
(2016) 01 AHC CK 0076
In the Allahabad High Court
Case No : Criminal Revision No. 856 of 2014.

Anil Kumar Dubey and 4 others

APPELLANT

Vs

State Of U.P. and anr.

RESPONDENT

Date of Decision : 22-01-2016

Acts Referred:

Citation : (2016) 94 ACrC 246 : (2016) 4 ADJ 29

Hon'ble Judges : Vijay Lakshmi, J.

Bench : Single Bench

Advocate : Nisar Uddin and Ziya Uddin Shadab, Advocates, for the Appellant;
Govt. Advocate and Shailesh Pandey, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Vijay Lakshmi, J. - List revised. No one is present on behalf of the revisionists even in the revised call whereas Sri Shailesh Pandey and learned A.G.A. are present on behalf of opposite parties.

2. This revision has been filed against the order dated 26.2.2014 passed by learned III Additional Sessions Judge, Mirzapur in S.T. No. 123 of 2013, arising out of Case Crime No. 540 of 2012, under Sections 308, 325, 504 and 506 I.P.C., Police Station Lalganj, District Mirzapur, whereby the learned court below after hearing learned counsel for both the parties and finding a prima facie case for framing charges under Sections 308, 325, 147, 323, 504 and 506 I.P.C., has fixed a date for framing charges against the revisionists.

3. Heard learned counsel for the revisionists, learned counsel for opposite party no. 2 and learned A.G.A.

4. Learned counsel for the revisionists has submitted that the charges against the revisionists under Sections 308, 325, 147, 323, 504 and 506 I.P.C. are not made out as there is no material on record for framing charges under aforesaid sections. The submission of learned counsel for the revisionists is that all the injuries are simple in nature caused by hard and blunt object and in x-ray report

issued by District Hospital, Mirzapur, NAD has been shown of the alleged injured. However, Section 308 I.P.C. has been added by learned trial court without considering that there was no fatal injury on the head of any injured person. It has further been argued that the injury report issued by Jai Durga Diagnostic Centre, Swarup Rani Nehru Hospital Campus, Allahabad in which fracture of right temporal, greater wing of sphenoid bone and parietal bone seen, has been manufactured from a private nursing home.

5. Learned A.G.A. and learned counsel for the opposite party no. 2 have vehemently opposed the aforesaid submissions of learned counsel for the revisionists. They have further submitted that the learned trial court has rightly come to the conclusion of framing charge under the Sections mentioned above as it found prima facie evidence available for it. Learned A.G.A. has contended that in wake of guidelines of Apex Court, the court below has not committed any illegality by fixing a date for framing charges under the aforesaid sections.

6. The impugned order shows that the court below has found a prima facie case for framing the charges on the basis of the evidence as available on record i.e. fracture on the temporal region, which is a vital part of the body. At the stage of framing a charge only a reasonable doubt in the mind of the court concerned is sufficient and the courts are not required to see whether the evidence available on record is sufficient to prove the case of prosecution beyond reasonable doubt. Only prima facie evidence as available on record at the initial stage of framing charges is to be considered by the court concerned.

7. In *State of Orissa v. Debendra Nath Padhi*, 2005 SCC (Cri) 415, the Hon'ble Apex Court has held that at the time of framing charge, what the Trial Court is required to see and consider, are only the Police Papers referred to under Section 173, Cr.P.C. and documents sent with it. The accused cannot be permitted to produce documents to put forth his defence case for purpose of seeking discharge.

8. In *Soma Chakravarty v. State (through CBI)*; 2007 (2) SCC (Cri) 514, it has been held by the Hon'ble Apex Court that at the time of framing of charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true at that stage. If on the basis of material on record the Court could form an opinion that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. Whether, in fact, the accused committed the offence, can only be decided in the trial.

9. In *Omwati v. State*; AIR 2001 SC 1507, it has been held by the Hon'ble Apex Court that the High Court should not interfere at initial stage of framing the charges merely on hypothesis, imagination and farfetched reasons, which in law amount to interdicting the trial against the accused persons.

10. In *Sanghi Brothers (Indore) Pvt. Ltd. v. Sanjay Choudhary and others*; 2009

(1) SCC (Cri) 87, it has been held by the Hon"ble Apex Court that even if there is a strong suspicion about the commission of offence and the involvement of the accused, it is sufficient for the Court to frame a charge.

11. By the impugned order the court below has only fixed a date for framing of charge, hence this order is an interlocutory order against which revision is not maintainable. Even on merits this revision has no force and is liable to be dismissed.

12. In wake of the aforesaid legal position and considering the facts and circumstances of the present case and the prima facie evidence available on record the revision appears to have no force and it is liable to be dismissed at the admission stage itself.

13. The revision is accordingly dismissed.