
(2011) 05 AHC CK 0184
In the Allahabad High Court
Case No : Criminal Revision No. 170 of 2011

Ramesh Chandra Maurya and Israr Ahmad and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 02-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 239

Citation : (2011) 8 RCR(Criminal) 2205

Hon'ble Judges : Narayan Shukla, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narayan Shukla, J.—Heard Mr. N.N. Jaiswal, learned Counsel for the revisionists and Mr. Rajendra Kumar Dwivedi, learned Additional Government Advocate for the State.

2. Since both the Criminal Revisions arise out of the same impugned order, both are being disposed of by the common order.

3. The revisionists have challenged the order dated 21st of January, 2011, passed on the application for discharge basically on the ground that the learned Court below has rejected the application without giving any finding in the matter, whereas according to him the order should be supported with the reasons. It is further stated that at least the material, which can be produced by the accused, at the stage contemplated for Section 239 or 227 of the Code of Criminal Procedure, should be examined and then the order be passed. In support of his submission he cited the following decisions:

1. Satish Mehra Vs. Delhi Administration and Another,
2. East Coast Railway and Another Vs. Mahadev Appa Rao and Others,
3. M/s. Som Datt Bulders Ltd. v. State of Kerala (SC) reported in 2009 LCD 1554.

4. Inder Mohan Goswami and Anr. v. State of Uttaranchal and Ors. reported in (2007) 12 SCC.

5. Md. Ibrahim and Others Vs. State of Bihar and Another,

6. K. Ramakrishna and Others Vs. State of Bihar and Another,

7. Subhash v. The Divisional Controller, Maharashtra State Road Transport Corporation and Anr. reported in 2009 (27) LCD 1563.

4. On the other hand learned Additional Government Advocate Mr. Rajendra Kumar Dwivedi, also placed some decisions of the Hon"ble Supreme Court as well as this Court to support the order impugned, which are as under:

1. Manna Lal Gupta v. State of U.P. and Anr. reported in (LXVI) 2009 ACC 66.

2. State of Orissa Vs. Debendra Nath Padhi,

3. Mohd. Sayeed v. State of U.P. and Ors. passed in Criminal Misc. Case No. 1191 of 2011 and Smt. Anita Awasthi and Anr. v. State of U.P. and Ors. passed in Criminal Misc. Case No. 1205 of 2011 dated 24.3.2011 by this Court.

4. R.S. Mishra Vs. State of Orissa and Others,

5. Bharat Parikh Vs. C.B.I. and Another,

6. Stree Atyachar Virodhi Parishad Vs. Dilip Nathumal Chordia and Another,

5. The controversy raised by the learned Counsel for the revisionists has already been discussed and considered by this Court in the case of Manna Lal Gupta v. State of U.P. reported in (LXVI) 2009 ACC 66.

6. In the aforesaid judgment two questions were framed, the second one was "Whether the learned Judge is under obligation to record the reasons when he forms an opinion that there is sufficient ground for framing of charges?"

7. This question has been answered in the following manner:

If the learned Judge arrives at conclusion that the accused is liable to be discharged as there is no sufficient ground for proceeding against him, he has to record his reasons for doing so, but if he forms an opinion that there is sufficient ground for proceeding against the accused, he is not supposed to record any reason for proceeding further as for that limited purpose, he has to form his opinion only on the basis of his prima facie satisfaction as to whether the case against an accused has been made out or not.

8. In the case of Kanti Bhadra Shah and Another Vs. The State of West Bengal, the Hon"ble Supreme Court considering the same question held that it is pertinent to point out that even in a trial before a Court of Session, the Judge is required to record reasons only if he decides to discharge the accused, but if he is to frame the charge he may do so without recording his reasons for showing why he framed the charge.

9. Recently in the case of Mohd. Sayeed v. State of U.P. and Anr. rendered in Criminal Misc. Case No. 1191 of 2011 and Smt. Anita Awasthi and Anr. v. State of U.P. and Ors. rendered in Criminal Misc. Case No. 1205 of 2011, this Court had an occasion to consider the question whether the order for taking cognizance and issuance of summons should be supported with the detailed reasons or not. This Court considering the several decisions of the Hon''ble Supreme Court held that if on the basis of material available before the learned Magistrate he is satisfied that there is a sufficient material for taking cognizance, the detailed discussion of those material by the learned Magistrate is not required. It has further been held that it is not open for the accused to challenge the summoning order on the ground that no cognizance has been taken or no satisfaction has been shown or there is no detailed discussion of the material available, rather he has to follow the next step of the process.

10. The learned Counsel for the revisionists have relied upon one judgment of the Hon''ble Supreme Court rendered in the case of Satish Mehra Vs. Delhi Administration and Another, to support his submission, which has been over ruled by the Hon''ble Supreme Court in the case of State of Orissa Vs. Debendra Nath Padhi, in which the Hon''ble Supreme Court has held that at the stage of framing of charge roving and fishing inquiry is impermissible as if the contention of the accused is accepted, there would be a mini-trial at the stage of framing of charge, that would defeat the object of the Code. It is well settled that at the stage of framing charge the defence of the accused cannot be put forth.

11. In light of the aforesaid discussion, I am of the view that the Magistrate or Judge is not under obligation to record any finding for his satisfaction for framing of charges. If he proceeds for framing of charges, it is always assumed that there are sufficient materials with the prosecution to frame the charges against the accused. Each and every material is not required to be discussed by the learned Magistrate or Judge at this stage, therefore, I do not find error in the order impugned.

12. The revisions are dismissed.