

State vs. Manish Malporia & Ors.

CNR No.: DLCT01-013523-2022

SC No. 619/2022

FIR No. 261/2022

Under Section 498A/304B/34 IPC

PS Prasad Nagar

30.05.2023

Present : Mr. Amit Dabas, Ld. Addl. PP for the State.

ORDER

1. The complainant filed applications under Section 91 Cr.P.C. and under Section 319 (1) read with Section 173 (8) Cr.P.C.
2. The Court heard arguments on the said applications on 19.04.2023 and 19.05.2023.
3. Ld. Counsel for the complainant contended that Investigating Officer be directed to file transcript of conversation between the deceased and sister-in-law, namely, Rajni and mother-in-law, namely, Rajwanti. He contended that the deceased filed a complaint with PS Karol Bagh on 25.10.2020 and the said complaint be also filed. He contended that Investigating Officer did not charge-sheet Rekha and Rajni, sisters-in-law of the deceased despite specific allegations against them in FIR and statements under Section 164 Cr.P.C. He contended that investigation was not conducted fairly and material aspects pertaining to the incident were not considered. He contended that Investigating Officer did not investigate as to who first entered into the room and why the deceased was taken to a far away hospital i.e. Sir Ganga Ram and not nearby hospital i.e. B.L. Kapoor Hospital.

4. Ld. Counsel for the complainant contended that blades of the fan were in bended condition. He contended that photographs of the injuries on the body were not taken. He contended that there is no investigation as to who removed the dead body from the ceiling fan and who removed the stole from the ceiling fan. He contended that Investigating Officer did not call the forensic team. He contended that there is no investigation as to how the deceased could hang herself from a ceiling fan at a height of 7 feet in the absence of any table or chair in the room. He contended that this is a case of murder and charge under Section 302 IPC be framed.

5. In his reply, Investigating Officer stated that relevant provision of law is already invoked. He contended that blades of ceiling fan bended when the deceased was removed from it. He contended that the deceased's husband and in-laws brought the dead body down from the ceiling fan. He contended that CDR of mobile phone of the accused was obtained. He contended that Rajni and Deepak are placed in Column No. 12.

6. Section 302 IPC cannot be invoked in a mechanical manner unless there is material on record *prima facie* indicating that the accused persons caused death of the deceased with the intention of causing her death or knowledge that such act is likely to cause death.

7. Investigating Officer investigated the case through all possible angles. However, there is no material to form an opinion that the accused persons caused death of the deceased. There is no material that Rajni and Rekha, sisters-in-law of the deceased subjected her to cruelty in connection with dowry. Investigating Officer did not find sufficient material against them. Moreover, there is no material warranting their summoning and trial for offence under Section 304B IPC.

8. As regards Call Detail Records (CDRs) and aforesaid complaint, Investigating Officer may consider their relevance and file the same, if they are relevant. In any case, the complainant may also file the said documents during their evidence.

9. With these observations, the applications under Section 91 Cr.P.C. and under Section 319 (1) read with Section 173 (8) Cr.P.C. filed by the complainant are dismissed.

Sanjay Sharma-II
ASJ-03, Central District
Tis Hazari Courts, Delhi
30.05.2023

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