

HON'BLE SRI JUSTICE M.S.K.JAISWAL
Criminal Revision Case No.1504 of 2013

ORDER:-

The revision petition is filed by the petitioner who filed a private complaint under Section 200 Cr.P.C., on the file of the Additional Judicial Magistrate of First Class, Rayachoti, alleging offence punishable under Section 302 IPC. It was registered as C.F.R.No.2391 of 2012 and after enquiry, which included the oral evidence of PWs.1 to 3 and documentary evidence Exs.P.1 and P.2 and M.O.1 and taking into consideration the material on record, by order, dated 06-04-2013, the learned Magistrate dismissed the complaint under Section 203 Cr.P.C. Aggrieved by the said orders, the complainant preferred the present revision.

2. The facts, in brief, are as under:-

Shabana (hereinafter referred to as the deceased) was married to the 1st respondent as per Muslim Law about 15 years back and they had two children who were aged about 8 and 7 years. The *de facto* complainant is the mother of the deceased whereas the 1st respondent is the husband of the deceased and respondents No.2 to 6 are the relations of the husband. On 08-08-2012, the complainant was informed about the death of her daughter. She rushed to the house and enquiries revealed that the deceased committed suicide due to the harassment at the hands of the respondents. It is alleged that for several times, the deceased came and informed her and other daughters that the accused are subjecting the deceased to harassment suspecting her character and also demanding certain share in the property of the complainant. On the same day, the complainant went to police and filed the complaint which was registered as Cr.No.260 of 2012 under Section 174 Cr.P.C.

3. On 06-09-2012, the 1st respondent being the husband of the deceased filed a complaint with the police alleging that the deceased committed suicide due to her having illicit intimacy with one Shaik Chennur Nawaz Ali and unable to withstand the harassment and the blackmailing tactics of the said Nawaz Ali, the deceased committed

suicide. It was alleged that on 08-08-2012, the deceased was found in the company of the said Nawaz Ali and when it was noticed by the respondent/husband and others, the deceased felt humiliated and committed suicide.

4. The police have investigated the crime and ultimately on the basis of the material gathered, concluded that it is said Nawaz Ali who is responsible for the death of the deceased and accordingly filed the charge sheet on the file of the jurisdictional Court. Since the police have not taken any action against the respondents, the mother of the deceased namely the complainant herein felt aggrieved and filed the private complaint, which was refused to be taken cognizance of by the learned Magistrate.

5. The contention of the petitioner is that the learned Magistrate erred in refusing to take cognizance of the complaint filed by her, that the circumstances of the case and the conduct of the husband and his parents on the date when the daughter of the complainant who was the wife of the 1st respondent/husband died under suspicious circumstances was highly suspicious and even the police have not investigated the crime registered on her complaint properly, that the Court below erred in accepting the version of the husband and in-laws of the deceased that the deceased committed suicide due to certain acts of one Nawaz Ali and the police have filed the charge sheet against the said Nawaz Ali, that there were several circumstances which clearly show that it is the accused being husband and in-laws of her daughter who are responsible for the death of the deceased and hence the revision.

6. The contention of the respondents is that the deceased was developed illicit intimacy with one Nawaz Ali and inspite of she being chastised, she could not stop the same. On the other hand, the deceased informed the respondent/husband that the said Nawaz Ali is threatening her to expose his illicit intimacy with her by circulating the videos which he has taken when both of them were in a compromising position. It is further submitted that on the date of the incident i.e., 08-08-2012, it being Ramzan, the husband went out to get certain fruits and when he returned,

he found the deceased wife in the company of the said Nawaz Ali and seeing the husband, the said Nawaz Ali ran away by pushing down the husband and since the deceased was caught almost red-handed by her husband and unable to bear the humiliation and insult, she committed suicide. It is further submitted that all these facts together with the relevant evidence such as the telephonic conversation between the deceased and her paramour Nawaz Ali and also certain C.Ds., and other evidence was produced before the police and therefore the police filed the charge sheet against the said Nawaz Ali alleging offence under Section 306 IPC. The present complaint is filed by the mother of the deceased only with ulterior motives and hence the learned Magistrate has rightly refused to take cognizance and there are no merits in the revision and the same is liable to be dismissed.

7. Arguments of both sides were heard.

8. The point that arises for consideration is as to whether the complainant could *prima facie* make out her case against the respondents No.1 to 6 or whether the order passed by the learned Additional Judicial Magistrate of First Class, Rayachoti, suffers from any material illegality or irregularity warranting interference by the revisional Court?

9. **Point:-** The admitted facts are that the deceased and the 1st respondent were married and they had two grown-up children. The deceased was being chastised by her husband for having developed illicit intimacy with Nawaz Ali. It is also a fact that the deceased died due to burn injuries having sustained on 08-08-2012. The incident took place in the house of the respondents. The contentious issue, however, is as to who is responsible for the death of the deceased. Whether it is the harassment and torture meted out by the respondents which led to the death of the deceased or whether it is the act of her paramour Nawaz Ali which compelled her to resort to the extreme step of committing suicide. When the former is the contention of the complainant/mother of the deceased, the latter is the contention of the respondents they being the husband and in-laws of the deceased.

10. I have carefully perused the entire material on record including the complaint, the F.I.R., the charge sheet, the evidence of PWs.1 to 3, the documentary evidence Exs.P.1 and P.2 and other material on record.

The facts that emerge are as under:-

11. The investigation by the police has revealed that the person who was responsible for the death of the deceased is Nawaz Ali. After considering the statements of the witnesses, the telephonic data and the CDs containing objectionable scenes of the deceased and Nawaz Ali, the charge sheet was laid. The investigation did not find the respondents to be responsible for the death. In support of the contention of the complainant that it is the husband and in-laws who are responsible for the death of the deceased, the evidence that is produced is that the deceased was complaining to her mother and sisters that the accused are subjecting her to harassment on the ground of suspicion about her character and also demanding a share in the property of the complainant. Except this vague allegation, nothing concrete is produced before the learned Magistrate for taking the cognizance of the private complaint under Section 200 Cr.P.C. alleging offence punishable under Section 302 IPC.

12. On the other hand, the respondents herein viz., the husband of the deceased has produced material evidence before the investigating agency which shows that the deceased had intimacy with Nawaz Ali and this came to be noticed by the husband. It is also placed on record that her paramour Nawaz Ali was in turn suspecting and questioning the deceased about her developing intimacy with another person by name Jagadish. It is also placed on record that the said Nawaz Ali used to extract money from the deceased by putting her on threat of exposing the video clippings and the telephonic conversation in between the deceased and Nawaz Ali. It is also on record that the said Nawaz Ali was in possession of a C.D. which contains their sexual encounter in a lodge. It is also on record that on 08-08-2012 when her husband returned home, he found the deceased talking to her paramour Nawaz Ali and seeing the respondent/husband, the said Nawaz Ali ran away by pushing down the

husband and immediately since the deceased was unable to reconcile to the fact of her being exposed in front of the husband and others and unable to discontinue her intimacy with Nawaz Ali in view of his threats, the deceased felt that she had no option except to commit suicide.

13. When such voluminous evidence was placed before the Investigating Officers, they have proceeded to charge the said Nawaz Ali without proceeding against the respondents/husband and others. It is no doubt true that when the complainant filed the complaint alleging suspicion against the respondents on the date of the incident itself, the husband himself gave a statement before the police narrating the events discussed supra on 06-09-2012. Since the contentions and allegations made by the husband were substantiated by evidence merely because such a complaint is made belatedly cannot be said to be a ground for discarding the contention of the respondent/husband.

14. At this stage, what is all that is required is as to whether the complainant being the mother of the deceased made out a *prima facie* case for proceeding against the respondents for the death of the deceased. As already stated, the evidence placed on record do not satisfy the requirements of law and the learned Magistrate has rightly refused to take cognizance of the private complaint.

15. There are no merits in the revision and the same is liable to be dismissed, however, subject to an observation that none of the observations in this order should in any way influence the ultimate trial in the case that is the outcome of Cr.No.260 of 2012. Even during the course of trial, it is always open to the trial Court or the complainant to avail such of the legally permissible remedies that are provided under the Code.

16. In the result, the Criminal Revision Case is dismissed confirming the order dated 06-04-2013 passed by the learned Additional Judicial Magistrate of First Class, Rayachoty.

Miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

3rd July, 2015
smr

M.S.K.Jaiswal, J