
(2019) 10 MP CK 0002

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 4113 Of 2019

Tarun S/O Sewaram @ Shivram Jaat And Others

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 03-10-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 107, 306
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2019) 10 MP CK 0002

Hon'ble Judges : Vandana Kasrekar, J

Bench : Single Bench

Advocate : Vivek Singh, Nishith Wishard, Nilesh Dave

Final Decision : Dismissed

Judgement

1. The petitioners have challenged the order dated 04/07/2019 passed by learned ASJ, Manawar, District-Dhar in Session Case No.66/2019 whereby learned Court has framed the charges under Section 306 in alternative Section 306/34 of IPC against them.

2. Prosecution version is that the petitioner No.1 and Sonu @ Madga Jaat got married with each other but on 01/11/2018, some unknown persons wrote a note and affixed it on some of the houses of the Village of the deceased, in which name of the deceased was associated with Gaurav @ Gabu S/o Mansharam Jaat, therefore, allegedly her character was assassinated. On these backdrop, husband (petitioner No.1), father-in-law (petitioner No.2), mother-in-law (petitioner No.3) used to beat the deceased and harass her by saying her ill things and also about her character, consequent upon Sonu @ Madga Jaat consumed some poisonous substance and died on 07/11/2018. Thereafter, merg was registered and after recording the statements of witnesses, case was registered at Police Station-Manawar, District-Dhar bearing Crime No.889/2018.

3. The petitioners have come before this Court on the grounds that learned trial

Court committed error in passing the impugned order of framing of charge against the petitioners. Looking to the facts and circumstances of the case and the documents submitted by prosecution, no prima facie case is made out against the petitioners. The petitioners prays for quashment of the impugned order.

4. In arguments, learned counsel for the petitioners submitted that the learned trial Court has failed to consider that no offence under Section 306 of IPC can be said to be made out against the petitioners. It is argued that the learned trial Court has failed to consider that the ingredients envisaged under Section 107 of IPC cannot be said to be attracted in the present case and no offence is made out. The allegations made by deceased reveals that no charge can be framed on the basis of such allegations, therefore, the impugned order be quashed.

5. Learned counsel for the petitioners placed reliance on the judgment of Hon'ble Supreme Court in *Pinakin Mahipatray Rawal vs. The State of Gujarat* (2013) 10 SCC 48, *Ghusabhai Raisanghbhai Courasiya vs. State of Gujrat* (2015) 11 SCC 753, *K.V. Prakash Babu vs. State of Karnataka* (2017) 11 SCC 176 and submitted that no offence under Section 306 of IPC is also made out.

6. Learned Public Prosecutor has opposed the prayer and submitted that there is ample evidence available on record against the petitioners, therefore, at this stage charge cannot be quashed.

7. I have heard learned counsel for the parties and considered the rival contentions of the parties and gone through the entire record.

8. From perusal of the record, it emerges that there is specific allegation in the FIR as well as in the statements recorded under Section 161 of Cr.P.C. of family members of the deceased during investigation. Whether evidence available on record is sufficient to prove the guilt of petitioners and whether the allegations are true or false, this is a matter of evidence and it has to be appreciated during the course of trial, after giving opportunity to both the parties to adduce evidence on oath before the Court.

9. So far as cases relied by the counsel for the petitioners of Hon'ble Supreme Court are concerned, in the trial the same parameter cannot be applied at this stage, therefore, judgment passed by Hon'ble Supreme Court is not beneficial to the petitioners in the present case.

10. At this stage, no inference can be drawn on the bare averment of the FIR. Considering the evidence available on record and the evidence to support these allegations, prima facie sufficient evidence appears to be available on record to bring the charge, therefore, the present petition has not merits, liable to be and is hereby dismissed.