

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA**

ON THE 25th OF JANUARY, 2024

CRIMINAL REVISION No. 710 of 2012

BETWEEN:-

**SHYAM RAMAVAT S/O SHANKAR LAL RAMAVAT, AGED
ABOUT 46 YEARS, OCCUPATION: PUJARI SHYAMBABA
KA MANDIR, SHYAM NAGAR, AMRAVATI,
MAHARASHTRA**

.....PETITIONER

(NONE FOR THE APPLICANT)

AND

**THE STATE OF MADHYA PRADESH GOVT. THRU. P.S.
SENDHWA (MADHYA PRADESH)**

.....RESPONDENT

(BY SHRI SANTOSH SINGH THAKUR, PUBLIC PROSECUTOR)

*This revision coming on for orders this day, the court passed the
following:*

ORDER

1. In compliance to the order passed by this Court, a status report was called from the trial Court. As per the status report, that proceedings are still pending because of the stay order passed by this Court in the present case.

2. The present revision is filed under section 397 of Cr.P.C. against order dated 12.06.2012 passed by II ASJ, Sendhwa, Dist. Barwani in Sessions Trial No. 18/2018 whereby the charge against the applicant under section 306 of IPC has been framed.

3. As per the prosecution case, the deceased Madanlal Vaishnav committed suicide by hanging in a store room of Bajrang Jinning Factory. A

merg intimation was registered under section 174 Cr.P.C. and the enquiry was conducted. During the investigation, the statement of the prosecution witnesses were recorded and a letter was seized from the deceased. As per the statement of witnesses and allegation in the letter that the applicant used to cause physical torture to the applicant for recovery of money. There is allegation of physical torture i.e. *Marpeet* by the applicant soon before the death which instigated to commit suicide and she has no any other option. The argument before the trial Court was that the ingredients of abetment under section 107 of IPC are not present and, therefore, the charge under section 306 of IPC could not be framed.

4. Considering the record, it is evident that from the letter seized from the deceased and the statement of witnesses that soon before the death, the applicant was subjected to physical torture (*marpeet*), therefore, *prima facie* there is material to indicate that there was abetment/instigation for committing suicide.

5. In this regard, the law laid down by Hon'ble Apex Court in the case of **State of Orissa vs. Debendranath Padhi [2004 Law Suit (SC) 1408]** is worth to refer here as under:

*"Further, at the stage of framing of charge **roving and fishing inquiry is impermissible**. If the contention of the accused is accepted, there would be a mini trial at the stage of framing of charge. That would defeat the object of the Code. It is well-settled that at the stage of framing of charge the defence of the accused cannot be put forth."*

6. This Court is conscious of the various decisions laid down by Hon'ble Apex Court on the point. In the case of **Union of India vs. Prafulla Kumar Samal and Another [AIR 1979 SC 366]**, the Hon'ble Apex Court has held as

under:

"The scope of section 227 of the Code was considered by a recent decision of this Court in the case of State of Bihar v. Ramesh Singh(1) where Untwalia, J. speaking for the Court observed as follows:-

"Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor pro poses to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebut ted by the defence evidence; if any, cannot show that the accused committed the offence then there will be no sufficient ground for proceeding with the trial".

7. On this aspect, the ratio laid down by Hon'ble Apex Court in the case of ***Chitresh Kumar Chopra Vs. State (Govt. of NCT of Delhi) (2009) 16 SCC 605***, is relevant to refer here as under :-

"25. It is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for "presuming" that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not

likely to lead to a conviction."

8. Again, in the case of ***Amit Kapoor vs. Ramesh Chander [(2012) 9***

SCC 460, Hon'ble Apex Court observed as under:-

"27... At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide

admissibility and reliability of the documents or records but is an opinion formed prima facie.”

9. In so far as the revisional jurisdiction in examining the orders as to the framing of charges is concerned, it is condign to quote the following extract of the judgment passed by Hon’ble Apex Court in the case of ***State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198***, herein below:

“26. The scope of interference and exercise of jurisdiction under Section 397 CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied.

Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of the Code of Criminal Procedure.”

सत्यमेव जयते

10. In terms of the revisional jurisdiction in examining the orders passed by trial Court, the following excerpt of the judgment of Hon’ble Apex Court in the recent case of ***Amit Kapoor vs. Ramesh Chandra reported as (2022) 9 SCC 460*** is propitious to reproduce here under:-

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks

into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the CrPC.”

11. In view of the aforesaid propositions, the learned trial Court, while framing of charges, must apply its judicial mind on the material placed on record and must be satisfied that there is strong possibility subsist that the accused has committed the offence. At the juncture of framing of charges, the Court has to prima facie examine whether there is sufficient ground for proceeding against the accused. Nevertheless, the Court is not expected to evaluate or analyse the findings in order to arrive at the conclusion that the material furnished by the prosecution are sufficient to convict the accused or not? In the case at hand, the findings of learned trial Court regarding prima facie case against the accused persons appear to be infallible.

12. With regard to the revisional power of this Court, it is well settled that the jurisdiction of the revisional Court is not as that of an appellate Court, which

is free to reach its own conclusion on evidence untrammelled by any finding entered by the trial Court. Actually the jurisdiction of revisional Court has a limited scope. The revisional Court can interfere with the impugned order of the learned trial Court only when it is unjust and unfair. In case where the order of subordinate Court does not suffer from any illegality, merely because of equitable considerations, the revisional Court has no jurisdiction to re-consider the matter and pass a different order in a routine manner.

13. In view of the aforesaid principles of law and factual matrix of the case, this Court is of the view that there is no illegality, perversity or infirmity found in the impugned order of the learned trial Court regarding framing of charges against the petitioners, hence no interference is warranted by this Court. As a result thereof, this revision petition, being devoid of merits, is dismissed.

14. Since the trial is pending since 2008, a copy of this order be immediately sent to II ASJ, Sendhwa, Dist. Barwani in Sessions trial 200131/2016.

Certified copy, as per rules.

(VIJAY KUMAR SHUKLA)
JUDGE