

Ghan Shyam Alias Subhash and anr. Vs. State of U.P.

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SooperKanoon Citation : sooperkanoon.com/487873

Court : Allahabad

Decided On : Sep-15-2003

Reported in : 2004CriLJ967

Judge : K.N. Sinha, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 216 and 222; [Indian Penal Code \(IPC\), 1860](#) - Sections 300 and 306

Appeal No. : Crl. R. No. 2204 of 1985

Appellant : Ghan Shyam Alias Subhash and anr.

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Apul Mishra, Adv.

Disposition : Revision allowed

Judgement :

ORDER

K.N. Sinha, J.

1. This revision has been filed against the order dated 15-10-1985 passed by Additional Sessions Judge, Agra, in Session Trial No. 94 of 1984 framing the

additional charge under Section 306 I. P. C.

2. The brief facts giving rise to the present revision are that revisionist and others were charge sheeted for the murder of Smt. Meera wife of accused Murari Lal. The Sessions Court framed charge under Section 302 IPC on 30-11-1984. However, later on the charge under Section 306 I. P. C. was also framed on October 15, 1985. It appears that both the charges stand together hence the learned counsel for the revisionist has submitted that it can either be a murder or the suicide. There is absolutely no evidence that deceased Smt. Meera was ever tortured.

3. I have perused the charges framed. It is also not clear as to why and under what circumstances the additional charge under Section 306 I. P. C. was also framed.

4. The offence under Section 306 IPC cannot be said to be a minor offence in relation to an offence under Section 302 IPC within the meaning of Section 222 Cr. P. C. Both the offences are of distinct and different categories. The basic constituent of an offence under Section 302 IPC is homicidal death whereas under Section 306 IPC it is suicidal death and abetment thereof. Thus, both the charges cannot go together, either the deceased had committed suicide or she was murdered. It was for the trial Court to have examined the evidence collected during the investigation then framed the charge.

5. In the result the revision is allowed and the order dated 15-10-1985 charging the revisionist under Section 306 IPC is set aside.

6. It is hereby directed that the trial Court shall examine whole of the evidence collected by the Investigating Officer during the investigation and on that basis it may amend or alter the charge but the charge should be specific.

7. The trial has become sufficiently old hence it is hereby directed that the concerned Court shall proceed to decide the matter expeditiously.