

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1414 of 2019

Ghanshyam Sinha S/o - Shri Beni Ram Sinha Aged About 43 Years R/o
- Khandelwal Colony, Maa Jagdamba Medical Rajnandgaon Police
Station Basantpur, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station
Lalbag, District Rajnandgaon Chhattisgarh.

---- Respondent

AND

CRR No. 18 of 2020

Rahim Baksha S/o Late Pir Baksha Qureshi Aged About 51 Years R/o
New Khandelwal Colony, Behind Poonam Colony, Rajnandgaon, P.S.
Kotwali, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, P.S. Lalbag,
District Rajnandgaon Chhattisgarh.

---- Respondent

AND

CRR No. 1334 of 2019

Ajay Chopda S/o Late Umedchand Chopda, Aged About 58 Years R/o
Sadar Bazar, Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Chowki Tumdibod, Police Station
Lalbag, Rajnandgaon, District Rajnandgaon Chhattisgarh..

---- Respondent

For Applicant	: Shri Jitendra Gupta, Advocate in CRR No.1414 of 2019, Shri Atanu Ghosh, Advocate in CRR No. 18 of 2020 and Shri Manoj Paranjpe, Advocate in CRR No.1334 of 2019.
For Respondent/State	: Shri Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-02-2020

1. All these revision petitions are arising out of the same impugned order dated 1.10.2019 passed in Sessions Trial No. 56 of 2019 pending before the Court of Learned Third Additional Sessions Judge, Rajnandgaon, therefore, they are being decided by this common order.
2. All the three revision petitions have been brought being aggrieved by the impugned order dated 1.10.2019, by which all the applicants have been charged with offences under Sections 120B, 420 read with Section 34, 467 read with Section 34, 468 read with Section 34, 471 read with Section 34 and 306 read with Section 34 of the IPC.
3. It is submitted by counsel for the applicants that Jain Singh Verma consumed poisonous substance on 5.10.2018 and he died during the course of the treatment on 6.10.2018. The inquest procedure was though conducted but the FIR has been lodged after a long delay on 20.5.2019 against the applicants. The case against the applicants is based only on the suicide note left by the deceased. The suicide note left by the deceased mentions that he had made some payments to applicant – Rahim Baksha Qureshi in CRR No. 18 of 2020 and applicant - Ghanshyam Sinha in CRR No. 1414 of 2019 and he has also repaid the amount borrowed from applicant – Ajay Chopda in CRR No. 1334 of 2019, even then, he is making further demands. This is the only statement of the deceased in the suicide note and the same in any manner does not show that the applicants had abetted the deceased to commit suicide. Even on perusal of the statements of all the witnesses of the prosecution, there is no such case that the applicants had abetted

the deceased to commit suicide and as a result of that he has committed suicide.

On behalf of applicant – Ajay Chopda in CRR No. 1334 of 2019, reliance has been placed on the judgment of Supreme Court in the case of **State by the Inspector of Police, Chennai vs. S. Selvi and Another** reported in **(2018) 13 SCC 455**, in which it is held by the Supreme Court that if two views are equally possible and the court is satisfied on the basis of the evidence adduce that there is no ground for suspicion against the accused, then the accused in such a case can be discharged and it is a case in which there is no presence of any *prima facie* case against the applicant. The facts of the case show that there had been some transaction between the applicant and the deceased but there is no evidence regarding the interaction of the applicant with the deceased, therefore, this applicant is entitled for discharge.

On behalf of applicant – Ghanshyam Sinha in CRR No. 1414 of 2019, it is submitted that this applicant had entered into an agreement about three years before the date of incident regarding some sale transaction and payment of amount in cash to deceased – Jain Singh, which has been mentioned in the suicide note. There is no explanation in the evidence to show that there had been any dispute in this regard present between the applicant and the deceased and this cannot be considered as an evidence of abetment. Reliance has been placed on the judgment of Supreme Court in the case of **State of M.P. vs. S.B. Johari and Others** reported in **(2000) 2 SCC 57** and prayed that this applicant is entitled to be discharged.

On behalf of applicant – Rahim Baksha Qureshi in CRR No. 18 of 2020, the argument made by the counsels for other applicants had been adopted and it is submitted that the deceased had filed a civil suit praying

for cancellation of sale deed dated 5.6.2015 that was executed in favour of this applicant. Reliance has been placed on the judgments of the Supreme Court in the case of **Sanju alias Sanjay Singh Sengar vs. State of M.P.** reported in **(2002) 5 SCC 371**, **M. Arjunan vs. State Represented by its Inspector of Police** reported in **(2019) 3 SCC 315**. Reliance has also been placed on the judgments of this Court in the case of **Rashmi Dewangan vs. State of Chhattisgarh** reported in **2013 LawSuit(Chh) 441** and **Paramjeet Singh Chawala vs. State of Madhya Pradesh** reported in **2007 LawSuit (MP) 1406**. Apart from that there had been no other dispute and there is no evidence against this applicant to make out a *prima facie* case for framing of charge, hence, this applicant is entitled to be discharged.

4. Learned State counsel opposes the submissions made and the grounds raised in all the three revision petitions. It is submitted that there is *prima facie* case present against the applicants. There is evidence to show in the charge-sheet that the applicants conducted themselves in such a manner by conspiring with each other and there is evidence against the applicants that they have given a forged cheque for payment to the deceased for sale of his land to applicant – Rahim Baksha Qureshi in CRR No. 18 of 2020. The sale deed was though executed but no consideration was given to the deceased and thus, they have committed the offence of cheating and forgery etc. Hence, there is no ground to discharge the applicants from this case and a clear *prima facie* case is present against the applicants on the basis of the material present in the charge-sheet.
5. Heard counsel for both the parties and perused the documents present on record.
6. The deceased committed suicide on 5.10.2018. After the inquest

procedure and on the basis of the suicide note found from the possession of the deceased and the other facts revealed in the inquest regarding the conduct of the applicants, dispute was found regarding the payment of money and also that the documents and the properties of the deceased held by applicant – Ajay Chopda in CRR No. 1334 of 2019 to harass him, the FIR was lodged on 20.5.2019 registering the offence under Section 306 of the IPC. Subsequent to which, the investigation has been made before filing of charge-sheet by adding the other offences of cheating, forgery etc.

7. On perusal of the evidence that is present in the charge-sheet, it is found that there is no dispute that the deceased has committed suicide by consuming some poisonous substance. On perusing the statements of the witnesses, which has been recorded under Section 161 of the Cr.P.C., it is found that there was a dispute that one sale deed was executed in favour of applicant – Rahim Bakshi Qureshi in CRR No.18 of 2020 and applicant – Ghanshyam Sinha in CRR No. 1414 of 2019 had influenced the deceased for execution of the same. Subsequent to that, on behalf of the deceased, objection was raised in the mutation proceeding. The documents regarding the property sold were in possession of applicant – Ajay Chopda in CRR No. 1334 of 2019. There is evidence present that the sale deed registered shows payment through a cheque but the amount of that cheque was never deposited into the bank account of the deceased. There is also evidence that the deceased had made some payments to applicant – Rahim Bakshi Qureshi in CRR No. 18 of 2020, therefore, a civil suit was filed by the deceased praying for cancellation of the sale deed on the ground that no consideration has been paid to him.
8. On perusal of the whole material present in the charge-sheet against the

applicants, I am of this view that there is no material present to show that the applicants had acted in any manner which can be called as an abetment to commit any offence which is defined under Section 107 of the IPC. In the sale deed of the year 2015, the parties were applicant – Rahim Baksha Qureshi in CRR No. 18 of 2020 and the deceased. The allegation in the evidence and in the civil suit filed by the deceased is that no payment of consideration was made and the payment of consideration through cheque mentioned in the sale deed is a false statement. The false statement, if any, made in the sale deed cannot be regarded as a forgery and that the statement shall be examined on the basis of the allegation of falsity only, therefore, there is no such evidence present in the whole investigation done by the respondent side that there had been any document which was forged by any of the applicants. Therefore, the charges against the applicants for the offence under Sections 120B, 306/ 34, 467/ 34, 468/ 34 and 471/ 34 of the IPC are not at all made out. Hence, the charges framed for these offences against the applicants is without any basis and there is no *prima facie* case for the same. However, there is some material present and on the basis of which, the case against the applicants can be examined for the commission of offence under Section 420/ 34 of the IPC. Therefore, after overall consideration, the revision petitions filed by all the applicants are fit to be allowed in part.

9. Accordingly, it is ordered that the applicant in all the three cases are discharged from the offences under Sections 120B, 306/ 34, 467/ 34, 468/ 34 and 471/ 34 of the IPC, however, the order framing charge under Section 420/ 34 of the IPC against the applicants is upheld. The case is at present pending before the Sessions Court. Therefore, it is left for the Sessions Court to pass appropriate orders for trial of the

remaining charges against the applicants before the Court having jurisdiction.

10. Hence, revision petitions are disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi