

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

(SB: Hon'ble Mr. Justice Alok Verma)

CRR No.649/2015

Jassu @ Jasrath and others

Vs.

State of MP

Shri Virendra Sharma, learned counsel for the applicants.
Ms. Mini Ravindran, learned counsel for the respondent/State

ORDER

(Delivered on this 29th day of July, 2015)

This criminal revision filed under section 397 read with section 401 of Cr.P.C. is directed against the order passed by learned 3rd Additional Sessions Judge, Ujjain in Criminal Case No.214/2015 dated 25.05.2015 whereby, learned Additional Sessions Judge framed charges under section 302/34 of IPC against the applicants no.2 and 3 and under section 302 of IPC against the applicant no.1.

Brief facts giving rise to this application are that according to prosecution story, on 15.03.2015 at about 10:00 pm, present applicants alongwith deceased Kailash were

cooking food for themselves and some other friends in village Karanj ka Jungle. Some altercation took place between these three applicants and deceased Kailash. As per the story of the prosecution, present applicants were using abusive language against the deceased. After some time, present applicants were washing utensils and the deceased was also nearby. In spur of moment, applicant Jassu @ Jasrath hit deceased Kailash on his head with thali, while he was standing close to the well. Due to the impact, he fell down in the well and it is alleged that on seeing him falling in the well, all the three applicants fled away from the spot. The deceased died due to drowning.

Counsel for the applicants submits that there was no intention to cause death of the deceased. Specially, he argued that applicants no.2 and 3 did nothing as per prosecution story. The only allegation is that they were with applicant no.1 using abusive language against deceased. Another allegation is that they fled away with applicant no.1.

So far as applicant no.1 is concerned, I find that there is prima facie evidence available at this stage. An overt act assigned to him. Accordingly, in respect of applicant no.1, this revision is liable to be dismissed and is hereby dismissed.

So far as applicants no.2 and 3 are concerned, no case is made out against them under section 302 read with section 34 of IPC. Even if story of prosecution is accepted, there appears to be no prior meeting of mind and no act was done by them in furtherance of their common intention. Therefore, at this stage, even if story of the prosecution is accepted as whole, no case is made out against applicants no.2 and 3.

In this view of the matter, the revision so far as it relates to applicants no.2 and 3, deserves to be allowed and is hereby allowed. Charge framed under section 302/34 of IPC against applicants no.2 and 3 is set aside. Applicants no.2 and 3 are discharged from the offence under section 302/34 of IPC. Their bail and bonds are cancelled.

With the above observation, the revision stands disposed of.

C.c as per rules

(Alok Verma)
Judge