

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.2690 OF 2015

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is filed by the petitioner/A1 aggrieved by the order, dated 31.08.2015, passed in CrI.MP.No.110 of 2015 in S.C.No.792 of 2013 by the learned XI Additional District Judge (FTC), Ranga Reddy District, whereby, the application filed by the petitioner/A1, under Section 227 Cr.P.C., seeking discharge, was dismissed.

2. Heard the learned counsel for petitioner/A1, learned Assistant Public Prosecutor appearing for respondent No.1/State, learned counsel for respondent No.2/*de facto* complainant and perused the record.

3. Learned counsel for the petitioner/A1 would submit in the course of conducting scene of offence panchanama, a suicide note was seized by the Investigating Officer, wherein there is specific mention that nobody is responsible for the death of the deceased i.e., wife of the petitioner/A1. There is no incriminating material on record to frame charges and proceed with trial of the case. In the given circumstances of the case, the Court below ought to have discharged the petitioner/A1, but instead it dismissed the subject application erroneously and framed charges and ultimately, prayed to set aside the impugned order. In support of his submissions, learned counsel placed reliance on

the decision rendered by the Honourable Supreme Court in **Union of India v. Prafulla Kumar Samal**¹.

4. On the other hand, learned Assistant Public Prosecutor and learned counsel for the respondent No.2/*de facto* complainant would submit that there is ample evidence on record to substantiate the allegations made against the petitioner/A1 and to frame charge under Section 304B I.P.C. and proceed against the petitioner/A1 in the subject Sessions Case and ultimately, prayed to dismiss the revision case.

5. During the course of hearing, it is brought to the notice of this Court that A3 in the subject Sessions Case passed away. A2 is the mother of petitioner/A1. Though she filed an application in Crl.M.P.No.111 of 2015 before the Court below seeking discharge, the same was also dismissed by order, dated 31.08.2015.

6. As seen from the material placed on record, the Court below while examining the entire material on record, besides so-called suicide note in question, took a view that the suicide note shows that the deceased decided to die on her own. It only leads to possibility that the deceased committed suicide and no other conclusion can be drawn from it. There are statements of the witnesses establishing dowry harassment. The two lines suicide note found in the book, is also in question with regard to its authorship. The Court below having perused the entire material on record, came to a conclusion that for the purpose of framing

¹ (1979) 3 SCC 4

charges, there is *prima facie* case and sufficient ground to proceed with against the petitioner/A1. Whether the material placed on record would be sufficient to convict the petitioner/A1 or not, is required to be decided after due trial. Further, in **Prafulla Kumar Samal's** case (supra) relied on by the learned counsel for the petitioner/A1, the Hon'ble Supreme Court enumerated the following principles governing discharge:

***"Para 10:** Thus, on a consideration of the authorities mentioned above, the following principles emerge :*

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out:

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post Office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the

Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

There is no dispute with regard to the above said principles laid down by the Hon'ble Supreme Court. In the instant case, on examination of the entire material placed on record, a *prima facie* case has been made out to proceed with against the petitioner/A1. The conclusions reached by the trial Court are based on material on record. In view of the facts and circumstances of the case, there is no perversity or illegality in the impugned order, so as to interfere with the same. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed. However, it is needless to mention that the trial Court shall determine the subject Sessions Case, after due trial, uninfluenced by any of the observations made hereinabove as well as in the impugned order, dated 31.08.2015.

Miscellaneous Petitions, if any, pending in this Criminal Revision Case shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 27-08-2021.

MD