyasagar and Narasamma, who had preferred a Discharge Petition under Section 227 of the Code of Criminal Procedure, 1973 ('Cr.PC' henceforward) in which they eventually succeeded.

D 2. The Final Report dated 31.5.2007 reads so -

E "Since the date of marriage at the residence at No.2-7/10, Lakma Reddy Colony, Uppal, Hyderabad, the accused No.1 Ramachandra Reddy, S/o Vidyasagar Reddy, No.-7/10, Lakma Reddy Colony, Uppal, Hyderabad (husband of the deceased) who is no more now, the accused No.2. Vidyasagar Reddy, S/o Ramachandra Reddy, No.2-7/10, Lakma Reddy Colony, Uppal, Hyderabad (Father-in-law of the deceased) and the accused No.3 Narasamma Reddy, w/o Vidyasagar Reddy, No.2-7/10, Lakma Reddy Colony, Uppal, Hyderabad (Mother-in-law) of the deceased, in
 F furtherance of their common intention, subjected the deceased Sujatha to cruelty and harassment relating to dowry demand and rendered themselves liable to be punished u/sec.498-A IPC r/w 34 IPC.

G That on 25.3.2006 at about 19.00 hrs. at Room No.306, Hotel Aruna, Second Floor, No.3, Zamindar Garden, near Ajantha Theatre, S.V.P. Salai, Muthialpe, Puducherry-3, about 800 meters South-East to PS, accused No.1 noted above in furtherance of common
 H intention with his father, the second accused and his

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mother, the third accused, caused death of his wife Sujatha, as she was unable to meet out their unlawful demand of dowry by inflicting 11 multiple injuries by means of knife with the knowledge that such injuries would be likely to cause death or would be sufficient in the ordinary course of nature to cause death and rendered themselves liable to be punished u/sec.302 IPC r/w 34 IPC. A
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Hence, the charges.

CHARGE ABATED. C

The accused above said A1 Ramachandra Reddy, S/o Vidyasagar Reddy, No.2-7/10, Lakma Reddy Colony, Uppal, Hyderabad had committed suicide by hanging and he is no more now. In this connection a separate case in Cr.No.244/2006 u/sec.174 Cr.P.C. was registered at PS D' Nagar, dt.24.9.2006 and investigation was taken-up. D

Therefore, the charge against him is abated".

3. The Illrd Additional Sessions Judge, Pondicherry favoured the position that the proceedings could continue against the Respondent-parents (Accused Nos.2 and 3) notwithstanding the devastating death of their son (Accused No.1) despite prosecution against him having abated. The Learned Additional Sessions Judge specifically recorded the fact that the Public Prosecutor had conceded that there appeared to be no direct involvement of the father-in-law and mother-in-law in the murder, but that since it was a murder case the discharge may not be considered before the Trial. The Learned Additional Sessions Judge noted that the parents were implicated only on the basis of the Statements recorded under Section 161 of the Cr.P.C.; it was of the prima facie view that the motive behind the murder of Sujatha was dowry. These aspects would be established by the prosecution, beyond all reasonable doubts, only in an exhaustive Trial "where the entire truth could be unearthed". It is also evident that the Learned E
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A Additional Sessions Judge was influenced by the direction of the High Court, on the petition of the present Appellant, ordering that the case be disposed of within two months.

B 4. However, the High Court has come to the contrary conclusion, after having reviewed the Statements and evidence available on the record. There is no dispute as regards the factum of the deceased married couple having set up their separate and independent residence. According to the Complainant/Appellant who is the father of the unfortunate lady the deceased Sujatha, he had telephonically been informed by her that the married couple had left Hyderabad on 23.3.2006 and were proceeding to Vijayawada. The impugned Judgment records that none of the Statements under Section 161 Cr.P.C. incriminate the parents of the deceased husband of any connection with the offence under Section 302 IPC, and no common intention can be inferred. So far as the dowry demands and offence under Section 498A goes, the High Court opined that even the father of the deceased wife namely the Appellant/Complainant in his Statement confined the demand only to his deceased son-in-law. Holding this to be insufficient the Respondents Nos.2 and 3 have been discharged.

F 5. There can be no cavil that if a fine is imposed on an accused/convict even upon the death of an accused his estate will continue to be liable for its discharge. This is not the case before us inasmuch as that stage in the prosecution has not been arrived at. In any event the pecuniary liability of the deceased/ convict can be fastened only on the beneficiaries of his legal estate. There is no evidence whatsoever that this is the position that obtains in the present case.

G 6. The Charge Sheet does not indicate any complicity so far as the parents of the deceased are concerned. Obviously, if the murder has been committed in Pondicherry a direct role in that unfortunate event cannot be ascribed to them. Of course, it is theoretically possible that they may have abetted or

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conspired in the crime or persuaded their son to have perpetrated the crime. However this version is not forthcoming from the Charge Sheet. The Appellant, in his Further Statement, has alleged that - "on the last 25.03.06 night as per the plans of Ramachandra Reddy, his father Vidyasagar Reddy and mother Naarasamma, Ramachandra Reddy had killed my daughter Sujatha brutally at a Hotel at Pondicherry due to dowry harassment." This is the only statement which contains an allegation pertaining to the possible conspiracy of the husband's parents who, it must be kept in focus, were not in Pondicherry at the time when Sujatha was done to death by her husband. In our opinion, it is not sufficient to merely make a bald statement but further catenation should exist linking all the conspirators together. Sifting through the evidence, i.e., the Statement made by several witnesses, there is no direct imputation that either of the Respondent nos.2 and 3 before us had either independently or along with their deceased son, made a demand for dowry. We should not lose sight of the fact that the deceased couple had earlier been living with the unfortunate wife's family, and thereafter independently of either of the parents-in-law. In fact, as has been noted by the High Court in the impugned order the statement of the complainant father of the deceased, some demands have been made by his son-in-law. Our attention has been drawn to a recent Judgment titled *Central Bureau of Investigation v. K. Narayana Rao* (2012) 9 SCC 512, wherein after discussing the previous opinions of this Court in a number of cases including *State of Haryana v. Bhajan Lal* 1992 Supp. (1) SCC 335, it was opined that in order to make good the commission of an offence of criminal conspiracy, it should be evident that an agreement between the conspirators should have been in existence at the material time.

7. Our attention has been drawn to *Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia and Anr.* (1989) 1 SCC 715 as well as *K. Narayana Rao* but we are unable to appreciate any manner in which they would persuade a Court

A to continue the prosecution of the parents of the deceased. After considering *Union of India v. Prafulla Kumar Samal* (1979) 3 SCC 4, this Court has expounded the law in these words :

B "14. In fact, Section 227, itself contains enough
 C guidelines as to the scope of enquiry for the purpose of
 D discharging an accused. It provides that 'the judge shall
 discharge when he considers that there is no sufficient
 ground for proceeding against the accused'. The 'ground'
 in the context is not a ground for conviction, but a ground
 for putting the accused on trial. It is in the trial, the guilt or
 the innocence of the accused will be determined and not
 at the time of framing of charge. The court, therefore, need
 not undertake an elaborate enquiry in sifting and weighing
 the material. Nor is it necessary to delve deep into various
 aspects. All that the court has to consider is whether the
 evidentiary material on record if generally accepted, would
 reasonably connect the accused with the crime. No more
 need be enquired into."

E The Court is neither a substitute nor an adjunct of the
 prosecution. On the contrary, once a case is presented to it by
 the prosecution, its bounden duty is to sift through the material
 to ascertain whether a prima facie case has been established
 which would justify and merit the prosecution of a person. The
 F interest of a person arraigned as an accused must also be kept
 in perspective lest, on the basis of flippant or vague or
 vindictive accusations, bereft of probative evidence, the
 ordeals of a trial have to be needlessly suffered and endured.
 We hasten to clarify that we think the statements of the
 G complainant are those of an anguished father who has lost his
 daughter due to the greed and cruelty of his son-in-law. As we
 have already noted, the husband has taken his own life possibly
 in remorse and repentance. The death of a child even to
 avaricious parents is the worst conceivable punishment.

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8. Since the prosecution would be an exercise in futility it should be brought to a quick end; and this is possible only if an order of discharge vis-à-vis the parents who are the remaining accused is passed. This is exactly what has transpired in the wisdom of the High Court by means of the impugned Order. We find no error therein. Accordingly the appeal is dismissed. A B

K.K.T.

Appeal dismissed.