

Rajendra Kumar @APPELLANT@Hash State of Rajasthan

Criminal Revision No. 28 of 2018

Court: Rajasthan High Court (Jodhpur Bench)

Date of Decision: March 22, 2018

Acts Referred:

Code of Criminal Procedure, 1973 – Section 161, 164, 193, 228, 397, 401#Indian Penal Code, 1860 – Section 34, 365, 376D, 450#Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 – Section 3(1)(xii), 3(2)(v)

Hon'ble Judges: P.K. LOHRA, J

Bench: Single Bench

Advocate: S.D. Purohit, L.R. Upadhyay, Jitendra Ojha

Final Decision: Dismissed

Judgement

Accused-petitioner has preferred this revision petition under Section 397 read with Section 401 Cr.P.C. to assail order dated 31st of October 2017.

passed by Special Judge, Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, Sri Ganganagar (for short, "Act").

Court, framing charge against the petitioner for offence under Section 450, 365/34, 376D IPC and Section 3(1)(xii), 3(2)(v) of the Scheduled

Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.Ã

The facts, in brief, giving rise to this revision petition are that, at the threshold, father of the prosecutrix lodged FIR at Police Station Raisinghnagar,

District Sri Ganganagar naming Vishnu Dutt Vishnoi as accused for the aforesaid offences.

Pursuant to FIR No.306/15, investigation commenced and statements of the prosecutrix were recorded under Section 161 Cr.P.C. as well as Section

164 Cr.P.C.Ã, Ã, Police after investigation, submitted charge-sheet against accused Vishnu Dutt alone while dropping name of the petitioner despite

his name being revealed for commission of aforesaid offence by the prosecutrix in her both the statements.Ã, Ã, Feeling aggrieved with the said

charge-sheet, complainant submitted an application before the learned trial Court under Section 193 Cr.P.C. for taking cognizance against the

petitioner.Ā, The learned trial Court, after considering the application, by its order dated 20th January, 2016 took cognizance against the petitioner for

aforesaid offences and issued arrest warrants against him.Ā, Feeling aggrieved by the aforesaid order, petitioner approached this Court by filing a

revision petition bearing No.141/2016.Ā, Ā, While arguing the revision petition, petitioner has abandoned challenge to the order of cognizance but

simply craved for converting arrest warrants into bailable warrants.Ā, Acceding to the prayer of the petitioner, Court decided the revision petition on

2nd of December 2016.Ā, The operative part of the order dated 02.12.2016, in vernacular, reads as under:

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gq, fuxjkuhdrkZ dks funsZfkr fd;k tkrk gS fd og fopkj.k U;k;ky; ds le{k fnukad 15-12-2016 rd mifLFkr gksdj ipkl gtkj :i;s dk Lo;a dk ca/k i= ,oa iaphl

iphl gtkj :i;s dh nks tekur izLrqr djs rks mls tekur ij fjk fd;k tkosa mDr frfFk rd fuxjkuhdrkZ dh vksj ls tekur eqpyds izLrqr ugha djs ij fopkj.k U;k;ky;

j[kk tkjh fxjĀ,Ārkjh okj.V izHkkoh jgsxkA ifj.kker% mijksDRkkuqlkj ;g iqujh{k.k ;kfpdk fuLrkfjr dh tkrh gS ,oa rnuqlkj LFkxu izkFkZuk i= Hkh fuLrkfjr

fd;k tkrk gSA**

Subsequently, the learned trial Court heard arguments on framing charges and by the order impugned framed charges against the petitioner for the

aforesaid offences.Ā, It is argued by learned counsel for the petitioner that the learned trial Court has committed grave illegality and impropriety in

framing charges against the petitioner.Ā, Learned counsel would contend that a bare perusal of impugned order makes it crystal clear that no reasons

have been recorded.Ā, It is also argued by learned counsel that while framing charges, learned trial Court has not all cared to apply its judicial mind as

to whether or not there is any ground for presuming commission of offence by the petitioner.Ā, In support of his arguments, learned counsel has

placed reliance on following decisions:

1. State of Karnataka Vs. L. Muniswamy & Ors. [(1977) 2 SCC 699]
2. Shyam Singh Vs. State of Rajasthan & Anr. [2014(2) Cr.L.R. (Raj.)942].

Per contra, learned Public Prosecutor submits that the learned trial Court has thoroughly examined the material available on record, including the

statements of prosecutrix for framing charges against the petitioner, and therefore, no interference with the impugned order is warranted.Ā, Ā,

Learned counsel appearing for the complainant, Mr. Jitendra Ojha, while reiterating the arguments of learned Public Prosecutor, has submitted that

earlier also petitioner has challenged the order of cognizance before this Court but in the said revision petition this Court has not interfered with the

order of cognizance, and therefore, on the strength of the statements of prosecutrix, learned trial Court has rightly framed charges against the

petitioner.

I have bestowed my consideration to the arguments advanced at Bar and perused the materials available on record.

At the outset, it may be observed that the impugned order passed by learned trial Court may not be a reasoned order but then upon perusal of the

same it is clearly spelt out that the learned Court below has examined the evidence and materials available on record.Ã, Ã, There remains no quarrel

that charge can be framed if there are materials showing possibility about commission of crime as against certainty.Ã, Ã, In the background, if the

statements of prosecutrix under Section 161 as well as 164 Cr.P.C. are scrutinized, then it would ipso facto reveal that she has not only named the

petitioner but has also castigated him for offence of rape besides other offences.Ã, Ã, At the stage of framing charge, if there is a grave suspicion

against accused person, Court may very well frame charge by resorting to Section 228 Cr.P.C.Ã, Ã, In the instant case allegations against the

accused (petitioner) relate to ravishing a lady and her police statements and statements recorded under Section 164 Cr.P.C. are per se implicating him

for the offence of rape.Ã, Therefore, it cannot be said that learned trial Court has committed any illegality or impropriety in exercise of its power

under Section 228 Cr.P.C.Ã, for framing charges against him.

In view of foregoing discussion, no case is made out for interference in exercise of revisional jurisdiction.Ã, Ã, Consequently, revision petition fails and

the same is hereby rejected.