

Court No. - 87

Case :- CRIMINAL REVISION No. - 2407 of 2022

Revisionist :- Oyas @ Avesh

Opposite Party :- State of U.P.

Counsel for Revisionist :- Prakash Chandra Srivastava, Vishnu Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Om Prakash Tripathi, J.

Heard learned counsel for the revisionist, learned A.G.A for the State and also perused the record.

This criminal revision has been preferred by the revisionist against the order dated 18.04.2022 passed by Additional District and Sessions Judge, Court No.8, District Allahabad in Sessions Trial No.2297 of 2021 (State vs. Oyas @ Avesh), arising out of Case Crime No.225 of 2014, under Sections 326-A, 504, 506 IPC, rejecting the discharge application of the revisionist under Section 227 Cr.P.C.

The main submission of the learned counsel for the revisionist is that prima facie charges under Section 326A IPC is not made out against the revisionist. There is no grievous injury on the body of the victim. From the perusal of prosecution papers, offence under Section 326A IPC is not disclosed. Injured ladies were medically examined on 19.05.2014 at SRN Hospital, Allahabad by Dr. Nisar Ahmad at about 09:10 am and 09:20 pm, who were brought by their mother namely, . There is no permanent or partial damage or deformity to or burns or maims or disfigures or disables, any part or parts of the body, so charge under Section 326A or 326B is not made out. Applicant is in judicial custody since 19.03.2019.

Learned AGA objected the prayer and submitted that from the perusal of order, it reveals that initially revisionist absconded. Thereafter, proceedings was initiated against the revisionist under Section 83 Cr.P.C., then, he surrendered before the court below on 19.03.2019. On 16.12.2021, case was committed to Court of Sessions and is pending at the stage of framing of the charge. It is also submitted that there is prima facie material to frame charge under Section 326A IPC against the revisionist. One co-accused Jamaluddin @ Raju has been convicted under Section 326A and 506 IPC on 17.09.2021.

imprisonment for 10 years has been awarded to the co-accused.

Section 326A IPC lays down that "*whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, shall be punished with imprisonment for a term which shall not be less than ten years but which may extend to life imprisonment.*"

Learned counsel for the revisionist emphasizes only on the point that as there is no grievous hurt on the body of the victims so charge under Section 326A IPC is not made out. But from the reading of the Section 326-A IPC, it reveals that nine "OR" has been used which shows that for the charge under Section 326A IPC can be framed without grievous hurt to the victim. But grievous hurt to acid burn victim, is not mandatory in each case. Nine "OR" has been used to show that in case of permanent or partial damage, deformity, burns, maims, disfigures, disables any part of the body of the person, or by administering acid to that person, charge under Section 326A IPC should be framed in such situation. Thus, the submission of the learned counsel for the revisionist has no force.

The injury report of the victim _____ shows that there are following injuries on the body of victim dated 19.05.2014 :

1. *Reddish black injury over lt. cheek 2x2cm, 2cm medial to lt. ear.*
2. *Reddish black injury in the area of lateral surface of lt. forearm in the area of 10cmx6cm.*
3. *Burning sensation over lt. side of chest (in bra region)*

Above injuries are caused by acid burn. Duration fresh informed police.

Smt. _____ 18 years female has received following injuries :

1. *Reddish black burn injury over face and neck. Burn sensation present.*
2. *Reddish black burn injuries and on the medial side of lt. upper arm in the area of 8cm.*

Above injuries caused by acid burn. Duration fresh informed police. From the medical report, it appears that injured had sustained burn acid injury.

The provisions relating to charge are intended to provide that the charge shall give the accused full notice of offence charged against him. The purpose of a charge is to tell the accused

person as precisely and concisely as possible of the matter with which he is charged and must convey to him with sufficient clearness and certainty, what the prosecution intended to prove against him. At the time of framing of charge, the court is not required to screen evidence or to apply the standard whether the prosecution will be able to prove the case against the accused at the trial. The Court shall consider only the material placed before it by the Investigating Agency. Court has to see only prima facie case against the accused. Charge can be framed even on the basis of strong suspicion founded on material before the Court.

On the basis of above discussion, this Court is of the view that trial court has passed a legal order, there is not manifest error or material irregularity in the impugned order. There is prima facie evidence material against the revisionist to frame charge against the revisionist under Section 326A IPC also and in such circumstances applicant is not liable to be discharged.

Thus, this criminal revision has no force and is **dismissed, accordingly.**

Learned Trial Court is directed to frame charge against the revisionist and make endeavor to conclude the trial expeditiously, if there is no legal impediment.

Order Date :- 13.7.2022

Priya