

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.928 of 2016

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ORDER:
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The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., aggrieved by the order, dated 04.12.2015, passed in S.C.No.472 of 2015 on the file of the III Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, rejecting the plea of discharge.

The averments in the charge sheet are as under:

On 21.12.2013 at 11.00 p.m. while the deceased was standing outside her house, the accused called her, took her to the top of building terrace and enjoyed her sexually. After some time the accused again demanded her for sexual intercourse when she refused, the accused forcibly laid her on the bed sheet and committed rape on her by using force. At that time the deceased informed the accused that she had bleeding from her vagina and suffering with pain, but the accused did not heed to her plea and continued to have intercourse against her consent. In the meanwhile the deceased fell down unconscious and died. The petitioner shifted the dead body of the deceased to the bushes near a tamarind tree

besides rocks, dumped the body to conceal the evidence. Basing on these allegations charge sheet came to be filed against the accused for the offences punishable under Sections 302, 201 and 376 IPC.

At the time of framing of charge the counsel for the petitioner argued that the acts of the accused as alleged by the prosecution do not constitute an offence punishable under Section 302 IPC and at the most Section 304-II IPC would get attracted. The rejection of his request leads to filing of the present revision.

Learned counsel for the petitioner mainly submits that even accepting the allegations in the charge sheet to be true, no offence under Section 302 IPC is made out. According to him, there was no intention to commit rape and the incident happened in a spur of moment.

A perusal of the averments in the charge sheet clearly disclose that the accused committed rape on the deceased without her consent, due to which blood was oozing from her vagina, thereby she fell down unconscious and dead.

The issue as to whether the averments in the charge sheet constitute an offence under Section 302 IPC or 304-II IPC, is the matter which has to be decided by the trial Court during the course of trial, basing on the evidence adduced by the prosecution. It is not proper for this Court to come to such a conclusion basing on the averments in

the charge sheet. Hence, I see no reasons to interfere with the order passed by the Court below.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12.04.2016

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