

**IN THE HIGH COURT OF MADHYA  
PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH  
CRIMINAL REVISION No. 1121 of 2022**

**BETWEEN:-**

1. **PAWAN @ PREMCHAND RATHORE  
S/O GOPAL RATHORE,  
AGED ABOUT 21 YEARS,  
OCCUPATION: LABOUR  
R/O 86-D, NAGEEN NAGAR  
INDORE (MADHYA PRADESH)**
  
2. **GOPAL RATHORE  
S/O PUANA JI RATHORE,  
AGED ABOUT 52 YEARS,  
OCCUPATION: LABOUR  
R/O. 86-D, NAGEEN NAGAR,  
INDORE (MADHYA PRADESH)**
  
3. **SMT. SUMAN RATHORE  
W/O GOPAL RATHORE,  
AGED ABOUT 45 YEARS,  
OCCUPATION: LABOUR  
R/O. 86-D, NAGEEN NAGAR,  
INDORE (MADHYA PRADESH)**

**.....PETITIONER**

**(SHRI ASHISH GUPTA – ADVOCATE)**

**AND**

**THE STATE OF MADHYA PRADESH  
STATION HOUSE OFFICER  
THROUGH POLICE STATION AERODRUM  
DIST.:INDORE (MADHYA PRADESH)**

.....RESPONDENTS

( *SHRI VISHAL PANWAR - PANEL LAWYER* )

.....  
*Reserved on* - 14.07.2023

*Delivered on* - 26.07.2023  
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*This revision coming on for hearing this day, the court passed the following:*

**ORDER**

Invoking the revisional jurisdiction under Section 397 read with Section 401 of Cr.P.C., the petitioners have filed this revision against the impugned order dated 21.01.2022 passed by learned Sessions Judge, Indore, in S.T. No.216/2020 by which the learned trial Court dismissing the petitioners application under Section 227 of Cr.P.C found prima facie case for charges under Sections 306 and 498(A) of IPC, 1860 against the petitioners.

2. Succinctly, the case of the prosecution is that Smt. Arti succumbed on 10.07.2019 by hanging herself. Upon investigation, it was revealed that petitioner no.1 got married to the deceased Arti on 07/05/2017. It is further alleged that the petitioners used to taunt that her father had not given anything as dowry. It is also alleged that the petitioners used to taunt her for not giving birth to child, that apart, they had prevented her from getting further education. Being aggrieved by these harassments, the deceased committed suicide.

3. After completing the investigation the prosecution has filed the charge sheet under Sections 498(A) and 306 of IPC, 1860 before the

Court of Judicial Magistrate First Class. In turn the case was committed to the Court of Sessions Judge and thereafter the trial Court has framed the charges against the petitioners under Sections 306 and 498-A of IPC, 1860.

4. Shri Ashish Gupta, learned counsel expostulated that the prosecution could neither adduce any evidence regarding dowry demand nor any evidence as to abetment to commit suicide. It is also demurred that the deceased herself had not made any allegation in her suicide note against her in-laws/petitioners. The ingredients of Section 107 of IPC pertaining to abetment is also found missing, hence there is no prima facie case against the petitioners, therefore, the impugned order regarding dismissal of application under Section 227 of Cr.P.C and the order for framing of charges is against the law; hence, deserves to be set aside.

5. Learned Govt. Advocate has vehemently contended the contentions of the petitioners and remonstrated that at the stage of charge, only prima facie case has to be examined and charges can be framed only on substratum of strong suspicion.

6. Having heard the rival submissions of the parties, the record of the case has been perused in view of the contentions advanced by the parties.

7. Certainly, the deceased had not alleged anything against the petitioners in her suicide note. She has written that she is leaving the world due to her own trouble and she herself is only liable for her death. However, the question remains as to whether on the basis of suicide note

the petitioners ought to have been discharged from the charges levelled against them?

8. In this regard the materials available on record are also called for consideration. The Police have also recorded the statement of witnesses under Section 161 of Cr.P.C on this aspect. The statements of Durgabai, the mother of the deceased, Ashok, the father of the deceased, Deepika Parmar, sister of the deceased and Ramudibai, Madan Pawar, the relatives of the deceased are also having their importance for showing the ingredients of cruelty and abetment. According to these statements the petitioners used to harass the deceased by taunting her with regard to her wishes to continue with her studies by saying that if she did not continue her studies, would she die. Further, it is clear that they always used to provoke her to die.

9. In this regard a part of the statement of Durgabai, the mother of the deceased recorded under Section 161 of Cr.P.C is reproduced hereinbelow:

“ अगर वह पढ़ाई करने कहती थी तो ये बोलते रहते थे तुझे घर का ही काम करना है पढ़ाई किस लिये कर रही है, अगर पढ़ाई नहीं करेगी तो क्या मर जायेगी, अगर मरती है तो मर जा। इस प्रकार से मेरी पुत्री आरती को उसके सास सुमन, ससुर गोपाल सिंह एवं पति प्रेमचंद उर्फ पवन उसे मरने के लिये उकसाते रहते थे एवं परेशान किया जाता था। मेरी पुत्री आरती से जवाई प्रेमचंद द्वारा उसकी मां के कहने पर दो महीने से बातचीत भी करना बंद कर दिया था और उसको खाना भी सबसे बाद में खाने को देते थे एवं यह भी बोलते थे कि शादी को हुये 14 महीने हो गये अभी तक तेरे को कोई संतान भी नहीं हो रही है तेरे जैसी बांझ औरत को रखकर क्या करेंगे तथा शक के कारण वह मेरे जेठ के लड़के मदन सिंह के घर तक आने जाने नहीं देते थे।”

10. Learned counsel for the petitioners also contended that as per the definition under Section 498(A) of IPC, dowry demand has not been revealed from the statement of the witnesses. In this regard it is worthwhile to quote the provisions of Section 498(A) of IPC as under:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

It is crystal clear from the aforesaid provision that for constituting the offence of cruelty any type of willful conduct which is of such nature as is likely to drive a woman to commit suicide. Since the petitioners have harassed and misbehaved with the deceased, due to which she has committed suicide; the aforesaid definition of cruelty is satisfied. Therefore, in the considered opinion of this Court, the statement of these witnesses contains the definite allegations against the petitioners for instigating the deceased to die.

11. Learned counsel for the petitioners, relying upon the judgment rendered by this Court in the case of *Onkarlal vs. State of M.P.* reported as **2017(1)MPWN 124**, submitted that where there is no ample evidence to show that petitioners/accused committed any act which amount to abetment, only on the basis of above, charges cannot be framed under Section 306 of IPC, 1860.

12. I have gone through the aforesaid case law and found that the applicant in that case was having an affair with the deceased and the evidence regarding abetment was not revealed, whereas, in this case the

petitioners are in-laws of the deceased and the suicide was committed in their house, the ingredients of abetment is evident from the statement of the prosecution witnesses. Therefore, the petitioners of this case cannot be benefitted by the aforesaid judgment passed in the case of *Onkarlal vs. State (Supra)*

13. Learned counsel also relied upon the order passed by this Court in the case of *Sabra Khan (Smt.) and ors. vs. State of M.P. and another* reported as *2016(1) MPWN 70*. In this case, no specific allegation against the husband and his family members were leveled. That apart FIR was lodged after nine years of the alleged harassment, whereas in the case in hand the deceased committed suicide within a period of two and half years of her marriage and the specific allegations regarding cruelty and harassment are evident from the statements of the witnesses recorded under Section 161 of Cr.P.C.

14. Further with regard to the reliance placed by learned counsel for the petitioners in the case of *Vijendra Singh Rajput vs. State of M.P.* reported in *2021(1) MPWN 45* passed by this Court vide order dated 15.01.2021, wherein the allegation of theft was made against the deceased, whereas in the instant case at hand, such type of allegations have not been made against the deceased and there are other overwhelming evidence regarding cruelty and abetment, hence the petitioners could not be benefitted by the aforesaid case laws.

15. Virtually, the law regarding framing of charges under Section 227 of Cr.P.C is well considered by Hon'ble Apex Court in catena of cases.

In the case of *Union of India vs. Prafulla Kumar Samal* reported as AIR 1979 SC 366, Hon'ble Apex Court considering the provisions of Section 227 of Cr.P.C, ordained 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".

This Court has thus held that whereas strong suspicion may not take the place of the proof at the trial stage, yet it may be sufficient for the satisfaction of ths Sessions Judge in order to frame a charge against the accused. Even under the Code of 1898 this Court has held that a committing Magistrate had ample powers to weigh the evidence for the limited purpose of finding out whether or not a case of commitment to the Sessions Judge has been made out.”

16. Learned counsel for the petitioners also strenuously contended that on the basis of statement of the witnesses recorded under Section 161 of

Cr.P.C on 29.08.2019 i.e. after eight days of the alleged incident, the ingredients to constitute offence under Section 306 and 107 of IPC, are not made out. Virtually, such type of appreciation is not permissible at the stage of framing of Charges. On this aspect, the law laid down by Honb'le Apex Court in the case of *State of Orissa vs. Debendranath Padhi* reported as *2004 lawsuit SC 1408* is worth referring here:

"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."

17. The aforesaid stand of the Full Bench of Hon'ble Apex Court has also been endorsed by Hon'ble Apex Court in another case rendered in *VLS Finance Limited vs. S.P. Gupta and another* reported as *2016 Law suit SC 111*. Further in this context, the land mark judgment of Hon'ble Supreme Court rendered in the case of *Maharashtra State vs. Priya Sharan Maharaj & Ors. reported in AIR 1997 SC 2041* is propitious to reproduce here:

"The law on the subject is now well settled, as pointed out in *Niranjan Singh Punjabi v. Jitendra Bijjaya* [(1990) 4 SCC 76 : 1991 SCC (Cri) 47 : AIR 1990 SC 1962] that at Sections 227 and 228 stage 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. The Court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case. Therefore, at the stage of framing of the charge the Court has to consider the material with a view to find out if there is ground for presuming that the accused has committed the offence or that there is not



sufficient ground for proceeding against him and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction."

18. On this aspect the observations made by Hon'ble Apex Court in the case of **Rajeev Kaurav vs. Baishab and others** reported in **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 under Section 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."

19. Here it is also to be taken into consideration that the incident happened within a period of two and half years of marriage hence Section 113(A) of Evidence Act 1872 comes into the play. In this regard the said provision is reproduced herein below:

**" 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).]"

20. 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 two and half years from the date of her marriage.

21. 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.”

22. 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.”

23. In view of the aforesaid prepositions, 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.

24. 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.

25. 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 and the impugned order dated 21.01.2022 is hereby affirmed.

26. With the aforesaid the revision petition stands **dismissed**.

27. A copy of this order be sent to the concerned Court for necessary information.

Certified copy, as per rules.

(PREM NARAYAN SINGH)  
JUDGE

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