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Court : Madhya Pradesh

Decided On : Feb-06-2013

Appellant : Narendra

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Prashant Dubey

Judgement :

1 Cr.R.No.901/2012.

6.2.2013 .

Shri Prashant Dubey, learned counsel for the applicant.

Shri Alok Tapikar, learned P.L.for the respondent/ State.

Heard on the question of admission.

The applicant/accused has preferred this revision under Section 397/401 of Cr.

P.C.being aggrieved by the order dated 17.4.2012, passed by the Additional Session Judge, Sagar in S.T.No.69/2012, whereby the charge of Section 306 of IPC has been framed against the applicant.

The facts giving rise to this revision in short are that on 23.10.2011 one Neelam Goswami has given a report in writing at P.S.Sanodha contending that the

applicant Narendra Sahu on the point of the knife has taken away his sister.

Subsequent to it she could not be traced out.

On 25.10.2011 one Arvind Giri has given the intimation to Police that early in the morning at about 6.00 am he went to take bath at some well where he saw the dead body of deceased Rani Goswami, on which a merg intimation was registered.

In its inquiry prima-facie it was established that there was some love affairs between the applicant and Rani Goswami and pursuant to it the applicant had given her false temptation to get marry with her and in such premises contrary to the aforesaid assurance committed cruelty with her and created such a situation of the deceased by which she was instigated to proceed to commit suicide and committed the same, on which the impugned offence of Section 306 of IPC was registered against the applicant and after holding 2 investigation he was charge sheeted for the aforesaid offence punishable under Section 306 of IPC.

After committing the case to the Sessions Court on evaluation of the charge sheet taking into consideration the available evidence collected by the investigating agency the charge of Section 306 of IPC was framed against the applicant.

On which the applicant has come to this Court with this revision.

The applicants' counsel after taking me through the averments of the revision along with the papers of the charge sheet available on the record, so also the impugned order argued that even on taking into consideration the evidence collected by the investigating agency and submitted along with the police report as accepted in it's entirety even then the charge of Section 306 of IPC for abatement to commit suicide to the deceased is not established against the applicant.

He also said that the ingredients of abatement defined under Section 107 of IPC are also not established in the matter and prayed to discharge the applicants from the alleged charge by setting a side the impugned order by allowing this revision.

He also placed his reliance on a decision of the Apex Court in the matter of M.

Mohan versus State reported in 2011 STPL (LE) 44914 SC.

On the other hand responding the aforesaid arguments Shri Alok Tapikar, learned P.L.by justifying the impugned order and charge framed against the applicant said that the same being based on proper evaluation of the papers of charge sheet is in conformity with law, it does not require any interference at this stage and prayed for dismissal of this revision.

3 Having heard the counsel keeping in view their arguments, I have carefully gone through the case diary, including the FIR and the police report filed under Section 173 of Cr.P.C.

so also the interrogatory statement of the witnesses of parental family of the deceased.

As per available evidence prima-facie it has been established that the deceased has committed suicide because of the circumstances created by the applicant herein, as initially under the garb of love affairs he had given the assurance to the deceased to get marry with her and later he refused for the same and as per evidence she was taken away by the applicant before some days of the incident and thereafter she committed suicide by jumping in the well.

In such premises at the stage of framing the charge, there is prima-facie circumstance to draw the inference that deceased was instigated by the applicant to commit the suicide.

In such premises the trial Court has not committed any error in framing the aforesaid charge against the applicant.

Consequently, the impugned order does not require any interference under the revisional jurisdiction of this Court.

Hence this revision being devoid of any merits is hereby dismissed at the stage of motion hearing.

So far, the case law cited by the applicant's counsel in the matter of M.

Mohan (Supra) is concern, this Court did not have any dispute regarding principle laid down in such case but it is apparent that such case was decided after holding the trial.

In such premises it could be said that such approach of the Court is based on appreciation of the recorded evidence and on such appreciation when the offence was not found to be proved then concerning accused was 4 acquitted while in the case at hand the trial is yet to be held to record the evidence of the prosecution as well as the defence, hence cited case being distinguishable on the facts and stage of the case is not helping to the applicant.

Apart this, it is settled proposition of law laid down by the Apex Court in the matter of Soma Chakravarty versus State reported in (2007) 5 SCC 40.that on availability of prima facie ingredients of the alleged offence in a criminal case the Court has not option except to frame the charge of such offence against the applicant/ accused.

So in such premises also the impugned order does not appear to be perveRs.or contrary to law.

In view of the aforesaid discussion, I have not found any merits in this revision consequently, the same is dismissed at the stage of motion hearing.

(U.C.Maheshwari) Judge K.

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