

HON' BLE SRI JUSTICE G. SHYAM PRASAD

CrI.R.C.No. 2963 of 2018

JUDGMENT:-

This Criminal Revision Case arises out of the Docket Order dated 19.10.2018 in CrI.M.P.No. 154 of 2018 in S.C.No. 95 of 2016 passed by V Additional Sessions Judge, Jangoan.

Heard the learned counsel for petitioners - A1 to A4 and the learned Additional Public Prosecutor appearing on behalf of the respondent-State and perused the material placed on record.

The trial Court framed charges against the accused under Sections 302 and 304-B IPC. The petitioners contend that the ingredients of charge under Section 304-B IPC are not present in this case.

At the outset, taking charge by the trial Court is based on the material on record. In this case, it is homicide. The accused were charged for the offences under Sections 302 and 304-B IPC. The prosecution has to frame the charges against the accused basing on the evidence. It is highly premature to consider whether the ingredients of Section 304-B IPC are present in this case or not. The trial Court, however, has considered all these aspects and framed charges under Sections 302 and 304-B IPC.

In fact, the offence under Section 302 IPC is more grave and serious offence. The framing of charge under Section 304-B IPC, in no way prejudices their rights, as it is a case of homicide. The burden is on the prosecution to prove the case. If it fails to prove the case under Section 304-B IPC, it is advantageous to the accused. The accused would, in no way, be prejudiced by framing the charge under Section 304-B IPC.

Hence, the Criminal Revision Case under Section 216 Cr.P.C. is not maintainable in view of the facts and circumstance of the case.

It is obvious that the Criminal Revision Case is preferred against the impugned order passed in Criminal Miscellaneous Petition which was filed under Section 216(1) of Cr.P.C. and it is an interlocutory order. By virtue of the provision contemplated under Section 397(2) Cr.P.C., the Revision Case is not maintainable in case of interlocutory order, more particularly, in the background of the facts and circumstances of the case.

Hence, the Criminal Revision Case is dismissed.

The Registry is directed to return the certified copy of the order dated 19.10.2018 in CrI.M.P.No. 154 of 2018 in S.C.No. 95 of 2016 passed by V Additional Sessions Judge, Jangoan, to the learned counsel for the petitioners.

As a sequel, Miscellaneous Petitions, if any pending,
shall stand disposed of as infructuous.

G.SHYAM PRASAD, J

05.11.2018

bcj

