

Dharmender and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Dec-08-2000

Reported in : 2001(1)WLC666; 2001(1)WLN650

Judge : Shiv Kumar Sharma, J.

Appeal No. : S.B. Criminal Revision Petition No. 618 of 2000

Appellant : Dharmender and ors.

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

Shiv Kumar Sharma, J.

1. Instant revision petition has been preferred by the accused petitioners impugning the order dated October 30, 2000 of the learned Sessions Judge Sawai Madhopur whereby charges against the petitioners were framed in the following manner.

Petitioners Dharmender, Kailash Chand, Sunil and Banwari--Under Sections 148, 451, 336 read with 149, 302 IPC. In the alternative 302 read with 149 and 307; in the alternative 307 read with 149 IPC.

Petitioner Ms. Sunita--Under Sections 148, 451, 336, 302 IPC. In the alternative 302 read with 149, 307 and in the alternative 307 read with 149 IPC.

2. It is contended on behalf of the petitioners that there were no sufficient cause for the proceeding against the petitioners in the manner the learned trial court has proceeded. The trial court framed alternative charges in complete contravention of the mandate of Section 222 Cr. P.C., therefore, the impugned order legally warrants to be modified. It is further contended that the legislature in its solemn wisdom enacted this statutory provision not only to either arm the prosecution with irrelevant prosecution evidence or to accord unwarranted prosecution to the accused but the sanction has been incorporated on the principle of defeat of justice on technical grounds. The trial court has not assigned any reason while passing the impugned order.

3. I have given my anxious consideration to the submissions advanced before me by the learned Counsel for petitioners as well as the learned Public Prosecutor and the learned Counsel appearing for the complainant.

4. It is well settled that the High Court will not interfere in revision even though the impugned order is wrong in law or the trial is illegal and not merely illegality if no prejudice is shown to have resulted to the accused and power is exercised only for purpose of correcting injustice and not merely illegality when there is no failure of justice. The High Court will not interfere in revision even though there might have been an irregularity or an impropriety in the proceedings of the court below. The revisional court will interfere at the stage of framing charge and exercise self restraints unless there is glaring injustice apparent on the face of the record. Mere technicalities in respect of matters which are of vital importance significance in a Criminal trial should not be allowed to frustrate the ends of justice. When there is error or omission in the charge and whatever the character in the omission or error whether it is sincere or trivial, it is not to be regarded as important unless two conditions are fulfilled:

(a) the accused has been in fact misled by it, and

(b) the omission or error or both have occasioned a failure of justice.

5. The object of framing a charge is to enable an accused person to know the substantive charge which he will have to meet. Object of framing of charge is not to introduce a provision that goes to the root of the jurisdiction but to enable accused to have a clear idea of what he is being tried for and the essential facts that he is to meet.

6. I am satisfied that no prejudice is shown to have resulted to the accused petitioners in the instant matter.

7. I do not find any merit in the revision. It accordingly dismissed.

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