

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 7702 of 2023

Petitioner :- Kullu @ Abhilash

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rama Shanker Mishra

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Rama Shanker Mishra, learned counsel for the petitioner and Sri L.D. Rajbhar, learned A.G.A. for the State.

2. This petition has been filed with the prayer for quashing the order dated 10.12.2021, passed by C.J.M. Kaushambi in Complaint Case No. 3773 of 2021, by which the petitioner/the accused was summoned for an offence under section 306 I.P.C. and the order dated 06.06.2023, passed by Sessions Judge, Kaushambi in Criminal Revision No. 39 of 2023 by which the summoning order was affirmed.

3. The relevant facts are as below:-

The respondent no.2 moved an application under section 156(3) Cr.P.C. which was treated as complaint. The court proceeded to record the statements under sections 200 and 202 Cr.P.C. and after hearing the complainant, passed an order summoning the accused Kullu under section 306 I.P.C. The allegations in the complaint were that the accused and other members of his family throttled his daughter. She was found hanging in their house; the complainant examined himself and several witnesses; the postmortem report showed death by asphyxia; the learned trial court found that *prima facie*, a case under section 306 I.P.C. is made out against the accused. In the revision preferred on behalf of the accused, the order was affirmed.

4. The contentions of the petitioner is that his relations with his wife was cordial and there was no reason for committing murder/suicide. Secondly, it is contended that evidence was not sufficient to draw a conclusion that *prima facie* offence under section 306 I.P.C. is made out. The contentions of the petitioner are refuted by the learned A.G.A. citing the circumstance that the wife of the accused was found hanging in the house of the accused and that the postmortem report suggested death by asphyxia. The witnesses have given statements against the petitioner, therefore, the learned trial court was right in summoning the accused.

5. I went through all the material on record including the statements recorded during inquiry under section 200 and 202 Cr.P.C., in the light of submissions of the petitioner. The petitioner has vehemently submitted that there is no evidence that he abetted the commission of suicide.

6. In these circumstances, this petition is finally disposed of as below:

(i) In case, the petitioner surrenders within three weeks and moves a bail

application before the court concerned, it shall be decided expeditiously as per law without granting any unnecessary adjournment to either of the parties.

(ii) The petitioner shall be at liberty to move a discharge application at appropriate stage of the trial which shall be decided by the court below as per law

7. Accordingly, this petition is finally **disposed of**.

Order Date :- 12.12.2023

Sumit Kumar