

State of Rajasthan Vs. Jitendra Pratap Singh and anr.

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Court : Rajasthan

Decided On : Feb-20-1998

Reported in : 1998CriLJ2563

Judge : V.G. Palshikar, J.

Acts : Evidence Act - Sections 113B; Indian Penal Code (IPC) - Sections 304B and 498A

Appeal No. : Criminal Revn. Petn. No. 399 of 1996

Appellant : State of Rajasthan

Respondent : Jitendra Pratap Singh and anr.

Advocate for Def. : Doongar Singh, Adv.

Advocate for Pet/Ap. : D.S. Rathore, Public Prosecutor and K.L. Thakur, Adv.;

Disposition : Petition dismissed

Judgement :

ORDER

V.G. Palshikar, J.

1. This revision application is directed against the order dated 27-8-96 passed by the learned Addl. Sessions Judge, Rajsamand in Criminal Case No. 149/96,

discharging the accused persons of the offence under Sections 304B and 498A of the Indian Penal Code.

2. The facts stated in brief are that the deceased Vandana was married to respondent Jitendra Pratap Singh s/o Shri Indra Bahadur Singh, in 1994 June and on 16th February, 1996 she committed suicide by hanging herself through roof. The matter was reported to the police and after investigation, police filed a challan on the basis of which Criminal Case No. 149/96 was started in the Sessions Court which was ultimately allocated to the Addl. Sessions Judge, Rajsamand, for trial. The learned Addl. Sessions Judge, after hearing the parties, framed charge by his order dated 27-8-96 charging accused Smt. Savitri Debi and accused Virendra Pal Singh of offences under Sections 304B and 498A of the Indian Penal Code and discharged the present respondent-accused of the offence under those Sections. It is this part of discharging the respondent-accused persons which is impugned in this order by the State Government on the grounds mentioned in the revision petition.

3. It was urged by the learned Public Prosecutor that it is a settled law by the Supreme Court of India in more than one decisions that when strong suspicion is created in the mind of the Judge by the investigation papers, a prima face case of framing charge is made out and when on the basis of such evidence, charge is framed, ordinarily a superior Court will not interfere with the framing of charge. It is also laid down by the Supreme Court of India that where no such prima facie case is made out, there is no evidence on record, which if accepted or which if unrebutted, would result in conviction of the accused.

4. Framing of the charge itself is improper and discharge in such circumstances, may not ordinarily be interfered with by the superior Courts.

5. I have, therefore, to see in the present case, whether the circumstances as stated in the investigation papers, raise a strong suspicion against the accused persons-respondent in this revision application or whether their discharge by the learned trial Judge was proper.

6. With the assistance of the learned Public Prosecutor for the State and Mr. K.L. Thakur counsel for the complainant, who with the permission of this Court assisted the learned Public Prosecutor in attacking the order of discharge and Mr. Doongar Singh, learned counsel for the accused-respondents, I have gone through the record and proceedings of this case and reappraised the evidence on record. The learned Public Prosecutor extensively read the statement of various persons as also the First Information Report and pleaded that these statements, if unrebutted, will result in conviction of the accused-respondents under Sections 304B and 498A of the Indian Penal Code and, therefore, the order discharging the present respondents-accused, is unsustainable in law. Reliance was placed on several decisions of the Supreme Court and it was pleaded that the order of discharge is unsustainable in law.

7. The learned Public Prosecutor relied on a judgment of the Madhya Pradesh High Court in *Premati v. State of Madhya Pradesh* (1991 Cri LJ 268) where the Madhya Pradesh High Court has observed that at the stage of framing of charge, the High Court would-not interfere, if there is material available for presuming that the accused has committed an offence with which he is charged and the Court, therefore, dismissed the revision against the order framing charge. Relying on this judgment, it is argued by the learned Public Prosecutor that there is material available on record and, therefore, the order of discharge is improper.

8. Relying on the decision of the Supreme Court of India, reported in 1991 Cri LJ 1713 : (AIR 1991 SC 1226), it was pleaded that the question whether unnatural death is homicidal or suicidal is relevant. In this case, undoubtedly, it is a matter of suicide and, therefore, there is enough material on record to frame charge under Section 304B. 1979 Cri Law Journal 1590 was referred for the proposition that material on record raising strong suspicion of commission of an offence is, sufficient, for framing charge. There cannot be any doubt about this proposition of law which has been laid down by the Supreme Court of India on several occasions thereafter. Then there are two judgments of the Andhra Pradesh High Court, wherein it is held, with reference to the presumption under Section 113B of the Evidence Act that the prosecution witnesses had deposed to circumstances, which clearly spell out commission of offence by the accused persons. Relying on this

decision, it was submitted that the statement of the father of the deceased, as recorded by the police, raises strong suspicion about involvement of the accused persons and, therefore, they could not have been discharged. To the same effect is the decision of the Kerala High Court in *State of Kerala v. Rajayyan*, 1995 (1) Crimes 596 : (1995 Cri LJ 989).

9. I have scrutinized the investigation papers and the statements recorded by the Police and I am of the opinion that the learned Sessions Judge has written a very reasoned and balanced order charging the alleged defendants of the crime for the offences under Sections 304B and 498A and has at the same time discharged those against whom even suspicion could not be raised in the mind of a reasonable prudent man. On reading of the investigation papers which was the only material available before the learned Judge while framing the charge.

10. Relying on all these submissions, it was contended by the learned Public Prosecutor that the order of discharge is unsustainable in law. A perusal of the First Information Report and the statements recorded by the police, give out enough material and raise a strong suspicion about the present respondents also and hence, the order discharging them is unsustainable in law.

11. The learned Sessions Judge has given very elaborate and substantial reasons for coming to the conclusion that no charge can be framed against the present respondent-accused. After going through the material on record, I am of the opinion that the finding recorded by the learned Judge is correct. It is pertinent to note that Jitendra the husband was a college going student studying in the Engineering College at Jalgaon, some thousand miles away from the place where the deceased stayed with her in-laws and the entire statement, except making a reference to the accused Jitendra Pratap Singh and his father Shri India Bahadur Singh did not attribute any action or contribution to either of them to any of the act of torture. It cannot, therefore, be their action which has culminated the suicide by the deceased. It obviously appears to be an action due to alleged conduct of the other persons who have been already charged by the learned Judge.

12. I do not think it proper to make any further comments on the state of material on record as it may have the tendency of influencing the learned Sessions Judge,

while appreciating the evidence on record. I am, in the circumstances, satisfied that the finding of discharge given by the learned Judge is duly supported by the evidence on record and need not be interfered with.

13. In the result, the revision petition fails and is dismissed.

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