

CRIMINAL
SIDE

323/129
Dg
421V
204K

Dr. Smt. Vidya Gokhale

vs
State.

Appeal
Revision

Acquittal for murder
No. 3840/2015

Reference
Miscellaneous

in continuation to letter

No. 258 dated 05-1-16

Encl.

Two certified copies
were attached 15-2-16.

IN THE HIGH COURT OF JUDICATURE
AT ALLAHABAD
LETTER FORWARDING COPY OF
COURT'S JUDGEMENT OR ORDER
(Chapter XVIII, Rule 43 or 44)

dated _____ the Allahabad
Lakhnaw day of _____ 20

THE SESSIONS JUDGE OF

Bareilly

dated 15-2-16

11579
74.16

Sir,

I am directed to forward for your information and communication to the parties a copy of the Court's Order in the case noted on the margin.

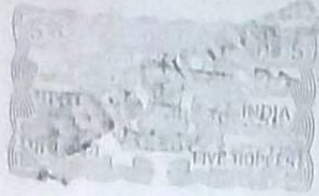
An extra copy of the Court's Order is also enclosed herewith for communication to the Magistrate concerned through the District Magistrate of _____.

I am to request you to report to this Court as soon as the order has been noted and complied with by all concerned.

For District Registrar
[Signature]

8-3-16

P.T.O.



S. T. No. 01 of 2011
 Crime No. 721 of 2000 Under
 section: 465, 467, 468, 471,
 477A, 420, 409, 120-B I.P.C. read
 with section 13(2) Prevention and
 Corruption Act. Police Station:
 Pooranpur, District: Pilibhit.

In The High Court of Judicature at Allahabad

3840

Criminal Revision No. of 2015

(Under Section 397/401 Cr.P.C.)

District: Bareilly.

Dr. Smt. Vidya Gokhale wife of Dr. R. N. Gokhale,
 Resident of Village: 68, Ashok Colony,
 Police Station: Sungadhi,
 District: Pilibhit.

4373-15
 13-10-15
 Revisionist.

Versus

State of U.P.

----- Respondent.

This is the first Criminal Revision against the Judgment and order dated 1.2.2015 passed by Shri Shiv Kumar Singh, Additional District and Sessions Judge/Special Judge (P.C.) Court No.2 Bareilly in Sessions trial No. 01 of 2011 arising out of Crime No. 721 of 2000 Under Sections 465, 467, 468, 471, 477A, 420, 409, 120-B I.P.C. read with section 13(2) Prevention and Corruption Act Police Station Puranpur, District Pilibhit, through which the learned Sessions Judge/Special Judge (P.C.Act) has framed charges under sections 465, 467, 468, 471, 477A, 420, 409, 120-B I.P.C. read with section 13(2) Prevention and Corruption Act against the revisionist.

[Signature]
 05/04/16

Court No. - 27

✱ **Case :- CRIMINAL REVISION No. - 3840 of 2015**

Revisionist :- Dr. Smt. Vidya Gokhale

Opposite Party :- State Of U.P.

Counsel for Revisionist :- Vinay Saran

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Ranjana Pandya,J.

Heard Sri Vinay Saran, counsel for the revisionist and learned A.G.A.

This revision has been preferred against the order dated 01.08.2015, passed by Additional District and Sessions Judge / Special Judge (P.C.) Court No. 2, Bareilly by which the charges were framed against the revisionist.

It is settled law that when the prosecution opens its case before the Sessions Court, if upon consideration of the record of the case and the documents submitted therewith, and after hearing the submission of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground to proceed against the accused, he shall discharge the accused and record its reason for so doing.

Section 228 Cr.P.C. runs as follows:-

"228. Framing of charge.- (1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-

(a) is not exclusively triable by the Court of Session, he may,

frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant- cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub- section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried."

Thus, a plain reading of Sections 227 and 228 Cr.P.C. shows that the Court is under a bounden duty to record its reasons, if he proposes to discharge the accused, but if the Judge proposes to frame charges against the accused, he has to only consider and hear the matter and opined and see, whether, there is ground for presuming that the accused has committed the offence.

In the present case, learned Trial Judge has opined that there was no ground to discharge the revisionist. There is no illegality, irregularity or impropriety in the order under revision. The present revision has no force and is liable to be dismissed.

Accordingly the revision is dismissed.

By Mrs. Ranjana Pandya, J.

Order Date :- 15.2.2016

Ram Murti

By
skh
05/04/16
TRUE COPY
Section 514
Copying (B) Department
High Court, Allahabad
COURT JUDICIAL
ALAHABAD

Court No. - 27

➤ **Case :- CRIMINAL REVISION No. - 3840 of 2015**

Revisionist :- Dr. Smt. Vidya Gokhale

Opposite Party :- State Of U.P.

Counsel for Revisionist :- Vinay Saran

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Ranjana Pandya,J.

Heard Sri Vinay Saran, counsel for the revisionist and learned A.G.A.

This revision has been preferred against the order dated 01.08.2015, passed by Additional District and Sessions Judge / Special Judge (P.C.) Court No. 2, Bareilly by which the charges were framed against the revisionist.

It is settled law that when the prosecution opens its case before the Sessions Court, if upon consideration of the record of the case and the documents submitted therewith, and after hearing the submission of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground to proceed against the accused, he shall discharge the accused and record its reason for so doing.

Section 228 Cr.P.C. runs as follows:-

"228. Framing of charge.- (1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-

(a) is not exclusively triable by the Court of Session, he may,

frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant- cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub- section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried."

Thus, a plain reading of Sections 227 and 228 Cr.P.C. shows that the Court is under a bounden duty to record its reasons, if he proposes to discharge the accused, but if the Judge proposes to frame charges against the accused, he has to only consider and hear the matter and opined and see, whether, there is ground for presuming that the accused has committed the offence.

In the present case, learned Trial Judge has opined that there was no ground to discharge the revisionist. There is no illegality, irregularity or impropriety in the order under revision. The present revision has no force and is liable to be dismissed.

Accordingly the revision is dismissed.

Sd/- Mrs. Ranjana Pandya, J.

Order Date :- 15.2.2016

Ram Murti

TRUE COPY

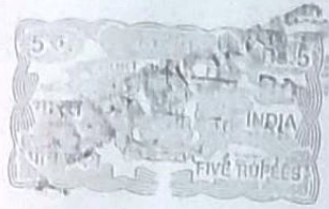
Sd/- Ram Murti

Section Clerk

Copying (B) Department
High Court, Allahabad



Ely
05/04/16



S. T. NO. 01 of 2011
Crime No.: 721 of 2000 Under
section: 465, 467, 468, 471,
477A, 420, 409, 120-B I.P.C. read
with section 13(2) Prevention and
Corruption Act. Police Station:
Puranpur, District: Pilibhit.

In The High Court of Judicature at Allahabad

3840
Criminal Revision No. of 2015
(Under Section 397/401 Cr.P.C.)

District: Bareilly.

Dr. Smt. Vidya Gokhale wife of Dr. R. N. Gokhale,
Resident of Village: 68, Ashok Colony,
Police Station: Sungadhi,
District: Pilibhit.

4373-15
REC'D
AWA
13-12-15
For
Mia
----- Revisionist.

Versus

State of U.P.

----- Respondent.

This is the first Criminal Revision against the Judgment and order dated 1.8.2015 passed by Shri Shiv Kumar Singh, Additional District and Sessions Judge/Special Judge (P.C.) Court No.2 Bareilly in Sessions trial No. 01 of 2011 arising out of Crime No. 721 of 2000 Under Sections 465, 467, 468, 471, 477A, 420, 409, 120-B I.P.C. read with section 13(2) Prevention and Corruption Act Police Station Puranpur, District Pilibhit, through which the learned Sessions Judge/Special Judge (P.C.Act) has framed charges under sections 465, 467, 468, 471, 477A, 420, 409, 120-B I.P.C. read with section 13(2) Prevention and Corruption Act against the revisionist.