

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Criminal Revision Case No. 1166 of 2013

Order:

This Criminal Revision Case is filed against the orders, dated 15.05.2013, passed in Crl.MP No. 295 of 2013 in SC No.26 of 2012 by the I Additional Metropolitan Sessions Judge, Hyderabad, whereby and whereunder the discharge petition, filed by the petitioner/A4 under Section 227 Cr.P.C., was dismissed.

2. Heard the learned counsel for the petitioner/A4 and the learned Additional Public Prosecutor for the State and perused the material on record.

3. The offences alleged against A1 to A5 are under Sections 120-B, 109, 114, 201, 212 and 302 read with Section 34 IPC and Sections 25 and 27 of the Arms Act. The specific offences alleged against the petitioner/A4 herein are under Sections 120-B and 302 read with Section 34 IPC.

4. Briefly stated the allegations are that the non-petitioner/A1, the *de facto* complainant (LW1) and the deceased were traveling in a Skoda Fabia Car bearing registration No.AP 28 DF 1248 and when the said vehicle reached near the scene of incident, the non-petitioner/A1 is alleged to have fired at the deceased, got down from the Skoda Car and escaped from the scene of offence on a motor cycle. Thereafter, the deceased was shifted to hospital, where he succumbed to injuries. The incident is stated to have taken place on 03.01.2011.

5. Insofar as the petitioner/A4 is concerned, the specific allegations as contained in the charge sheet are to the effect that before commission of the offence, the non-petitioner/A1 was in continuous contact with the non-petitioners/A2 and A3 to

execute the plan scrupulously. It is further alleged that A3 to A5 have followed the Skoda Fabia Car in which the deceased was traveling when it was going towards Navodaya colony. When the Skoda Car reached near Navodaya colony and took turn due to bends in road, with a speed of 20 to 25 KMs, the non-petitioner/A1 shot the deceased twice, in that moving car, at a close range with 0.32 revolver in the head of the deceased. At that time the car window glasses were found to be rolled up, hence smoke appeared in the car after the shots and out of shock when the *de facto* complainant (LW.1) stopped the car, the non-petitioner/A1 at once got down from the car saying that somebody was attacking them and ran away, holding revolver in his hands. It is further alleged that after the commission of offence, the non-petitioner-A1 escaped from the scene of offence with the help of A3, A4 (petitioner herein) and A5. It is further alleged that the non-petitioner/A1 sat on a two wheeler at the back of non-petitioner/A3 and wore helmet. The petitioner/A4 sat at the back of the non-petitioner/A1 on the same vehicle and thus to some distance they went on triple riding. It is further alleged that the non-petitioner/A5 along with Vamshi was following them closely on his motor cycle. After some distance, on the instructions of the non-petitioner/A1, the petitioner/A4 was left on the road and the non-petitioner/A5 was signaled to go away.

6. A *prima facie* reading of the above allegations in the charge sheet clearly shows the complicity of the petitioner/A4 in the criminal conspiracy and his facilitating the main accused to escape from the scene of offence after committing the murder of the deceased. At the time of considering the material on record for framing of the charges, there is no need to see whether there is sufficient evidence for conviction of the accused or not. It is sufficient to see whether there is sufficient material for proceeding against the accused. In view of the allegations made against the petitioner/A4 in the charge sheet, it cannot be said that there is no sufficient material to proceed against him. The material on record is *prima facie* sufficient to proceed against the petitioner/A4. The learned Sessions Judge, on appreciation of the entire material on record in proper perspective, has rightly dismissed the discharge application filed by the petitioner/A4. I see no illegality or irregularity in the order passed by the learned Sessions Judge warranting interference of this Court. The Criminal Revision Case is devoid of merit and the same is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed. However, the learned Sessions Judge is directed to dispose of S.C. No.26 of 2012 as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order, uninfluenced by any of the observations made supra.

8. As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Revision Case shall stand closed.

M.S.K. JAISWAL, J.

Date: 29.09.2015

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