

FIR No. 558/18  
PS Vijay Vihar  
State vs. Nikhil Goyal and ors.

29/1/2019

Present: Sh. Rajat Kalra, Ld. Addl. PP for the State  
Accused Nikhil Goyal and Santosh Gupta are produced  
from JC  
Accused Subhash Gupta is present on bail  
Ms. Prabha, Ld counsel for the complainant  
Sh. J.P.Singh, Ld. Defence counsel for accused persons  
Arguments on charge heard.

It is argued by Ld.counsel for the defence that he has no objection to the framing of charge with respect to accused Nikhil Goyal and Santosh Gupta but accused Subhash Chand Gupta is entitled to be discharge as there is no material to proceed against him. It is stated that allegations against him are very vague and the same are not supported and corroborated by any other evidence on record. It is further pointed out that in the chargesheet, it was mentioned by the IO that as per CDR of Subhash Chand Gupta, he had not visited the matrimonial house of the deceased either on the date of the incident or earlier and he was not found directly involved in any quarrel of the deceased in the matrimonial house.

Per contra, Ld. Addl. PP for the State has controverted the contentions of Ld. Defence counsel.

I have perused the complaint of Sh.Pradeep Gupta (father of the deceased) on the basis of which this FIR was registered and also the statement of other family members of the deceased recorded u/s 161 CrPC. Regarding the role of accused Subhash Chand Gupta, who is the maternal uncle of Nikhil Goyal, it is alleged that he used to abet

Nikhil and his mother to demand dowry and he was instrumental in getting the deceased tortured in her matrimonial house.

At this stage, the said statement of the complainant and other family members of the deceased cannot be disbelieved. Here it is important to mention that there is no evidence on record that he abetted the other accused persons, soon before the death of Deepali within the meaning of Section 304 B IPC. Hence, there is prima facie ground to proceed against him only u/s 498A r.w.s. 109 IPC. The contentions of Ld. Counsel for the defence are matter of trial.

It is settled law that at the stage of consideration of charge, this court is not required to assess, evaluate and to weigh the prosecution evidence in a criminal case as it is done at the final stage. It is not open for this Court to sift and weigh the evidence as if a mini trial is being conducted. A roving and fishing inquiry is impermissible and it is sufficient if the prosecution is able to show prima facie the commission of offence and the involvement of the accused persons.

After going through the entire material, there is prima facie ground to proceed against accused Nikhil Goyal and Santosh Gupta u/s 498A/304B/34 IPC and against accused Subhash Chand Gupta u/s 498A r.w.s. 109 IPC.

An application for bail u/s.439 Cr.P.C. moved on behalf of the applicant/accused Santosh Gupta is also fixed for today.

Reply to the bail application has been filed.

It is argued by the Ld. Counsel for the applicant/accused that she has been falsely implicated in this case and she is in custody since 23/9/2018. It is further stated that deceased Deepali was suffering from some abdominal problem due to which she was to be admitted in different hospitals from time to time in the year 2018 itself and due to the same she used to remain under stress and depression which was the reason for her committing suicide. It is further stated that she does not have any prior criminal antecedents and in

totality, she is entitled to be released on bail.

Per contra, Ld. Addl. PP for the State has opposed the bail application.

The applicant/accused is a lady aged about 58 years who is in JC since 23.09.2018. No fruitful purpose would be served by keeping her in JC any further pending trial. She may not be able to put her effective defence due to her continued incarceration.

In totality of the facts and circumstances, the application is allowed. The applicant/accused Santosh Gupta is admitted to bail on her furnishing personal bond in the sum of Rs.25,000/- with one surety of like amount.

This application stands disposed of accordingly.

Put up for framing of charge on 01/02/2019.

**(Deepak Garg)**  
**ASJ-II, North-West**  
**Rohini: Delhi**  
**29.01.2019**