
(2002) 12 RAJ CK 0018
In the Rajasthan High Court
Case No : Criminal Revision Petition No. 201 of 2002

Lala Ram	Vs	APPELLANT
State of Rajasthan		RESPONDENT

Date of Decision : 04-12-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 240
Evidence Act, 1872 — Section 45
Penal Code, 1860 (IPC) — Section 194A, 309

Citation : (2003) CriLJ 1454 : (2003) 4 RCR(Criminal) 796 : (2003) 2 WLC 63

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Advocate : Amitabh Acharya, for the Appellant; B.K. Mehar and Vidhya Bohra, Public Prosecutors, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—This revision has been filed for quashing the order dated 21-12-2001, by which the learned trial Court has framed charges against the applicant for the offences punishable under Sections 304-B/ 306 read with Section 498-A of the Indian Penal Code (for short, "IPC").

2. The facts and circumstances giving rise to this case are that on 7-9-95, applicant Lala Ram lodged an FIR in the Police Station that his wife Smt. Dushyant Kaur had committed suicide by hanging herself. The matter was investigated and the Sub-Divisional Magistrate, Barmer, also, conducted an inquiry of the unnatural death and a case was registered against the applicant. The Judicial Magistrate. Barmer, vide order dated 9-1-98, took cognizance of the offences punishable under Sections 498-A and 306, IPC against the applicant, considering the evidence on record and observing that prima facie there was evidence against him. Now, charges have been framed against the applicant vide impugned order, as mentioned above. Hence this revision petitioner.

3. Mr. Acharya, learned counsel for the applicant has placed great reliance upon

the letters written by the deceased few days before her demise and recovered by the investigating officer during investigation and submitted that the trial Court and referred to one of the letters, but there is no iota of evidence against the applicant even in those letters and none of them is in her handwriting.

4. True translation of the relevant part of one of the said letters submitted by Mr. Kundan Singh the maternal uncle of the deceased, reads as under :--

"I am writing to you for the reason that a girl cannot speak the words which I am going to write..... I was given beatings in the night, I reached here. I was asked to disclose the names of persons whose children I have conceived and subsequently aborted. I was asked to face dire consequences if I did not disclose the names of such persons. He told me that he was aware of Jetha Ram, Madha Ram, Hansa Ram, Mahendra but he wanted to know the other names..... I am being threatened always that if I did not disclose everything correctly, I will be beaten and divorced. Gokul's son came for Natha Ram who was not at home. He came and asked me as why did I call Gokul's son. He was having the doubt that I had called him..... I am being defamed in the entire locality and in the house and called a prostitute."

5. In fact, this letter itself is enough to show that it is not a case wherein it can be held that there is no iota of evidence against the applicant.

6. It is settled legal proposition that the inherent powers of the higher Court is limited only to examine that the process of law should not be misused to harass a citizen and for that purpose, the Court has no authority or jurisdiction to go into the merit or examine the evidence meticulously. (Vide L.V. Jadhav Vs. Shankarrao Abasaheb Pawar and Others, The Nagpur Steel and Alloys (P) Ltd. v. P. Radhakrishna 1997 SCC (Cri) 1073 ; Trisuns Chemical Industry Vs. Rajesh Agarwal and others, Rajesh Bajaj Vs. State NCT of Delhi and Others, Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. AIR 2000 SC 1869 : (2000 Cri LJ 1487); and Dr. Sharma's Nursing Home v. Delhi administration (1998) 8 SCC 745).

7. In Radhey Shyam Vs. Kunj Behari and Others, the Apex Court held that in exercise of its powers u/s 482, Cr. P.C. the High Court cannot go into the merit of the evidence and appreciate the same for the reason that it is not the stage of appreciation of evidence. The Court cannot meticulously consider the evidence collected by the police at this stage. The Apex Court placed reliance upon its earlier judgments in State of Bihar Vs. Ramesh Singh, and Mohd. Akbar Dar and Others Vs. State of Jammu and Kashmir and Others, wherein the Apex Court had held that at the stage of framing the charges, meticulous consideration of evidence and material by the Court is not required; nor the adequacy of evidence can be seen at this stage as it would amount to premature appreciation of evidence.

8. In State of Delhi Vs. Gyan Devi and Others, the Hon''ble Supreme Court deprecated the practice of interference in exercise of the power under Sections

228 and 482, Cr. P.C. for quashing the charges in a matter where no strong reason could be found and held that in the interest of justice and in order to avoid the abuse of process of the Court, the charges needed to be quashed. The Apex Court observed as under (para 7) :--

"At the stage of charge the Court is to examine the materials only with a view to be satisfied that a prima facie case of commission of offence alleged has been made out against the accused persons. It is also well settled that when the petition is filed by the accused u/s 482 Cr. P.C. seeking for the quashing of charge framed against them the Court should not interfere with the order unless there are strong reasons to hold that in the interest of justice and to avoid abuse of the process of the Court a charge framed against the accused needs to be quashed. Such an order can be passed only in exceptional cases and on rare occasions. It is to be kept in mind that once the trial Court has framed a charge against an accused the trial must proceed without unnecessary interference by a superior Court and the entire evidence from the prosecution side should be placed on record. Any attempt by an accused for quashing of a charge before the entire prosecution evidence has come on record should not be entertained sans exceptional cases."

9. In *Minakshi Bala Vs. Sudhir Kumar and Others*, the Hon"ble Apex Court held that once the charge had been framed u/s 240, Cr. P.C. the High court, in exercise of its revisional jurisdiction, is not justified in invoking its inherent power to quash the same except in those rare cases where forensic exigencies and formidable compulsions justify such a course. Similar view has been reiterated by the Hon"ble Supreme Court in *State of M.P. Vs. S.B. Johari and Others*,

10. In *Ram Kumar Laharia Vs. State of Madhya Pradesh and Another*, the Supreme Court considered the scope of exercise of revisional powers and held that at this stage, the Court is not permitted to weigh the evidence. Whatever is permissible in law is that the Court can assess the improbability or absurdity of the statement of witnesses. In case the evidence so collected prima facie suggests direct contact with the accused, the Court cannot interfere with the order of framing the charge.

11. In *Smt. Om Wati and Another Vs. State, through Delhi Admn. and Others*, the Apex Court held that in exercise of the revisional jurisdiction, the High Court is not permitted to interfere at initial stage of framing the charges merely on hypothesis, imagination and far-fetched reasons. The Court observed as under (para 12) :--

"We would again remind the High Courts of their statutory obligation not to interfere at initial stage of framing the charges merely on hypothesis, imagination and far-fetched reasons which, in law, amounts to interdicting the trial against accused persons. Unscrupulous litigants should be discouraged from protracting the trial and prevent culmination of the criminal cases by having resort to uncalled for and unjustified litigation in the cloak of technicalities of

law."

12. Thus, in view of the above, it is settled legal proposition that the High Court, in exercise of its powers u/s 482, Cr. P.C. is not permitted either to weigh the evidence or examine the adequacy of the evidence for framing of the charges and if it comes to the conclusion that there is some prima facie evidence connecting the accused with the crime, the charge cannot be quashed at this stage. However, the Court has to examine that in case the ingredients of the offence alleged against the accused are absent in the fact and circumstances of the case and the trial was nothing but an abuse of the process of the Court, the Court should not hesitate in quashing the charges.

13. In Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh, the Hon"ble Apex Court quashed the charges for the reason that the appellant therein had been charged of the offence of abetment and after considering the evidence, the Apex Court recorded the finding that the ingredients of abetment were totally absent in the facts and circumstances of the case. Similarly, in Ram Ekbak Missir Vs. Ram Niwash Pandey @ Sri Niwash Pandey and Others, the Hon"ble Supreme Court quashed the criminal proceedings wherein the cognizance of the offence was taken after twenty-one years of lodging the first information report and the case had been dragged for more than two decades without any fault on the part of the accused. Moreso, the Apex Court also came to the conclusion that the cognizance had been taken in a mechanical manner. It has further been observed that neither the victim nor the accused should suffer by the mis- chief of the investigating agency or the staff of the Court and such a delay was found to be a ground for quashing the charges.

14. In addition to the said letter, statements of Dhanna Ram, Kamala, Kundan Singh and Mota Ram also reveal the involvement of the applicant in the said offence.

15. Thus, as it is not a case where there is no iota of evidence, even to have a prima facie view, that accused-applicant has not committed the offence, no fault can be found with the order impugned and the petition is liable to be rejected.

16. Mr. Acharya has further submitted that the letters written by the deceased are not in her handwriting, as opined by the handwriting expert, therefore, even for the purpose of having the prima facie view, the said letters cannot be taken into consideration. Firstly, if the letter is compared with the sample of deceased"s handwriting, it appears to be in her handwriting. It is settled legal proposition that expert"s opinion is hardly decisive as normally it is inconclusive. It is an evidence of opinion and not of fact. (Vide C.S.D. Swamy Vs. The State, An expert only deposes and does not decide. Decision is yet to be taken by the Court. Expert only provides criteria for reaching the correct conclusion but his opinion requires to be appreciated like any other evidence on record. Therefore, it cannot be presumed to be conclusive. (Vide Ram Chandra and Another Vs. State of Uttar Pradesh, and Mayur Panabhai Shah Vs. State of Gujarat,

17. The Court should not forget that the expert has come to depose before the Court on being paid the remuneration by one of the parties. Therefore, unconsciously he may be biased and may depose in favour of the said party.

18. Opinion should be based on reasons and Court has to appreciate the reasons to reach the correct conclusion. If opinion is without reasons, it cannot be held to be conclusive at all. It should be corroborated either by clear or by circumstantial evidence. If the opinion is very sound, it may be accepted without corroboration as held by the Hon'ble Supreme Court in State of Maharashtra Vs. Sukhdeo Singh and another Vs. State of Maharashtra Through C.B.I. Vs. Sukhdev Singh alias Sukha and others, Thus, I find no merit in this contention also and being preposterous, it is rejected.

19. In view of the above, the petition does not present any special feature warranting interference by this Court and the same is accordingly dismissed.

20. Before parting with the case, it may be pertinent to mention here that any observation made hereinabove shall not effect the merit of the case.