

Court No. - 91

Case :- CRIMINAL REVISION No. - 3698 of 2024

Revisionist :- Rajan And Another

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Babit Kumar, Yadvendra Singh

Counsel for Opposite Party :- Amul Kumar Tyagi, G.A.

Hon'ble Anil Kumar-X, J.

1. Sri Yadvendra Singh, learned counsel for the revisionists and Sri Shiv Dutta Shukla, learned A.G.A. for the State-opposite party are present.

2. None appeared on behalf of opposite party no. 2.

3. The present revision has been filed by the revisionists against the impugned judgment and order dated 03.06.2024 passed by Additional District Judge/Special Judge, Court No. 2, Meerut in Sessions Trial No. 1059 of 2023 (State Vs. Rajan and Others) arising out of Case Crime No. 453 of 2023, under Sections 498-A, 323, 504, 304-B of Indian Penal Code, Police Station- Lisadi Gate, District Meerut, whereby application filed by the revisionists under Section 227 of the Criminal Procedure Code has been dismissed.

4. Brief facts of the case is that a First Information Report dated 27.07.2023 was lodged by the informant Karn Singh against the revisionists herein under sections 498-A, 323, 504, 304-B of Indian Penal Code and Section 3/4 of Dowry Prohibition Act. After investigation, charge-sheet under the said sections was submitted against the revisionists. Thereafter, they preferred a discharge application before the learned trial court wherein revisionists submitted that they have not committed the alleged offences. They

have further stated that Monu @ Ishrak Ali, who was a tenant in their house had illicit relation with deceased Kavita. Deceased was persistently harassed by Monu @ Ishrak Ali and that harassment compelled her to commit suicide. It is further stated that even Monu @ Ishrak Ali has also been made an accused in this case crime and abetment to commit suicide was committed by him. Revisionists are innocent and they have been falsely implicated in this case by the first informant.

5. Learned trial court in its order dated 03.06.2024 has observed that all the witnesses have stated before Investigating Officer that revisionists/accused persons were demanding Rs. 2,00,000/- (Two Lacs) and an Apache motorcycle from the deceased and were persistently harassing her to meet the demand. Learned trial court has further held that statement of witnesses also finds corroboration from the independent witness namely Brijesh Kumar s/o Balaram. On the basis of the above evidence, the discharge application of the revisionists was dismissed by the learned trial court.

6. Learned counsel for the revisionists has argued that no case against them is made out . It is very much evident from the First Information Report itself that Monu @ Ishrak Ali, was tenant of Revisionist . One independent witness namely Samruddin, has stated before the I.O that Monu @ Ishrak Ali, who was residing as a tenant in the house of the revisionists, became close to them and that is why he too was involved in harassing the deceased for demand of dowry. It is further submitted that the said fact itself reflects that actual story is some what different from what has been stated in the First Information Report and by the witnesses. Infact, accused/tenant Monu @ Ishrak Ali was having an illicit affair with

the deceased and this relation was the immediate reason which compelled deceased to commit suicide. Learned counsel for the revisionists has also raised a legal question that on one hand, trial court has held that offences under sections 498-A, 323, 504, 304-B of Indian Penal Code are made out against the revisionists and on the other hand, it has also observed that charges under Sections 302 & 306 I.P.C. are also made out against the accused persons. It was submitted that once offence under section 304-B is imposed upon accused persons, then there is no question of framing charge against him under Section 306 I.P.C., because both the sections operate in different fields. It is possible that an offence is either covered by the ingredients under section 304-B I.P.C. or under section 306 I.P.C. But an accused cannot be tried simultaneously for both the offences. Therefore, this revision is liable to be allowed and the revisionists are entitled to be discharged in the aforementioned case crime.

7. Learned A.G.A. for the State has resisted the arguments on the ground that informant and other witnesses have consistently stated before the Investigating Officer that revisionist-Rajan husband of deceased and Rajbala, who is mother-in-law of deceased, were continuously harassing the deceased for demand of dowry and this harassment led her to commit suicide. The statements made by the witnesses before the Investigating Officer are sufficient to frame charges against the accused persons under Section 498-A, 323, 504, 304-B of Indian Penal Code.

8. Heard learned counsel for the parties and perused the record.

9. From the bare perusal of the First Information Report, it is evident that marriage of deceased with revisionist Rajan was solemnized on 12.12.2018. It has been stated in the First

Information Report that soon after the marriage, in-laws of deceased started demanding dowry and she was also physically assaulted by them. Her in-laws were demanding an Apache motorcycle and Rs. 2,00,000/- from the deceased. From perusal of case diary, it is apparent that version of F.I.R. finds its corroboration from the statement of Karan Singh, who is father of deceased. Similarly, Santosh Devi, mother of deceased, have also stated similar facts as stated by the informant. Two independent witnesses namely Samruddin and Shahnawaj have also stated before the Investigating Officer that in-laws of deceased and one Monu @ Ishrak Ali, who was tenant of deceased in-laws', were harassing her for demand of dowry. It is apparent from the post mortem report of deceased that deceased has committed suicide by hanging herself on 27.07.2023.

10. It is settled law that while deciding an application for discharge under Section 227 of Criminal Procedure Code, Court is bound to confine itself to the materials available in the case diary. Court cannot travel beyond those evidence which do not form part of Case Diary . From perusal of statements recorded by the Investigating Officer, it is very much evident that family members of deceased as well independent witnesses have consistently stated that deceased was tortured by her in-laws for demanding of dowry, and therefore, she had committed suicide on 27.07.2023. Learned trial court while passing impugned order dated 03.06.2024 has taken note of all the witnesses whose statements were recorded by the Investigating Officer. On the basis of the aforesaid facts , the findings recorded by the learned trial court cannot be interfered with. The Trial court has briefly examined the evidence available in the case diary, and those evidences are sufficient to lead a prima facie case against the revisionists.

11. As far as the contention of learned counsel for the revisionists regarding Monu @ Ishrak Ali is concerned, the said fact may constitute defence of the Revisionists. Defence of an accused cannot be considered by the Court at the stage of framing charges unless there is some evidence in the Case diary to substantiate it. But Revisionists have failed to show any such evidence in the Case Diary from which their story could find support. Another contention of learned counsel for the revisionists is that concurrent charges under Sections 304-B and 306 Indian Penal Code cannot be framed against an accused person for the same offence. It will be pertinent to mention that in present case, it is apparent from the post mortem report that deceased has committed suicide. Moreover, the allegation is that deceased, who is a married woman, has committed suicide within seven years of her marriage. Therefore it cannot be said that case under Section 304-B I.P.C. is not made out, but as far as Section 306 I.P.C. is concerned, the learned trial court has merely mentioned that charge under Section 302 or under 306 I.P.C. will alternatively be framed alongwith Section 304-B I.P.C. Till now, the Court has not held that under which section i.e. either Section 302 I.P.C. or Section 306 I.P.C., it is going to frame charge. Once the Court comes to a conclusion that it is going to frame a charge under a substantive section, then if the Court decides to frame a charge under an alternative section, then the said framing of charge under alternative section cannot be challenged.

12. In these circumstances, the impugned order 03.06.2024 passed by Additional District Judge/Special Judge, Court No. 2, Meerut in Sessions Trial No. 1059 of 2023 (State Vs. Rajan and Others) arising out of Case Crime No. 453 of 2023, under Sections 498-A, 323, 504, 304-B of Indian Penal Code, Police Station- Lisadi Gate,

District Meerut is upheld and this criminal revision is dismissed.

Order Date :- 8.7.2025

VS