

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Proceedings through Video Conferencing
CRR No. 279 of 2021

Swati Thomas D/o - Shri Thomas aged about 52 Years
 (Occupation – Sister/Nun) Sant Paul Convent Town, P.O.-
 Clement, Thana - Clement Town, District - Dehradun,
 Uttrakhand, R/o- Village- Maria Sadan Kersai, Thana -
 Tapkara, District – Jashpur, (CG)

----Applicant

Versus

State of Chhattisgarh through- S.H.O., Thana - Tapkara,
 District - Jashpur (CG)

----Non-applicant

 For Applicant : Mr. Avinash K. Mishra, Adv.
 For respondent/State : Mr. Dinesh Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi
Order on Board

2-8-2021

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 9-3-2021 passed by the Addl. Sessions Judge, Kunkuri, Distt. Jashpur, CG in Sessions Case No. 6/2021 (State of Chhattisgarh -v- Swati Thomas) by which charge has been framed against the applicant under Section 370(4) of the Indian Penal Code, 1860 (in short 'I.P.C.').

2. Brief facts of the case are that on 3-9-2019 the applicant was taking minor girls Kansila and Sangeeta to Dehradun by Gondvana Express by promising to provide them job and further study. When they stepped down in the Delhi railway station to change the train, the T.T. asked for ticket from them. At that time, applicant refused to recognize the girls. The T.T. called the persons of Child Line and they took the girls to police station. After investigation, police filed charge sheet under Sections 363, 365 and 370 of the I.P.C. against the applicant, however, the trial Court framed charge only under Section 370(4) of the I.P.C. against the applicant and discharged her from other charges.

3. It is submitted by learned counsel for the applicant that learned trial Court has discharged the applicant from the charges under Sections 363 and 365 of the I.P.C. but has framed charge

under Section 370(4) of the I.P.C. The trial Court itself has held that the applicant was taking both the minor girls i.e. Ku. Sangeeta and Ku. Kansila with the consent of their parents. He further submits that as per order of Child Welfare Committee (Distt. South East), P.W.D. Barraks, Block B, Kalkaji, New Delhi, the applicant did not buy ticket for the girls, therefore, essential ingredient of Section 370(4) of the I.P.C. is not fulfilled in the evidence collected by the police. Therefore, he prays that order impugned of learned trial Court of framing charge under Section 370(4) of the I.P.C. is erroneous and not sustainable and may be set aside. To support his contention, he placed reliance in the decision of Hon'ble Supreme Court in **P. Vijayan -v- State of Kerala and anr.** [(2010) 2 SCC 398].

4. On the other hand, learned State counsel submits that all ingredients of Section 370(4) of the I.P.C. are available to frame charge against the applicant and learned trial Court has not committed any error by framing alleged charge against the applicant.

5. I have heard learned counsel for both the parties and perused the material available on record.

6. Copy of charge sheet has been filed by learned counsel for the applicant. In the statements recorded under Section 164 of the Cr.P.C. before the Judicial Magistrate First Class, Patthalgaon, both the girls Sangeeta and Kansila have stated that when the T.T. was asking for ticket at Railway Station, Delhi, at that time, the applicant asked them to tell the T.T. that they are not with her. They have further stated that when the T.T. asked them about their ticket, then they told that their ticket is with the applicant, but the applicant refused to recognize them before the T.T. Then, the T.T. took them to Child Line persons. They have also stated in their police statements recorded under Section 161 of the Cr.P.C. that the applicant refused to recognize them before the T.T. whereas seizure memo shows that photo copy of online ticket has been seized from the applicant in which names of both the girls (Sangeeta and Kansila) are there with the name of the applicant.

7. Although, evidence collected by the police shows that both the girls were being taken by the applicant after consent of their parents and railway ticket of both the girls were bought by the applicant, despite that, above conduct of the applicant at railway station Delhi i.e. refusal to recognize the girls before the T.T. and also asking them to say the T.T. that they are not with her, shows the contents of case of trafficking of a person under Section 370 of the I.P.C. against the applicant. It is also pertinent to mention that neither both the girls nor their parents have stated in their statements as to for training of which work, the applicant was taking the girls. Even no document relating to education of both the girls have been seized from her, which creates doubt because if the girls were being taken by the applicant for imparting education and training of work, then she must have taken documents relating to their education like marksheet, transfer certificate etc. The material available on record, which has been filed by the applicant with revision petition, prima facie shows the ingredients of Section 370(4) of the I.P.C. against the applicant.

8. In the case of **P. Vijayan** (supra), referred by learned counsel for the applicant, Hon'ble Supreme Court held that at the stage of Section 227 of the Cr.P.C., the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him. If the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228, Cr.P.C., if not, he will discharge the accused.

9. The Hon'ble Supreme Court in **Bhawna Bai -v- Ghanshyam and others** [2020 (2) SCC 217], has held that :-

“13. At the time of framing the charges, only prima facie case is to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing

the charge, the court has to see if there is sufficient ground for proceeding against the accused. While evaluating the materials, strict standard of proof is not required; only prima facie case against the accused is to be seen.”

10. It is well settled proposition of law that at the stage of framing of charge, even a very strong suspicion founded upon the material present in the charge sheet would be sufficient ground for framing of charge. In this case, the material available fulfilled the essential ingredients for framing of charge which has been framed against the applicant. Hence, in view of the material available on record and in the light of the judgments of Hon'ble Supreme Court in the matter of **Bhawna Bai** (supra) and **P. Vijayan** (supra), this Court is of the view that learned trial Court has not committed any error in framing alleged charge against the applicant.

11. Hence, instant revision petition being devoid of merit deserves to be and is hereby dismissed.

Sd/-
N.K. Chandravanshi
Judge