

1 Cr.A.No.2478-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 27th OF JUNE, 2022

CRIMINAL APPEAL No.2478 of 2022

Between:-

**LALIT DUBEY S/O SHRI KIRAN PRAKASH DEBEY , AGED ABOUT 40 YEARS,
OCCUPATION: BHOJNALAYA SANCHALAK 62, C CHANAKYAPURI COLONY,
P.S. DHAR (MADHYA PRADESH)**

..... APPELLANT

**(BY SHRI KAUSHAL SINGH SISODIA, ADVOCATE)
AND**

- 1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER
THROUGH POLICE STATION NAWGAON (MADHYA PRADESH)**
- 2. DEEPAK S/O SHRI RAMPRASAD RATHORE , AGED ABOUT 18
YEARS, RAMDEVJI MANDIR WALE GALI, BRAMHAKUNDE THANA
NAUGAON (MADHYA PRADESH)**

.....RESPONDENT

(SHRI VISHAL SANOTHIYA, GOVERNMENT ADVOCATE)

.....

*This Criminal Appeal coming on for orders this day, the Court
passed the following:*

ORDER

They are heard and perused the case diary.

This is the appellant's **first** appeal under Section 14(1(A))
of the SC & ST (Prevention of Atrocities) Act for quashing the

order dated 17.1.2022 whereby the learned Judge of the Special Judge (under SC & ST Act), Dhar has framed charges against the appellant under Sections 306 in the alternate u/S. 306 /34 of the IPC and Section 3(2)(v) of the SC & ST (Prevention of Atrocities) Act, 1989.

Counsel for the appellant has submitted that the appellant has been falsely implicated in the present case only because of he is an employer of co-accused Pooja, who was working in the appellant's restaurant prior to the incident. It is submitted that according to the case of the prosecution, the deceased Meera Bai committed suicide on 27.4.2020, on account of the alleged harassment at the instance of the present appellant, co-accused Pooja and her mother Raju Bai. It is alleged that earlier, a case under Section 354 of the IPC was filed against one Deepak, son of the deceased Meera Bai on 9.6.2020, at crime No.186/2020, at the police station Naugaon, Dhar in which the present appellant happens to be a witness of the prosecution, as it is alleged in the said case that son of the deceased had tried to outrage the modesty of the co-accused Pooja in front of the restaurant of the appellant. It is submitted that only with a view to pressurize the appellant, he has also been arraigned as an accused in the present

case despite the fact that even according to the case of the prosecution the suicide note has also been recovered at the instance of Deepak, the son of the deceased, in which, it is mentioned by the deceased Meera Bai that she was being harassed by the co-accused Pooja and her mother Raju Bai. Counsel has also drawn attention of this Court towards the dying declaration dated 27.11.2020, recorded by the S.D.M. while the deceased Meera Bai was alive, in which also she has not named the present appellant in any manner. Counsel for the petitioner has further submitted that so far as the statements of the son and husband of the deceased are concerned, it is clear that they had an axe to grind against the appellant and their statement cannot be given precedents if the dying declaration as also the suicide note left by the deceased are to be believed.

Counsel has also drawn attention of the this Court towards the copy of the final report and the FIR in Crime No.186/2020 lodged against Deepak, son of the deceased for offence under Section 354 of the IPC and it is submitted that the aforesaid documents are unimpeachable in nature and are the public documents, they can be relied upon in this appeal. Reliance is also placed on a decision rendered by the Supreme Court in the

case of **Rajeev Thapar and others vs. Madan Lal Kapoor**
reported as (2013) 3 SCC 330. Para 22 of the judgment reads as
under :-

“22. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 of the Cr.P.C., it chooses to quash the initiation of the prosecution against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 of the Cr.P.C., at the stages referred to herein above, would have far reaching consequences, in as much as, it would negate the prosecution's/ complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 of Cr.P.C. the High Court has to be fully stratified, that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such, as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such, as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complaint. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/ complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 of Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.”

(emphasis supplied)

Counsel for the respondent/ State, on the other hand, has

opposed the prayer and it is submitted that looking to the statements of the son and husband of the deceased and the role assigned to the present appellant, no case for interference is made out.

On due consideration of the rival submissions and on perusal of the copy of the charge sheet which is filed by the counsel for the appellant as also copy of the FIR lodged at the instance of the co-accused Pooja against Deepak, the son of the deceased on 11.06.2020, this Court finds that the deceased committed suicide on 27.11.2020, on that date also her dying declaration was recorded by the S.D.M. and she has not given any details as to why she has committed suicide and not named any one for the same. In her suicide note, which is recovered subsequently during the course of the investigation on 13.12.2020, also there is no mention of the name of the present appellant and prior to 13.12.2020 there was no other statement recorded of any other witness, who would say that the present appellant is responsible for the suicide of the deceased. The statements of the witnesses also reveal that there was no direct or indirect interaction between the appellant and the deceased and he had no occasion to have any conversation with the deceased.

In such circumstances, this Court is of the considered opinion that even assuming the documents filed with the charge sheet are considered on their face value, there is no chance of the appellant being convicted for the said crime and continuation of the trial would only amount to misuse of the process of the Court.

Resultantly, the M.Cr.C. stands allowed. The impugned order dated 17.1.2022 regarding framing of charges in respect of the present appellant only passed by the Special Judge (under SC & ST Act), Dhar in Special S.T.No.92/2021 is set aside and the appellant stands discharged from the charges levelled against him.

Certified copy, as per rules.

(Subodh Abhyankar)
Judge

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