

SC No. 162/2023
State Vs. Ansar
FIR No. 271/2023
PS: Dayal Pur

01.12.2023

**ORDER ON THE PROTEST PETITION FILED BY THE
APPLICANT SAMIR MALIK (SON OF COMPLAINANT
ALLAH NOOR KHAN)**

1. This order of mine will disposed of protest petition filed by Sh. Samir Malik, who is the son of the complainant, Sh. Allah Noor Khan.
2. Brief facts of the case in hand are that in the case in hand, the FIR U/s. 304-B/498-A/34 of IPC was registered on the statement of Sh. Allah Noor Khan recorded by the Executed Magistrate on dated 24.03.2023, wherein, he has stated that the marriage of his daughter Imrana was solemnized with Ansar about two years and few months ago in the year 2020 that too in the lock-down. He has alleged that after some time of this marriage, the accused Ansar and his other family's members started demanded buffalo in dowry. He has also alleged that his son-in-law Ansar used to beat his daughter after consuming liquor. He has also alleged that about one and half years ago, in the month of December 2021, when he went to meet Imrana in her house alongwith his wife and son, then accused Ansar and his family's member had beaten them. He has also alleged that Ansar used to beat Imrana after consuming liquor and his family's

members also used to abuse and beat Imrana. He has also stated that on dated 24.03.2023, a known person of Ansar had phoned him at 1:30 AM and told that Imrana had committed suicide and further stated that Imrana used to reside at house No. B-69, Gali No. 3, Bhagirathi Vihar, Delhi and family's members of Ansar also used to reside with Imrana. He has also stated that when they phoned to Ansar, then it was revealed that Ansar had taken Imrana at GTB hospital. He has also stated that when they arrived at the GTB hospital, then none of family's member of Ansar was found in the GTB hospital. It is also stated that he suspects that Ansar, father-in-law of Imrana, mother-in-law, Nanand and three Devars of Imrana had killed her and prayed for taking strict legal action against them, so that his daughter Imrana may get justice. Accordingly, on the same day that on dated 24.03.2023, FIR No. 271/2023 was registered U/s. 304-B/498-A/34 of IPC.

3. The investigation was carried out and accused Ansar was arrested on dated 25.03.2023 and on the completion of the investigation, the charge-sheet was filed U/s. 304-B/498-A of IPC only against Ansar, whereas, Mohd. Israel, Nisaran, Mohd. Sajid, Saista were kept in column no. 12 (being not charge-sheeted).

4. Accordingly, case against Ansar was committed to the court of Sessions and this case is assigned to this court.

5. Sh. Samir Malik, brother of the deceased Imrana has filed the protest petition/objections against the Investigating

Officer, wherein it is stated that initially marriage of the deceased Ms. Imrana and younger sister Ms. Ashiya was fixed with the accused Ansar and his brother Sajid respectively on dated 27.06.2022, but, due to demand of dowry, the accused Israel refused to perform the marriage of his son Sajid with Ms. Ashiya on the date of marriage i.e. on dated 27.06.2022. He has also stated that there are number of incidents of cruelties, threat to kill, beatings, quarrel, demand of dowry by the accused Ansar, Isreal, Nisaran, but, the concerned IO did not mentioned these incidents in the charge-sheet. He has further stated that on dated 27.06.2022, 06.09.2020, 08.09.2020, 05.12.2020, 03.06.2021, 26.07.2021, 28.08.2021, 13.04.2022 and 15.04.2022, but, IO did not mention single incident in the charge-sheet and further stated that he concealed the above noted facts from this court, as, stated above, which are necessary to bring on the record.

6. It is also stated in the application that this applicant had also filed a complaint dated 03.08.2023 (Annexure 'A') to the DCP, PS Seelampur, Delhi. But, no action has been taken by the concerned IO/SHO till date. Hence, the present protest petition is filed and the applicant has prayed to direct the Investigating Officer to file the additional charge-sheet against Ansar and Mohd. Israel, Ms. Nisaran, Mohd. Sajid, Shahesta.

7. The accused Ansar has filed the reply to this protest petition stating therein that the Samir Malik has filed the present protest petition with the ulterior motive and afterthought, which is false and frivolous. It is also stated that the present protest

petition is not maintainable in this court. It is also stated that this protest petition is filed with the malafide intention to harass the family's members of Ansar and prayed for dismissal thereof.

8. I have heard the Ld. Counsels for the parties.

9. Sh. Pankaj Sharma, Ld. Counsel for the complainant has submitted that in the case in hand, the FIR has been registered on dated 24.03.2023 and thereafter, a complaint of cruelty and demand of dowry was filed before the DCP, North-East on dated 27.06.2023, wherein, number of incidents were mentioned and submitted that copy of the said complaint is filed with this protest petition, wherein, dated 03.08.2023 is mentioned and submitted that since, the IO has failed to mention the number of incidents in the charge-sheet, as, mentioned in the protest petition, so, the Investigating Officer of the present case may be directed to file additional charge-sheet against the accused (1). Ansar S/o Israel, (2). Mohd. Israel S/o Achhan Khan, (3). Mohd. Sazid S/o Israel, (4). Mrs. Nisaran W/o Mohd. Israel, and (5). Shahesta D/o Mohd. Israel.

10. On the other hand, Sh. Sarfraj Asif, the Ld. Counsel for the accused Ansar has submitted that in the case in hand, the marriage of accused Ansar with the deceased Imrana was solemnized on dated 27.06.2020 and submitted that earlier, sister of deceased Imrana was also engaged with the brother of accused Ansar namely Sajid. But, after engagement, Ashiya (who is sister of this applicant Samir Malik) had refused to marry with Sajid, so, the marriage of Ashiya was not solemnized with Sajid. But,

marriage of the deceased Imrana was solemnized with Ansar and submitted that after refusal of marriage by Ashiya, the family members of the deceased did not agree for this marriage of Imrana (since deceased) with Ansar. But, Imrana had told that she would not break marriage and would marry with Ansar and she had married with Ansar and her parents and her other family's members stopped meeting with Imrana and her husband Ansar and accused Ansar was living in the rented accommodation with his wife Imrana and false allegations have been levelled and submitted that during the investigating, it was revealed that deceased Imrana was living with Ansar in rented accommodation, so, charge-sheet has been filed only against Ansar and his other family's members accused were kept in column no. 12 of the charge-sheet and submitted that the present protest petition is not maintainable nor this court can direct to the IO to file the additional charge-sheet against the other family's members of Ansar, who have been kept in column no. 12 of the charge-sheet, as, no incriminating evidence has come on the record against them and submitted that the applicant has filed a copy of complaint dated 03.08.2023 alongwith this protest petition, which is an afterthought version and no such complaint to the DCP, North-East was filed on dated 03.08.2023 and submitted that the present protest petition has been filed to harass the accused Ansar and his other family's members and prayed for dismissal of the said protest petition.

11. Sh. Praveen Kumar, Ld. substituted Addl. PP for the

State has also submitted that the complaint dated 03.08.2023 appears to be afterthought and it is submitted that deceased Imrana had expired on dated 24.03.2023 and FIR was registered u/s. 304-B/498-A/34 of IPC on the statement of Sh. Allah Noor Khan recorded by the Executed Magistrate on dated 24.03.2023 and this applicant/Samir Malik also signed on the said statement of his father. The Ld. Counsel for the applicant Samir Malik has submitted that that a complaint to the DCP was filed on dated 27.06.2023, but, copy of the complaint dated 03.08.2023 filed and he has also submitted that the protest petition is not maintainable in this court nor this court can direct to the IO to file the additional charge-sheet against the other family's members of Ansar, who have been kept in column no. 12 of the charge-sheet, as, no incriminating evidence was found during the investigation against them, as, the deceased Imrana was residing with her husband Ansar separately from other accused (kept in column no. 12 of the charge-sheet), after her marriage with him that too in a rented accommodation.

12. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

13. The perusal of the record reveals that in the case in hand, the FIR has been registered on the statement of father of the deceased Imrana. The perusal of the record also reveals that the marriage of the deceased Imrana with accused Ansar was solemnized on dated 27.06.2020, but, in this protest petition, the

date of marriage is mentioned, as, 27.06.2022. Ld. Counsel for the applicant Samir Malik has submitted that the brother of the deceased had filed a complaint before the DCP, North-East on dated 27.06.2023 and number of incidents regarding cruelties and demand of dowry were mentioned in the said complaint. He has shown the photocopy of the complaint dated 03.08.2023. Since, the Ld. Counsel for this applicant has argued that this brother of the deceased had also filed the said complaint before the DCP, North-East on dated 27.06.2023, but, he has shown the complaint dated 03.08.2023. Since, it is mentioned in the charge-sheet filed against Ansar that accused Ansar was living in rented accommodation with the deceased Imrana i.e. separate from other family's members, so, the charge-sheet has been filed only against accused Ansar u/s. 304-B/498-A of IPC.

14. Since, the perusal of the record also reveals that the FIR has been registered on the statement of father of the deceased Imrana, wherein, he has suspected that accused Ansar, father-in-law of deceased Mohd. Israel, mother-in-law of deceased Smt. Nisaran, Nanad of deceased Shaista and three Devars of deceased had committed murder of the deceased Imrana and prayed for taking strict legal action against them. In the case in hand, the report of FSL was received, which reveals that no poisonous substance has been detected in the VISCERA and from the opinion of the doctor, it is clear that cause of death of the deceased is "ASPHYXIA AS A RESULT OF ANTEMORTEM LIGATURE HANGING". Since, on the basis

of the investigation done by the IO, he has kept the other suspects under column no. 12 and the charge-sheet has been filed only against Ansar, so, in the considered opinion of this court, at this stage, this court cannot direct to the IO to file the additional charge-sheet against the persons, who are kept in column no. 12 of the charge-sheet, so, the protest petition filed by the applicant is hereby dismissed, being not maintainable. Dasti copy of this order be provided to the parties.

**Announced in the open court
on 1st day of December, 2023.**

**(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East District/Karkardooma Courts/Delhi**