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

**BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH
CRIMINAL REVISION No. 5895 of 2019**

BETWEEN:-

1. **DILIP DAMOR S/O SHRI PIRU DAMOR,
AGED ABOUT 25 YEARS,
OCCUPATION: MAJDURI
R/O. VILLAGE SALADOJA, BAJNA,
P.S. BAJNA (MADHYA PRADESH)**
2. **PIRU DAMORE S/O SHRI LAXMAN DAMORE,
AGED ABOUT 42 YEARS,
OCCUPATION: LABOUR
R/O: GRAM SALADOJA, BAJNA
POLICE THANA BAJNA DIST RATLAM (MADHYA
PRADESH)**
3. **SMT. MANKIBAI DAMORE
W/O SHRI PIRU DAMORE,
AGED ABOUT 36 YEARS,
OCCUPATION: HOUSE WIFE
R/O: GRAM SALADOJA, BAJNA
POLICE THANA BAJNA DIST RATLAM (MADHYA
PRADESH)**
4. **SMT. SHANTUBAI DAMORE
W/O SHRI PIRU DAMORE,
AGED ABOUT 37 YEARS,
OCCUPATION: HOUSEWIFE
R/O: GRAM SALADOJA, BAJNA
POLICE THANA BAJNA DIST RATLAM
(MADHYA PRADESH)**

.....PETITIONER

(SHRI ASHISH GUPTA - ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH
STATION HOUSE OFFICER THROUGH
P.S. BAJNA (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI SURENDRA GUPTA - GOVT. ADVOCATE)

.....
Reserved on : 30.01.2024

2
Delivered on : *19.02.2024*

*This criminal revisions having been heard and reserved for orders,
coming on for pronouncement this day, the court passed the following*

ORDER

With consent of the parties heard finally.

Invoking the revisional jurisdiction under Section 397 read with Section 401 of Cr.P.C., the petitioner has preferred this revision against the judgment dated 26.11.2019 passed by the Additional Sessions Judge, Ratlam, District Ratlam in S.T. No.188/2019 whereby learned Sessions Judge framed charges for offence under Section 498-A and 306 of IPC, 1860 against the petitioners.

2. Succinctly, the case of the prosecution is that on 10.08.2019, a dispute occurred between petitioner no.1 Dilip and petitioner no.2-Piru Damor, the father of petitioner no.1, on account of cattle grazing at that time wife of petitioner no.1- Dilip came there and asked petitioner no.2 why he is always disputing with her husband and consumed pesticide due to which she became unconscious and she was taken to hospital at Bajana, wherein she was not given treatment therefore she was taken to a private hospital at Bajana wherein she died during treatment. Merg intimation was lodged in crime No.48/2019 and investigation was carried out.

3. During investigation, statement of the witnesses including the parents of the deceased were recorded. After investigation charge-sheet under Sections 306, 498-A/34 of IPC, 1860 has been filed. In the sequel thereof, after considering material available on charge-sheet, the learned trial Court has framed the charges as aforesaid by the impugned order dated 26.11.2019. Being aggrieved from that order, the petitioners have filed this revision.

4. Learned counsel for the petitioners submits that there is no specific

instance against the petitioners regarding demand of dowry and harassment. Only general and omnibus allegations has been levelled against them. It is further submitted that petitioner No.1 is unemployed and he is habitual to get intoxication of liquor, therefore, his father used to scold him on the date of the incident also there was a dispute between the husband of the deceased and his father regarding grazing cattles in between deceased Pooja came there and asked her father-in-law that why he is always disputing with her husband and thereafter she consumed pesticide. He further submitted that the dispute occurs frequently between the father and his son, however, the same cannot be treated as an act of abetment of the deceased to commit suicide. Petitioners no.2 to 4, who happens to be father-in-law and mother-in-laws respectively, have nothing to do with the offence and merely because they happen to be the in-laws of the deceased they have been dragged into this litigation.

5 . Learned counsel for the petitioners submitted that even if the allegations of prosecution are taken to be true at their face value and accepted in their entirety, they do not prima facie constitute any offence or make out a case against the petitioners. It is further submitted that the present case is a glaring example of growing tendency in the society to falsely implicate the close relatives of the husband. In support of his submissions learned counsel for the petitioners has placed reliance upon orders passed by co-ordinate Bench of this Court dated 04.08.2023 and 17.01.2024 in the case of *Kapil vs. State of M.P. (M.Cr.C. No.10385/2021)* and *Niharika Joshi vs. State of M.P. (M.Cr.C. No.51971/2021)*, respectively. Under these circumstances learned counsel prays for quashing of the FIR bearing Crime No.48/2019 registered against the petitioners and all consequential proceedings.

6. Learned Govt. Advocate on the other hand, opposed the prayer and

submitted that looking to the gravity of the offence and the nature of the allegations levelled against the petitioner, no case of interference is made out.

7. Having heard the rival submissions of counsel for the parties, the record of the case has been perused.

8. Now, the question for consideration arises as to whether the impugned order passed by the learned trial Court with regard to framing of charges under Section 498-A, 306 of IPC, is improper, illegal or incorrect?

9 . Here it is also to be taken into consideration that the incident happened within a period of three years of marriage hence Section 113(A) of Evidence Act 1872 comes into the play, therefore, before dwelling upon the contentions of the counsel for the parties, it will be appropriate to refer to the clause of 113(A) of the Evidence Act, which relates to the offence under Section 306 of IPC, reads as under:

"113A. Presumption as to abetment of suicide by a married woman.—When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.—For the purposes of this section, “cruelty” shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).]

10. As per the aforesaid provisions, when wife commits suicide within a period of seven years from the date of marriage, the Court may presume having regard to all other circumstances of the case, that such suicide had been abated by her husband or by such relatives of her husband. As such, the impugned

order regarding framing charge cannot be questioned in the case at hand, as the deceased has committed suicide within three years from the date of her marriage.

11. Learned counsel for the petitioner has placed reliance upon the law laid down by co-ordinate Bench of this Court in the case of *Niharika Joshi vs. State of M.P. (M.Cr.C. No.51971/2021)*, in that case there was only evidence regarding suicide as the suicide note was left by the deceased whereas in this case the parents of the deceased have also supported the prosecution case which is sufficient for framing of charges. The judgment passed in *Kapil vs. State of M.P. (M.Cr.C. No.10385/2021)* by co-ordinate Bench of this Court is also having different facts. In that case the deceased committed suicide due to only slapping of her husband, while in the case at hand continuous cruelty is shown from the statement of the witnesses. Hence the petitioner cannot be benefited by the aforesaid law laid down by this Court.

12. The Hon'ble Apex Court in the case of *State of M.P. vs. Deepak [(2019) 13 SCC 62]*, reversing the order of discharging from charges under Section 306 of IPC, has enunciated the principles which the High Courts must keep in mind while exercising their jurisdiction under the provision. In this case, endorsing another case of Hon'ble Apex Court in the case of *Amit Kapoor vs. Ramesh Chander [(2012) 9 SCC 460]* has quoted 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.

13. In so far as the powers conferred under Section 482 of Cr.P.C is concerned it is also well settled that Section 482 of Cr.P.C can only be exercised sparingly in the in rarest of the rare cases where ends of justice demands. It can be used only to prevent the abuse of process of law and to secure the ends of justice. In the case of State of *W.B. vs. Narayan K.*

Patodia [AIR 2000 SC 405] the Hon'ble Apex Court ordained that "Inherent powers of the High Court as recognized in Section 482 of the Code are reserved to be used "to give effect to any orders under the Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice."

14. In the case of *Janata Dal vs H.S. Chowdhary And Ors.* reported in *(1992) 4 SCC 305* the Hon'ble Apex Court held as under:

"132 The criminal Courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the Courts exist. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles."

135 This inherent power conferred by Section 482 of the Code should not be exercised to stifle a legitimate prosecution. The High Court being the highest Court of a State should normally refrain from giving a premature decision in a case wherein the entire facts are extremely incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to the cases in which the High Court will exercise its extraordinary jurisdiction to quashing the proceedings at any stage."

15. Learned counsel for the petitioners has submitted that since no *prima facie* case is made out against the petitioners, the impugned orders are not sustainable. On this aspect, 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."

16. 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".

17. Learned counsel has vehemently stressed that the ingredients of

Sections 306 and 107 of IPC have not been made out on the basis of material available on record. On this aspect, the observations made by Hon'ble Apex Court in the case of **Rajeev Kaurav vs. Baishab and others [2020 (3) SCC 317]** is relevant in context of this case. The Hon'ble Apex Court reversing the order of this Court as to the offence of 306 of IPC observed as under:-

"Moreover, the High Court was aware that one of the witnesses mentioned that the deceased informed him about the harassment meted out by Respondent Nos.1 to 3 which she was not able to bear and hence wanted to commit suicide. The High Court committed an error in quashing criminal proceedings by assessing the statements under Section 161 Cr. P.C.

10. We have not expressed any opinion on the merits of the matter. The High Court ought not to have quashed the proceedings at this stage, scuttling a full-fledged trial in which Respondent Nos.1 to 3 would have a fair opportunity to prove their innocence."

18. In view of the aforesaid principles, I have gone through the evidence available on record and on careful perusal of the documents filed with the revision petition, particularly, the charge-sheet, *prima facie*, well founded the case for the offence punishable under section 306 of IPC, is made out against the petitioners for framing the charges. At the stage of framing the charges, the Court cannot apply its judicial mind for scrutinizing the fact as to whether that the evidence available on record is sufficient for conviction or not. In a case, pertaining to the revision under Section 306 of IPC, the view of this Court in the case of **Ravi Kumar Pandey vs. State of M.P. [2018 Law Suit (MP) 2190]** is worth to refer here as under:-

"The standard of test, proof and judgment which is to be applied finally before finding, the accused guilty or otherwise, is not exactly to be applied at the stage of framing of charge by the trial Court. At this stage, even a very strong suspicion founded upon material before the trial Court, which leads him to form a presumptive opinion as to the existence of the factual

ingredients constituting the offence alleged Cri. Rev. No.1971/2013 may justify the framing of charge against the accused in respect of the commission of that offence is lawful.

9. At this stage it is not required to go into the merits of the prosecution evidence as required to discuss at the stage of passing of judgment by the trial Court. There is no need to sift and weigh or appreciate the prosecution evidence as well as defence available to the applicants and come to the conclusion that no prima-facie case is made out nor could be exercised to stifle a legitimate prosecution. Accordingly, I do not find any illegality or perversity in the impugned order dated 26.08.2013 warranting interference by way of this revision petition against framing of charge. Hence, the revision is dismissed summarily."

19. Having said that this is a case where relentless tyranny was said to be operated by petitioners with the deceased. On this aspect, in the case of **Chitresh Kumar Chopra v. State (Govt.of NCT of Delhi) (2009) 16 SCC 605**, the Hon'ble Court has observed as under:-

"Where the accused had, by his acts or omission or by a continued course of conduct, creates such circumstances that the deceased was left with no other option except to commit suicide, in which case an "instigation" may have to be inferred."

20. In the case at hand, it is emanated from record, that the petitioners had, by their act and consecutive course of conduct, constituted such circumstances that the deceased was left with no other option, except to commit suicide. On the grounds of these repeated ferocious acts of petitioners, an "instigation" may have to be inferred by the learned trial Court while framing the charges under Section 306 of IPC.

21. In FIR there was specific allegation against petitioner no.1 Dilip that he is habitual to get intoxication of liquor and when the deceased forbidden him he used to beat her brutally. Along with him both of her mother-in-laws Smt. Mankibai Damor and Smt. Shanthubai Damor used to taunt her on trivial issues. It is further alleged that along with them petitioner no.2-Piru Damor also

used to taunt her due to the harassment and torture met out the deceased committed suicide by consuming pesticides. With regard to the citations referred to as by learned counsel for the petitioners, the facts of the case are entirely different from the present case at hand, hence the same are not relevant

22. In view of the aforesaid prepositions and discussions, this Court is of the view that 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.

23. So far as the revisional power of this Court is concerned, it is well settled legal position 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 subordinate Court only when it is unjust and unfair. In case where the order of subordinate Court does not suffer from any infirmity or 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.

24. On this aspect, the law laid down by Hon'ble Apex Court in the case

of **Amit Kapoor (Supra)**, is pertinent to quote here as under:-

"The jurisdiction of the Court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression 'prevent abuse of process of any court or otherwise to secure the ends of justice', the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily....."

25. Further, in the case of State of **Rajasthan vs. Fateh Karan Mehdu** [2017 (3) SCC 1998], the apex Court has observed as under:-

"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."

26. In view of the aforesaid discussion in entirety as well as the material available on record, the law laid down by Hon'ble Apex Court in the aforesaid cases, this Court does not find any illegality, irregularity or impropriety in the impugned order passed by the learned trial Court. Therefore, no interference is warranted.

27. At this stage, this revision petition filed by the petitioners fails. Resultantly, the present petition is dismissed and the impugned order of the learned trial Court is affirmed.

28. Pending application, if any, also closed.

29. It is made clear that this Court has not made any observations on the merits of the case and this order shall not be come in the way of the learned trial Court while passing the final judgment.

(PREM NARAYAN SINGH)
JUDGE