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CRR-4686-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

CRIMINAL REVISION No. 4686 of 2024*MILAN AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

Appearance:

Shri Abhishek Gupta, counsel for petitioner.

Shri Gopal Yadav, counsel for petitioner.

Shri H.S. Rathore, counsel for the State.

Heard on: 26.09.2024

Delivered On:23.10.2024

ORDER

1. Present revision petition has been filed on behalf of the petitioners being aggrieved by the order dated 23.07.2024 passed in ST No.135/2024 by 1st ASJ, District Ratlam whereby the learned Judge has framed the charges against the petitioners under Section 306, 34 of IPC.

2. According to the prosecution story, the police has registered a Merg bearing Merg No.41/2023 due to death of one deceased Chetan Sonava. During the investigation, the police has removed one mobile, suicide note alongwith self poisoning. During the merg statements, the police has recorded statements of father of the deceased as well as brother of the deceased. wherein they have stated that father-in-law of the deceased namely



Omprakash, mother-in-law of the deceased Sangita and their sons namely Jigar, Milan, Anchal were demanding amount from the deceased. They were demanding the amount of Rs.50Lacs. Wife of the deceased was in her maternal home and they were pressurizing the deceased that would be sent to her matrimonial home only after payment of Rs.50Lacs. On this issue, dispute was arisen and quarrel was started between both parties. When they prepared to beat them, family members of the deceased fled away from the spot, but the deceased could not return with them. Thereafter, on the next date, the deceased himself has called to his father and stated that he has consumed the poison. Hence, on the basis of the said statements, the deceased was searched and found dead. It is alleged that a suicide note was also recovered, in which the deceased has leveled allegations against the petitioners that they had abetted the deceased to commit suicide. On the said incident, an FIR under Section 306/34 was registered against the petitioners at police station Sailana, Ratlam. Thereafter, vide the impugned order, the charges under Sections 306/34 of IPC was framed by the learned trial Court.

3. Learned counsel for the petitioners submits that the impugned order passed by learned judge is contrary to the law, facts and circumstances of the case and the material available on record. It is further submitted that petitioner no.1 is brother-in-law of the deceased and petitioner no.2 is wife of brother-in-law of the deceased. The learned trial Court has completely erred in not considering the fact that the case of the prosecution is completely false and based on the concocted story and a suicide note in which nothing incriminating is there against the petitioners except the omnibus allegations.



The petitioners are residing separately and they never resided at Namli District Ratlam, Petitioner no.2 is an a practicing advocate. It is further submitted that there is absolutely no evidence of harassment or causing abetment to the deceased. Even though there is no allegations regarding any harassment, the learned Judge has erred in framing the charges by overlooking the parameters of 'abetment' which has been stated in Section 107 of IPC.

4. Learned counsel for the State has opposed the prayer and supported the impugned order by submitting that the learned trial Court has not committed any error in framing the charges against the petitioners. It is further submitted that the petitioners have also harassed the the deceased alongwith the other co-accused persons due to which, he has committed suicide. Hence, the learned Court below has rightly framed the charges against the petitioners.

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

6. 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 306 of IPC, is improper, illegal or incorrect?

7. In the instant case, I have gone through the evidence available on record and found that there is sufficient evidence for constituting strong suspicion against the petitioners regarding the fact that they have tortured and harassed the deceased before his death because both the petitioners have



named by the witnesses in their statements which is further corroborated by the recording and suicide note. It is also submitted that the petitioner and his family members are habitual in doing so because earlier also, a criminal record is already pending against petitioner no.1 and his family members under Section 498-A, 506/34 of IPC. It is found that on account of that harassment, he has taken such unfortunate step to end his life.

8. According to the prosecution story, the family members of the deceased has also lodged a missing person report and the deceased was missing due to the mishappening in his matrimonial home done by the petitioner and his family members. The deceased has committed suicide due to embarssment and harassmt committed by petitioners and other family members.

9. 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 Apex Court 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."

10. In the case of **Chitresh Kumar Chopra (supra)**, after due consideration of the facts and circumstances of the case Hon'ble Court noted that prima facie, case of abetment was made out on the basis of suicide note and



statements of witnesses recorded by the police. The relevant excerpt of the judgement is as followed:-

"22.....In the present case, apart from the suicide note, extracted above, statements recorded by the police during the course of investigation, tend to show that on account of business transactions with the accused, including the appellant herein, the deceased was put under tremendous pressure to do something which he was perhaps not willing to do. Prima facie, it appears that the conduct of the appellant and his accomplices was such that the deceased was left with no other option except to end his life and, therefore, clause firstly of Section 107 of the IPC was attracted."

11. Further, manifesting the concerning provisions of framing charge, the Hon'ble Apex Court ordained in para no.25 of **Chitresh Kumar Chopra (supra)** 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."

12. Again, 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.”

Emphasis supplied.



13. In the case at hand, it is emanated from the statements of the witnesses as well as missing report and FIR and suicide note so recovered, 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.

14. In this case, the learned trial Court has not only considered the suicide note but also the statements of witnesses. All the witnesses have stated that the deceased has committed suicide due to harassment and demand of amount by the petitioners and their family members which clearly corroborated by the suicide note so recovered.

15. Learned counsel for the petitioners also strenuously contended that on the basis of FIR and statements of the witnesses recorded under Section 161 of Cr.P.C, the ingredients to constitute offence under Section 306 and 107 of IPC, are not made out because First Information Report and recording of statements of witnesses were much delayed. Virtually, such type of appreciation, as to delay in lodging FIR on the basis of mere enquiry, is not permissible at the stage of framing of Charges. 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. 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."*

17. 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."

18. It is also well established that when the case is *prima facie* established from the material available on record it would not apposite for the High Court to quash the criminal proceedings considering the chances of conviction or acquittal. Where material evidence is available against the applicant it should be left to be decided by the trial Court which is the appropriate forum for the evaluation of the said materials and evidences. On this aspect the view of Hon'ble Apex Court recently held in the case of *Just Rights for Children Alliance & Anr. vs. S. Harish & Ors.*, reported in 2024 *LawSuit(SC) 847* is condign to quote here as under:-



189. Once the foundational facts are prima facie established from the materials on record, it would be improper for the High Court in a quashing petition to conduct an intricate evidentiary inquiry into the facts and ascertain whether the requisite mental elements are present or not. All these aspects should be left to be decided by the trial court which is the appropriate forum for the evaluation of the same, especially where the statutory presumption has been attracted prima facie from the material on record.

190. When the High Court quashes any criminal proceedings without considering the legal effect of the statutory presumption, it effectively scuttles the process of trial and thereby denies the parties the opportunity to adduce appropriate evidence and the right to a fair trial. This would not only defeat the very case of the prosecution but would also thwart the very object of a particular legislation and thereby undermine the public confidence in the criminal justice system.

19. 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.

19. 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.

20 . Pending application, if any, also closed.

21. It is made clear that this Court has not made any observations on the



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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

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