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**CRR/54/2024**

1. The factual matrix revealed from the material on record is that the deceased Bhawna committed suicide by hanging after killing her girl child of one and half years in Andaman on 08.07.2021 while her husband was in his office. The door of the room where the suicide and murder took place was bolted from inside and in the evening the door was broken open by her husband with the help of neighbours and one of the neighbours lodged a written complaint around 10 p.m alleging commission



of offence under Section 302 of the Indian Penal Code against unknown person. The bodies of the victims were taken to native place of the deceased and her husband at Punjab for last rites and rituals. Subsequently, on 31.07.2021 the father of the deceased Bhawna lodged a written complaint at Pahargaon PS alleging commission of offences punishable under Sections 498(A)/304(B) of the Indian Penal Code against the husband and in laws of the deceased Bhawna. After investigation, charge sheet and supplementary charge sheet were filed and the husband and four in-laws namely parents-in-law, brother-in-law and sister-in-law of the deceased were charged for commission of offences punishable under Sections 498(A)/304(B)/34 of the Indian Penal Code. The in-laws filed a discharge application before the Learned Sessions Judge, Andaman and Nicobar Islands, Port Blair after the case was committed to that Court and by order No. 22 dated 29.07.2024 the Learned Sessions Judge, Port Blair allowed said application for discharge and in-laws namely Vinay Sharma, Praveen Kumari, Aman Sharma and Shashi Kala were discharged from the charge of the case under Sections 498(A)/304(B)/34 of the Indian Penal Code and Learned Sessions Judge has also concluded that there are sufficient materials to frame charge only against the accused Neeraj Sharma, being the principal



accused under Sections 498(A)/304(B) of the Indian Penal Code. Being aggrieved the defacto complainant/father of Bhawna has preferred this revisional application alleging that the Learned Trial Judge did not consider the materials on record properly and discharge the in-laws from the case in gross violation of law.

2. Mr. Tulsi Lall, Learned Counsel appearing for the de-facto complainant/revisionist has drawn the attention of this Court to the statements of several witnesses showing that there is incriminating evidence against all the discharged accused persons. Mr. Lall has further submitted that the deceased was subjected to physical and mental cruelty and for which she was compelled to kill herself after killing her own baby. The statements recorded under Section 161 of the Code of Criminal Procedure are sufficient to hold at this stage that there is *prima facie* material for trial. The Learned Sessions Judge did not consider the statements of witnesses recorded under Section 161 of the Code of Criminal Procedure with due care and attention. There are sufficient materials to show that the in-laws had abetted the victim to commit suicide and therefore, they were punishable under section 306 of IPC. Section 113-B of Evidence Act, 1872 is applicable in this case as there were materials to show that there was a continuous dowry demand



from the part of the respondents. All the judicial decisions cited by the Learned Counsel of the respondents in CRR/52/2024 show that the complaints were filed in those cases by the concerned victims but in this case the victim was dead. Those decisions are not applicable in this case.

3. Mr. Deep Chaim Kabir, Learned Senior Counsel appearing for the discharged accused persons has submitted that initially the F.I.R. was lodged by one neighbour and at that point of time the present respondents were not in the place of occurrence. It is also found that immediately before the incident, there was a serious altercation between the husband and wife and the wife committed suicide after killing her own baby. This unfolds how cruel a mother can be.

4. Mr. Kabir has drawn the attention of this Court to the statements which show that there existed normal matrimonial wear and tear between Bhawna and her in-laws, and nothing more than that. He has also drawn the attention of this Court to fortify his submission that after the marriage the couple came to Kerala for honeymoon and thereafter came straight to Andaman as the husband of the deceased was transferred to Andaman as a Navy Officer. Learned Senior Counsel has also drawn the attention of this Court to several other statements showing the suspectful nature of the deceased. She suspected her husband



if he used to talk with any female of his circle and she was also suspectful about the relationship of her husband with his own aunt. Most of the statements, according to Mr. Kabir relates to the husband of the deceased and not against the in-laws. The Learned Senior Counsel has also pointed out that before the commission of the offence there was no dowry demand from the side of the in-laws and they were not even present in the Island where the altercations and disturbances were allegedly going on between the husband and wife. The Learned Senior Counsel has also drawn the attention of the remarks of the Police Officer wherein it was noted that the husband of the deceased took the trouble to take the bodies to Pathankot at Punjab for the last rites and rituals of the deceased mother and child. This signifies that although there was some normal matrimonial wear and tear between Bhawna and her in-laws including her husband, such discord should not be construed otherwise. The de-facto complainant being the father of the deceased/wife had filed the 2nd F.I.R. with concocted stories.

5. After going through the record it appears that by order no. 22 dated 29.07.2024 in Sessions Case No. 20 of 2022 the Learned Sessions Judge has commented that on perusal of the entire record he found that the marriage took place between Bhawna Sharma and Neeraj Sharma in the year 2018 and they



came and started staying in Andaman and Nicobar Islands in a rented accommodation in May, 2018. It is also observed in the said order that if that be so then residing of other accused persons except accused Neeraj Sharma with the deceased at Port Blair does not arise. The Learned Trial Judge has further observed that he does not find sufficient materials against the accused namely Vinay Kumar @ Vinay Sharma, Aman Sharma, Praveen Kumari and Shashi Kala to frame charges under Sections 498(A)/304(B)/34 of the Indian Penal Code since the prosecution *prima facie* failed to show their presence either at the time of the incident or immediately before such incident at Port Blair. The learned Judge has also observed that admittedly Bhawna Sharma and Neeraj Sharma were residing at Port Blair along with their child since May, 2018.

6. Therefore from the impugned order it transpires that the Learned Sessions Judge has come to a finding that since May, 2018 the deceased wife and her husband Neeraj Sharma were residing in Andaman and the in-laws were not present at Port Blair during the incident nor any day before the incident took place at Port Blair. Some portion of this observation of the Learned Trial Judge dehors of the record. It appears that the Learned Sessions Judge did not consider the statements of the vital witnesses, namely the relatives of the deceased Bhawna. If



we consider the statements of the father Jagjit Kumar and other relatives recorded under Section 161 of the Code of Criminal Procedure we shall find that in the month of April, 2018, Bhawna Sharma and Neeraj Sharma went to Kerala for honeymoon and thereafter they went to Andaman as Neeraj Sharma was transferred and posted to Andaman. It is also the consistent statements of the relatives of the deceased that after a few months of staying at Andaman, Bhawna came back to her matrimonial home at Pathankot and she was subjected to torture at the ends of in-laws. Bhawna delivered a girl child in Punjab. However, the statements of the relatives of the deceased also disclosed that soon after her marriage the deceased and her father and other relatives were asked to give an additional amount of cash of Rs. 05 Lakhs. The statements of the relatives of Bhawna show that Praveen Kumari used to exert mental pressure since she desired to have a male child from Bhawna. Bhawna was taunted by Praveen Kumari as her relatives have so many girl children. Praveen Kumari made an advance demand of Rs. 05 Lakhs if Bhawna gave birth to a girl child. On the 5<sup>th</sup> day of the birth of the girl child of Bhawna, Praveen Kumari demanded Rs. 05 Lakhs over telephone. After the birth of girl child Rudhrika, the magnitude of torture upon Bhawna was increased as Rs. 05 Lakhs were not paid to the in-laws. In



the month of May, 2020, Bhawna was driven out from their matrimonial home. Subsequently, Vinay Sharma came to the house of Bhawna's father and demanded Rs. 05 Lakhs. The father of the Bhawna, being the de-facto complainant, was somehow able to arrange Rs. 01 Lakh and sent the same with Bhawna accompanied by her youngest sister Shivalika but after reaching there, there was a serious altercation between Bhawna and Aman Sharma over the amount of money. In the month of May, 2021, the in-laws demanded Rs. 20 Lakhs after coming to the house of father of the deceased. In the month of June, 2021 Neeraj Sharma came to attend the marriage ceremony of Bhawna's younger sister and on 04.06.2021 he took Bhawna and Rudhrika to Andaman on the pretext of his proposed surgery at Andaman. On 08.07.2021 they came to know that Bhawna committed suicide and on 14.07.2021 at 10:00 a.m. Bhawna was cremated in her father's place and at that time neither Neeraj Sharma nor any member of his family was present at the Crematoria. The above statements of the relatives of the deceased show that it is not correct to hold that Bhawna was all along in Andaman since May, 2018 and there was no scope for the in-laws to commit the offence under Sections 498(A)/304(B) of the Indian Penal Code. It is settled law that at the time of framing charge the Court should confine its



consideration only towards *prima facie* materials on record. The Court is not directed to weigh the admissibility or evidentiary value of the statements recorded under Section 161 of the Code of Criminal Procedure. The cruelty cannot be defined in a straitjacket formula or with chosen words. The statements of the witnesses revealed that allegedly the in-laws of Bhawna were anxious about the gender of her expected child and the statement shows that in-laws made advance demands that if there were any girl child then the father of the deceased had to pay a sum of Rs. 05 Lakhs. Ultimately, a girl child was born and allegedly the magnitude of torture upon Bhawna was enhanced. The torture was of such a kind that one day Bhawna was driven out from her matrimonial home as the said demand of Rs. 05 Lakhs was not carried out. It is the statement of the relatives that only after arranging Rs. 01 Lakh the deceased was again able to enter her matrimonial home. There was an altercation between Bhawna and her in-laws over the amount of money/dowry given by her father. All these go to show *prima facie* that the birth of a girl child had become an issue in the family. The altercation which took place between Neeraj Sharma and the deceased on the fateful day was of enormous significance and it cannot be inferred at this stage with certainty that there were reasons other than the demands from



the in-laws and the husband of the deceased, which compelled her to end the chapter of her life forever.

7. Argument was advanced regarding the cruel nature of the deceased Bhawna who strangled her own child before her suicide. But whether it was her cruel nature or the compulsion for not having a male child beyond the wish of the God swayed her decision ultimately to kill not only herself but her girl child who was looked down upon, is the subject matter of evidence.

8. Before parting, I should say that although we are happy and indeed, rejoicing that our daughters have won the World Cup in Cricket recently, and they are also making remarkable achievements in different fields, sectors etc., the passing away of **Rudrika** at the age of one and half years reminds us that still we have to go a long way to achieve complete equality for our girl children, since this court is reminded of the celebrated proverbial passage quoted in Justice Krishna Iyer's Essays in 'Random Reflections' :

*'No society is free until the last damsel in distress is free'.*

9. In view of the materials on record it is very difficult to say at this stage that there is no incriminating evidence against the present respondents who were discharged from the charge of the case on 29.07.2024.



10. I find that the impugned order is not sustainable in law since the Learned Sessions Judge has failed to consider the statements of the witnesses recorded under Section 161 of the Code of the Criminal Procedure in its proper perspective.

11. Accordingly, the order no. 22 dated 29.07.2024 in Sessions Case No. 20 of 2022 pending before the Learned Sessions is set aside.

12. The discharged accused persons namely Vinay Sharma, Praveen Kumari, Aman Sharma and Shashi Kala are directed to appear and surrender before the Learned Sessions Judge, Port Blair within our weeks from date and the Learned Sessions Judge shall take them in custody and shall enlarge them on bail if they are willing to furnish bail bonds in accordance with law. Thereafter, he shall take proper steps for framing charges against the accused persons under proper sections of law.

13. CRR 54 of 2024 is thus allowed on contest.

14. No order as to costs.

15. The criminal revisional application stands disposed of along with all connected applications, if any.

16. Let the Trial Court Record be sent down immediately to the Learned Trial Court along with a copy of this judgment.



17. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of usual formalities.

**[ APURBA SINHA RAY, J. ]**