

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.77 OF 2022

Astaf Noor Shaikh,
Age 25 years, Occu. Hair Style Artist,
R/o. Raimoha, Taluka Shirul Kasar,
District Beed

.. Applicant
(Original Accused)

Versus

1. The State of Maharashtra,
2. X

.. Respondents

Mr. Sudarshan J. Salunke, Advocate for Applicant;
Mr. S. B. Narwade, APP for Respondent No.1/State;
Mr. Shaikh Samir Ahmad Saifuddin, Advocate for Respondent No.2
(first informant)

CORAM : S. G. MEHARE, J.

DATE : 21-02-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for respondent No.1/State and the learned counsel for respondent No.2/victim.
2. The applicant has been arraigned as an accused for the offence punishable under Sections 305, 354D, 506 and 507 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012.

3. By the present revision application, the applicant prays to quash and set aside the order rejecting the order of discharge, passed by the learned Special Judge / Additional Sessions Judge, Beed, below Exhibit-4, in Special (POCSO) Case No. 43 of 2021, dated 03.02.2022.

4. The learned counsel for the applicant has vehemently argued that the prosecution has no evidence to prove the instigation to the deceased to commit suicide. The false allegations of suspecting character of the deceased have been raised. The material before the learned trial court is not sufficient to frame the charges. The so-called chatting over the mobile *WhatsApp* is also not sufficient to believe that the applicant instigated the deceased to commit suicide. The order refusing discharge is *prima facie* illegal, incorrect and improper, therefore, the same is liable to be set aside.

5. Per contra, the learned counsel for respondent No.2 has vehemently argued that the impugned order is legal, proper and correct. Section 227 of the Cr.P.C. has been correctly considered. The facts of the case reveal that the prosecution has sufficient evidence to frame the charges against the applicant. The offence is serious. The minor girl has committed suicide due to persistent harassment at the hands of the accused.

6. Perused the impugned order.

7. The Court has discussed the material available on record, and thereafter, considered the provisions of Section 227 of the Cr.P.C. The Court has specifically observed that while considering the application for discharge, the chargesheet is required to be considered and not the defence of the accused. There is sufficient material to frame charges. The applicant did not make a case for discharge. Apart from the legal position, the learned trial court has considered the material available on record, more particularly, the evidence of the witnesses.

8. Considering the reasons for rejection of the application, the Court is of the view that the learned trial Court has considered the legal provisions and arrived at the conclusion that there are grounds to frame the charges against the applicant. Therefore, the impugned order does not warrant interference. In the result, the applicant fails.

9. For the above reasons, the revision application stands dismissed.

(S. G. MEHARE)
JUDGE

rrd