
(2014) 03 AHC CK 0063
In the Allahabad High Court
Case No : Criminal Revision No. 415 of 2014

Roopwati

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 24-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 203, 306

Citation : (2014) 2 ACR 2227 : (2014) 5 ADJ 366 : (2014) 86 ALLCC 778

Hon'ble Judges : Karuna Nand Bajpayee, J

Bench : Single Bench

Advocate : Amit Kumar Srivastava, Advocate for the Appellant; Hari Bansh Singh, Advocate for the Respondent

Final Decision : Allowed

Judgement

Karuna Nand Bajpayee, J.—This criminal revision has been filed by the revisionist against the order dated 6.2.2014 passed by Additional District & Sessions Judge Court No. 1, Bareilly in S.T. No. 222 of 2013 State v. Smt. Roopwati and others,, arising out of case Crime No. 1094 of 2011 u/s 306, 201, 203 IPC, P.S. Aonla District Bareilly whereby application for discharge moved by the revisionists has been rejected. Heard Sri Amit Kumar Srivastava learned counsel for the revisionists and also Sri Hari Bansh Singh who appeared on behalf of the opp. party No. 2 and perused the record as well as the impugned order.

The contention of learned counsel for the revisionists is that the impugned order refusing the discharge of accused-revisionist has been passed in a very cursory manner. There has been hardly any discussion touching the matters of the case. Submission is that there is hardly any reference in the order impugned about any such evidence on the basis of which the charge u/s 306 IPC or 201 or even 203 IPC have been framed. It is contended that this is a case of no evidence and the Court below in a very mechanical manner disposed of the application without applying its judicial mind on the material collected by the investigating officer and its sufficiency to justify the charge.

2. In rebuttal learned counsel for the opp. party has submitted that actually the reason for the deceased to commit suicide was because of mis-behaviour done by his in-laws and the actual cause for driving him in that mental status under which he impelled to commit suicide came from the accused side and therefore, the impugned order cannot be faulted with and the Court below has rightly proceeded to frame the charge against the revisionists.

It is indeed surprising to see that the impugned order does not make any reference to any piece of evidence collected by the investigating officer and on the basis of which it may be said that any of the revisionist was guilty of abetting the deceased to commit suicide. The impugned order only reflect some general principles of law and there is absolutely no quarrel with the same. It is true at the stage of framing of charge the Court is not to sit upon the judgment whether the evidence collected by the investigating officer shall ultimately result in the conviction of the accused or not. Ultimate reliability or testimonial worth of the witnesses has not to be gone into at the stage of framing of charge but there must be sufficient material on the basis of which the Court may draw the inference that the charges may be framed. The presence of prima facie material is sine-qua non before the Court may proceed to frame the charge. The order impugned is conspicuously reticent about any such material which may give an inkling as to how the same can be said to have abetted the deceased to commit suicide.

3. It is a case where the deceased Tilak Singh is said to have died at or near the house of his in laws where he had allegedly gone to fetch his wife back to his house. If the deceased committed suicide at the house of in laws that by itself will not be the evidence that he did so because he was abetted to do so. There has to be some kind of evidence to go to that extent. There must be some tangible evidence to suggest the complicity of some accused for having done something which may be said to be equal to abetment. If some body on his own volition because of his own frustration or because of his over sensitivity or because of his hyper reaction to some unpleasant event commit suicide it will not automatically make others guilty of abetment. Of course if the conduct of some body is such which though may not be said to have directly abetted the deceased to commit the suicide but was of such nature which in all probability was bound to impel or drive a man to take the fatal extremes step. All depends on facts and circumstances of each case. So far as the present case is concerned, the order impugned does not contain any such material facts which may indicate any participation or any such conduct of the accused which may give rise to the inference that they were guilty of the offence of abetment. There may be material present in the case diary to that effect and Court must have adverted to the same and should have given reference to the same at the time of framing of charge of the accused. But unfortunately the same course has not been adopted. The order impugned because of being too cursory and non speaking deserves to be set aside for it does not deal either with the submissions made on behalf of the revisionists nor does not deal with or refer to any of the circumstance which

are essential for constituting the crime. The revision is allowed and the impugned order is set aside. The matter is remanded back to the Court below, which is directed to rehear the parties and again decide the application of the revisionist in accordance with law and pass a speaking order giving reference to prosecution material if not in great detail, but at least in brief, which should be sufficient to indicate the factual basis on the strength of which the prosecution proposes to indict the accused.

It is also clarified that this order should not be construed to mean that any view adverse to the prosecution has been made. This Court has not gone on the merits of the case or the insufficiency or sufficiency of the material present in case diary to which may justify the charge or may fail to do so. Quashing of order has been done because of it being lackadaisical and too cursory in nature which hardly does any justice to the statutory provisions contained in the Code of Criminal Procedure.