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Feran Singh and ors. Vs. State

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Court : Madhya Pradesh

Decided On : Aug-11-1994

Reported in : I(1995)DMC94

Judge : Shacheendra Dewivedi, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 306; Code of Criminal Procedure (CrPC) , 1973 - Sections 173

Appeal No. : Cr. Rev. No. 93/92

Appellant : Feran Singh and ors.

Respondent : State

Advocate for Def. : M.K. Jain, Dy. Govt. Adv.

Advocate for Pet/Ap. : Rakesh Saxena, Adv.

Disposition : Revision dismissed

Judgement :

Shacheendra Dewivedi, J.

1. The petitioners have challenged the order of framing of the charges against them in S.T. No. 216/91, or the offence under Section 306 of I.P.C.

2. The petitioner's Counsel contended that there was no evidence of any instigation to the deceased to commit suicide. It is further submitted that the deceased was married with petitioner No. 1 Feran Singh about 8-9 years ago. She is alleged to have committed suicide on 18-2-91. On this contention the argument is developed that the legal presumption was not available to the prosecution against the petitioners as the marriage was not held within seven years from the date of incident.

3. At the state of charge, Court is only to consider whether there is a strong suspicion of the commission of offence against the accused persons, or that if the production allegations were accepted as they were whether the conviction of the accused-persons could be founded on that material or not.

4. The intention of the accused-persons and also the instigation to the deceased to commit suicide may be gathered from the evidence coming on record, but it can also be gathered from the circumstances and the alleged conduct of the accused persons.

5. In the present case, it is on record that the deceased was being tortured and maltreated as she had not brought the sufficient dowry from her parents. She was not being sent to her parental house even on special occasions, and it has also appeared in the statements of the prosecution witnesses Dhiraj Singh and Kunjilal that accused Feran Singh had told to Kunjilal that let her father Narain Singh come, we will chop of his hands and legs and then would send the deceased to her parental house. The circumstances and the conduct of the accused are prima-facie indicative of instigation which appears to have led the helpless lady to commit suicide. When an accused knows that if a particular act or a set of acts would instigate the deceased to commit suicide and does that positive act or acts which result in the deceased's committing suicide, he would be taken to abate or instigate the commission of offence, filed by the prosecution, under Section 173 Cr.P.C. has rightly framed a charge under Section 306 of I.P.C. The order does not call for any interference.

6. The authorities relied upon by the petitioners' Counsel Panchram and Samailal v. State of M.P. (1971) JLJ S. N. 80), Mahaveer Singh and Ors. v. State of M.P.

(1987 JLJ 645), Dinesh Chandra v. State of M.P. (1988 (II) M.P.W.N. 84) and Basant Kumar and Ors. v. State of M.P. (1991 JLJ 175), are distinguishable on facts and reliable to the different stage. This aspect was also not considered and as such, those are of no avail to the accused.

7. The petition has no substance and is, therefore, dismissed.

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