

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

FRIDAY, THE 5TH DAY OF AUGUST 2022 / 14TH SRAVANA, 1944

CRL.MC NO. 2300 OF 2022

CRIME NO.2960/2021 OF Kattakada Police Station,
Thiruvananthapuram

PETITIONER:

BABY S
WIFE OF RAJAN S,
'RESHMA BHAVAN', KOOTHALI PO,
THIRUVANANTHAPURAM
PIN - 695505

BY ADVS.
PIRAPPANCODE V.S.SUDHIR
AKASH S.
A.MEGHA
GIRISH KUMAR M S
V.S.VARALEKSHMI
AMRITHAPRIYA.C

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY FOR HOME AFFAIRS,
ROOM NO. 357(A) & 358, MAIN BLOCK, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 DIRECTOR GENERAL OF POLICE
STATE POLICE HEAD QUARTERS, VELLAYAMBALAM,
THIRUVANANTHAPURAM PIN - 695010

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3 STATION HEAD OFFICER
KATTAKKADA POLICE STATION, KULATHUMMAL,
KATTAKKADA, THIRUVANANTHAPURAM PIN - 695572

4 SUB INSPECTOR OF POLICE
KATTAKKADA POLICE STATION, KULATHUMMAL,
KATTAKKADA, THIRUVANANTHAPURAM PIN - 695572

5 ADDITIONAL DIRECTOR GENERAL OF POLICE (CRIME
BRANCH)
CRIME BRANCH HEAD QUARTERS, ENCCKAL,
THIRUVANANTHAPURAM. PIN - 695008

SRI. P.G. MANU, SR. PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05.08.2022, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER

Dated this the 5th day of August, 2022

The petitioner is the mother of one Rajalekshmi who was found dead by hanging at the residence of her husband on 16/12/2021. A crime was registered by the Kattakkada police station u/s 174 of Cr.P.C for unnatural death on the basis of the statement given by the sister of the deceased viz., Reshma B.R. as Crime No.2960/2021. The 4th respondent who is the SI of Police, Kattakkada conducted the investigation.

2. In the meanwhile, the petitioner approached this court by filing the above Cr1.M.C. alleging that the 4th respondent is not conducting a fair investigation. According to the petitioner, the husband of the deceased harassed the deceased both physically and mentally demanding more dowry and it was on account of the said persistent harassment, the deceased committed suicide. In short, their case is that this is a clear case of dowry death.

3. However, the 4th respondent after conducting investigation found that the deceased committed suicide due to

some depression and nobody is responsible for her death and a final report was filed to that effect on 18/7/2022.

4. I have heard Sri.Akash, the learned counsel for the petitioner and Sri. P.G. Manu, the learned Public Prosecutor.

5. The learned Public Prosecutor made available to me the entire case diary including the final report. I have perused the same.

6. The learned counsel for the petitioner submitted that the materials collected during investigation would clearly show that the husband of the deceased had subjected the deceased to cruelty and harassment soon before her death demanding more dowry and it was on account of the said harassment and cruelty, the deceased committed suicide and this is a fit case where offence u/s 304 B of IPC should have been charged against the husband of the deceased. The counsel further submitted that 4th respondent who conducted investigation did not conduct any investigation worth the name and the investigation was conducted only to help the real culprit.

7. The First Information Statement was given by the

sister of the deceased. The statements of parents of the deceased as well as another sister of the deceased were recorded by the police during investigation. In the FI Statement of the de facto complainant as well as in the statements of the parents and the sister of the deceased, there are clear allegations that the husband of the deceased subjected the deceased to cruelty and harassment in connection with demand for dowry soon before her death. Few neighbours also gave statement in support of the same.

8. This is a case where the death was taken place within a period of three years of the marriage. Section 113 B of the Indian Evidence Act, deals with presumption as to dowry death. The presumption under the said provision is mandatory in nature. It says that, when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death. It appears that the 4th respondent failed

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to take note of the relevant provisions of the statute under the Indian Evidence Act mentioned above and also Section 304 B of IPC and the clear statement given by the sister and parents of the deceased.

9. A detailed statement dated 22/7/2022 has been given by SHO, Kattakkada Police Station in the above CrI.M.C. In paragraph 8 it is seen stated that the close relatives of the deceased were the only witnesses among the witnesses questioned who stated that the cause of death was because of the harassment for dowry by her husband. When harassment takes place in connection with dowry demand inside the matrimonial home, we cannot expect independent witnesses. The question is whether the statement given by the close relatives is believable or not. That apart, the inquest report would show that there were injuries on various parts of the body of the deceased other than the ligature mark on the neck. This has also not been taken into consideration by the 4th respondent.

10. For the reasons stated above, I am of the view that final report submitted by the 4th respondent dropping further

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proceedings in Crime No.2960/2021 cannot be sustained and accordingly, it is set aside.

11. The Dy.S.P Kattakada is directed to reopen the investigation and hand it over to another officer in the rank of Circle Inspector of Police and conduct proper investigation in the light of the findings in this order and file final report thereafter. The Dy.S.P. Kattakada shall supervise the investigation. Forward a copy of this order to Dy.S.P. Kattakkada.

The Cr1.M.C is disposed.

sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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APPENDIX OF CRL.MC 2300/2022

PETITIONER ANNEXURES

- Annexure I TRUE COPY OF THE WEDDING INVITATION LETTER FOR THE MARRIAGE BETWEEN RAJALAKSHMI AND MR. BINU ON 25.04.2019
- Annexure II TRUE COPY OF THE FIR IN CRIME NO. 2960 OF 2021 OF THE KATTAKKADA POLICE STATION DATED 17.12.2021
- Annexure III TRUE COPY OF THE SCENE MAHAZAR IN CRIME NO. 2960 OF 2021 OF THE KATTAKKADA POLICE STATION DATED 17.12.2021.
- Annexure IV TRUE COPY OF THE INQUEST REPORT IN CRIME NO. 2960 OF 2021 OF THE KATTAKKADA POLICE STATION DATED 17.12.2021.
- Annexure V TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE HON'BLE CHIEF MINISTER OF KERALA DATED 20.01.2022
- Annexure VI TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 20.01.2022