

Arjun Vs. State of Rajasthan.

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Court : Rajasthan

Decided On : Jul-19-2011

Judge : Narendra Kumar Jain, J.

Acts : Indian Penal Code (IPC) - Sections 302, 201; Evidence Act - Section 27; Code Of Criminal Procedure (CRPC) - Section 227 and 228

Appeal No. : Case No. CRLR 816 of 2011

Appellant : Arjun

Respondent : State of Rajasthan.

Advocate for Def. : Ms. Rekha Madnani, Adv

Advocate for Pet/Ap. : Mr. Jai Prakash Gupta, Adv

Judgement :

1. Heard learned counsel for the parties.
2. Petitioner has preferred this revision petition challenging impugned order dated 14.03.2011 passed by trial court, whereby it was ordered that a charge under Section 302 and 201 I.P.C. be framed against the petitioner.
3. Submission of learned counsel for the petitioner is that he is not challenging the order framing charge under Section 201 I.P.C., but according to him, there is no evidence to connect the accused-petitioner with the offence under Section 302

I.P.C., therefore, order framing charge against the petitioner under Section 302 I.P.C. is liable to be quashed and set aside.

4. Learned Public Prosecutor submitted that soon after arrest of the petitioner, he gave an information, under Section 27 of the Evidence Act, about knife and mobile used by co-accused Harish and the same were recovered in pursuance of information given by present petitioner Arjun, therefore, it was contended that there is prima-facie evidence to proceed against the petitioner and this is not a fit case to discharge the accused-petitioner from the offence under Section 302 I.P.C.

5. I have considered submissions of learned counsel for the parties and examined impugned order as well as challan papers placed on record alongwith memo of revision petition.

6. The accused-petitioner was arrested and he furnished an information about knife and mobile and the same were recovered in pursuance of the information furnished by him. Apart from above, there is statement of one prosecution witness namely Sunil, recorded under Section 161 Cr.P.C. In these circumstances, it cannot be said there is no evidence at all against the petitioner to frame charge against him for the offence under Section 302 I.P.C.

7. Hon'ble Apex Court in State of M.P. v. S.B. Johari & Others, reported in (2000) 2 SCC 57, considered scope of Section 227 and 228 Cr.P.C. and held that at the time of framing of charges, the court is required to see whether prima-facie there was sufficient ground for proceeding against the accused; it cannot appreciate the evidence to arrive at a conclusion in the matter at this stage.

8. In view of above, I do not find any merit in this revision petition and the same is, accordingly, dismissed in limine.

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