

Ramchandra Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Jul-01-1987

Reported in : 1989CriLJ162

Judge : K.L. Shrivastava, J.

Appellant : Ramchandra

Respondent : State of M.P.

Judgement :

ORDER

K.L. Shrivastava, J.

1. This revision petition is directed against the order dated 6-2-87 passed by the First Additional Sessions Judge Dhar in S.T. No. 27/87 framing charge under Section 302, I.P.C. against the petitioner.
2. Circumstances giving rise to this petition are these. According to the prosecution story on 7-10-86 Kailash son of the present petitioner administered poison to his wife Bhartibai. Her dying declaration was recorded on 8-10-86 in which she named her husband Kailash as the culprit.
3. On the report being lodged, a crime was registered and investigation was set afoot.

4. At the conclusion of the investigation, the said Kailash' and the present petitioner have both been prosecuted for offence under Section 302, IPC and charges have been framed against them.

5. The contention of the learned Counsel for the petitioner is that the learned Additional Sessions Judge has seriously erred in framing charge under Section 302, IPC against the petitioner.

6. The contention of the learned Counsel for the State is that revision against order framing charge is not maintainable and that at any rate, on the material on record, the charge is clearly sustainable.

7. Section 397(2) of the Cr. P.C. 1973 (for short 'the Code') bars revision against interlocutory order.

8. The question is whether order framing of charge is interlocutory order.

9. There is no direct pronouncement by the Supreme Court on the question whether or not an order framing charge is revisable under the Code. But from the trend of the observations of the Supreme Court it is clear that order framing charge is revisable.

10. The word 'interlocutory' has not been used in the aforesaid provision in Section 397(2) of the Code as a converse of the final order. In between the two, there may be intermediate orders.

11. As pointed out in the decision in Madhu Limaye's case : 1978 CriLJ165 meaning of the words 'interlocutory' and 'final' must be considered separately in relation to the particular purpose for which it is required. The provision regarding revision cannot be rendered meaningless.

12. In Amarnath's case : 1977 CriLJ1891 it has been pointed out that the orders which are matters of moment, cannot be said to be Interlocutory orders so as to be outside the purview of the revisional jurisdiction. In the decision in R. Shakuntala's case 1985 Cri LJ 68 (Mad) after adverting to the various SC decisions it has been held that bail orders are interlocutory in large variety of cases but every kind of bail

orders is not interlocutory.

13. In the decision in V. C. Shukla's case : 1980 CriLJ690 order framing charge has no doubt been held to be of interlocutory nature but the decision relates to Section 11(1) of the Special Courts Act 1979 which excludes the provisions of the Code. According to the decision, the word 'interlocutory' has been used therein in a narrow sense.

14. In the decision in R. K. Vol Goldstain's case 1979 Cri LJ 338 (Him Pra) it has been held that the order framing charge is amenable to revisional jurisdiction.

15. In the decision in Dattatraya's case 1982 Cri LJ 1025 (Bom) the aforesaid SC decisions in Amarnath's case 1977 Cri LJ 1891, Madhu Limaye's case 1978 Cri LJ 165 and Vidya Charan's case 1980 Cri LJ 690 (supra) have been referred to and it has been held that the order framing charge is not an interlocutory order within the meaning of the expression as used in Section 397(2) of the Code. I hold that the revision is maintainable.

16. Now on a perusal of the record, I find that in the dying declaration no role has been ascribed to the petitioner in the crime, in question. According to the statement of Bhagwantsingh, the deceased had told him earlier that her husband had beaten her. The evidence to the effect that according to the version of the deceased the husband used to trouble her at the instance of the in-laws can hardly be urged as sustaining the charge in question.

17. From the foregoing discussion, the conclusion is irresistible that the order framing charge has not a leg to stand upon and must, therefore, be quashed.

18. In the result, the revision petition is allowed. The charge under Section 302, IPC framed against the petitioner is quashed. The petitioner shall stand discharged.