

Devendra Singh and Others Vs. The State of M.P.

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Court : Madhya Pradesh

Decided On : Dec-12-2014

Judge : Sushil Kumar Gupta

Appeal No. : Criminal Revision No. 758 of 2014

Appellant : Devendra Singh and Others

Respondent : The State of M.P.

Judgement :

S.K. Gupta, J.

1. By this Criminal Revision under Section 397 read with 401 of Cr.P.C., petitioners have challenged the order dated 12.05.2014 passed by learned Second Additional Sessions Judge, Gohad District Bhind in S.T.No.90/2014 whereby the charges for the offence punishable under Sections 498-A, 304-B of IPC and Section 4 of Dowry Prohibition Act were framed against the petitioners.

2. The case of the prosecution is that, deceased-Radha got married with Sahab Singh in the year 2012. On dated 31.10.2013 her father Fulzari Singh received information on mobile by Betal Singh that his daughter-Radha has died in the night. On this information Fulzari Singh informed to the police. After registration of *Merg* and enquiry, it was found that husband-Sahab Singh, mother-in-law (Munni Devi), brother-in-law (Devendra and Prem Singh) and sister-in-law (Kiran and

Baby) were harassing the deceased-Radha in connection with demand of four-wheeler and Rs.2,00,000/- in cash and used to beat her.

3. After completion of the enquiry, FIR under Section 498-A, 304-B of IPC and Section 4 of Dowry Prohibition Act against the petitioners as well as co-accused has been registered. After investigation, the police submitted the charge-sheet against the petitioners and other co-accused. Learned Trial Court framed the charges under Sections 498-A, 304-B of IPC and Section 4 of Dowry Prohibition Act.

4. Learned counsel for the petitioners submits that ingredient of Section 304-B of IPC is not made out. There is no evidence against the petitioners that they were harassing the deceased for demand of dowry soon before her death. It is submitted that there is no specific evidence about demand of dowry against the petitioners. It is further submitted that there is no *iota* of evidence present on record to implicate the petitioners. He also submitted that learned Court below has not considered the ingredients of Section 304-B of IPC, therefore, the offence under Section 304-B of IPC is not made out.

5. Per contra, learned Public Prosecutor for the respondent/State has fully supported the impugned order of Lower Court and submitted that the deceased-Radha died within 1 years of her marriage. He further submitted that she died in the house of the petitioners and other co-accused and there is *prima facie* evidence against the petitioners.

6. Having heard the learned counsel for the parties and after perusal of the evidence available on record and facts and circumstances of the case and from the statement of Fulzari Singh, it appears that there is *prima facie* evidence against the petitioners for harassing the deceased for demand of dowry.

7. In such premises, order of framing of charge is based on sound appreciation of material available on record and cogent reasons. No infirmity can be found with the impugned order of the Trial Court for framing the aforesaid charge. The revision is premature and it would not be proper to stifle the prosecution at this stage.

8. Moreover, it is trite to state that at the time of framing of charge the material and quality of evidence cannot be gone into. This Court is well aware about the limitation of the Court while exercising the revisional jurisdiction, which does not empower to intervene at an interlocutory stage. Moreover, all that has to be looked into at the time of framing of the charge is that whether there was existence of *prima facie* case. So also it would be profitable to rely on **State of M.P. Vs. S.B. Johari and others reported in 2002 (2) MPLJ 322**, whereby the Court held thus:

It is settled law that at the stage of framing the charge, the Court has to *prima facie* consider whether there is sufficient ground for proceeding against the accused. The Court is not required to appreciate the evidence and arrive at the conclusion that the materials produced are sufficient or not for convicting the accused. If the Court is satisfied that a *prima facie* case is made out for proceeding further, then a charge has to be framed.

Umar Abdul Sakoor Sorathia Vs. Intelligence Officer, Narcotic Control Bureau reported in (2000) 1 SCC 138 whereby the Court held thus:

It is well settled that at the stage of framing charge the Court is not expected to go deep into the probative value of the materials on record. If on the basis of materials on record that Court could come to the conclusion that the accused would have committed the offence the Court is obliged to frame the charge and proceed to the trial.

State of Maharashtra and others Vs. Som Nath Thapa and others reported in (1996) 4 SCC 659 whereby the Court held thus:

The aforesaid shows that if on the basis of materials on record, a Court could come to the conclusion that commission of the offence is probable consequence, a case for framing of charge exists. To put it differently, if the Court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage.

9. Therefore, no infirmity, irregularity or illegality is found in the impugned order passed by learned Additional Sessions Judge.

10. Accordingly, this revision petition is devoid of merits and hereby dismissed at this stage. It is made clear that nothing observed herein above shall prejudice the case of the petitioners/accused persons at the trial.

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