IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B. CRIMINAL REVISION PETITION NO. 312/2013

PUSHPENDRA SINGH VS. THE STATE OF RAJASTHAN & ANOTHER.

DATE OF ORDER : 30.04.2013

HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN-II

Mr. Rohan Jain with Mr. Dharmendra Pareek, for the accused-petitioner.
Mr. N.R. Saran, Public Prosecutor, for Respondent No. 1-State.

BY THE COURT:

Heard learned counsel for the accused-petitioner as well as learned Public Prosecutor appearing on behalf of Respondent No. 1-State and perused impugned order dated 08.04.2013 and the documents produced by learned counsel for the petitioner.

2. This criminal revision petition has been filed against the order dated 08.04.2013 passed by learned District and Sessions Judge, Sawai Madhopur(hereinafter referred to as 'the Trial Court') in Criminal Case No. 18/2013, whereby learned Trial Court has ordered to frame charges under Sections 341, 323 and 307 IPC against the accused-petitioner.

3. Brief facts of the case are that on the basis of Parcha Bayan of the complainant-Respondent No. 2, Mustaq Ahmed, an F.I.R. No. 464/2012 was lodged on 16.09.2012 at Police Station Mantown, District Sawai Madhopur wherein it has been stated that on 16.09.2012 in the evening at about 5.30 PM, the complainant Mustaq Ahmed and Farooq Master were going on the motor cycle to give food

to their relative in the hospital. In the way, near Grain Yard, one Surendra Khatik, who is running mobile shop, along with his brother stopped them and with intention to kill them hit by iron rod due to which they received severe injuries on their bodies. The accused snatched Rs. 5,000/- and golden chain from his neck. On hue and cry Rashid Khan, Aminji, Sarfoo Bhai and many other persons gathered there and they saved them and admitted them in the General Hospital, Sawai Madhopur. On the basis of said Parcha Bayan, the Police registered case under Sections 323, 341, 307 and 379 IPC against Surendra and one other person. After investigation, the Police submitted charge sheet against the accused-petitioner only and left the accused Surendra, who is named in the FIR. Thereafter, learned Trial Court vide impugned order dated 08.04.2013 has framed charges under Sections 341, 323 and 307 IPC against the accused-petitioner. Being aggrieved with the same, the accused-petitioner has preferred present revision petition.

4. Although at the time of framing of charge, prima facie it has to be seen whether there is sufficient material on record for farming charge for a particular offence, but even then, it is legally required that reasons are recorded in support of the order framing charge. In the impugned order, this legal requirement is completely lacking. It was expected of the learned Trial Court to record the reasons in support of impugned order particularly when learned counsel for the petitioner-accused is demanding for discharge of the accused on the basis of facts and evidence available on record.

5. Thus, I am of the view that it would be in the interest of justice, if the impugned order to the extent of present revisioner-

petitioners namely Pushpendra Singh S/o. Shri Suraj Mal Khatik is set aside and appropriate direction is issued to the learned Trial Court to rehear the prosecution and the present accused-petitioner and then pass proper and reasoned order.

6. Consequently, revision petition filed by the accused-petitioner is partly allowed and the impugned order dated 08.04.2013 passed by the Trial Court in Criminal Case No. 18/2013 is set aside. Trial Court is directed to rehear the prosecution and accused-petitioner on the point of charge and without being influenced by previous order in any manner pass fresh reasoned and speaking order of framing charge or for discharging the accused-petitioner in accordance with law.

7. In view of above, stay application stands disposed of.

(NARENDRA KUMAR JAIN-II),J.

Manoj,
S.No. 53.

"All corrections made in the judgment/order have been incorporated in the judgment/order being emailed."

MANOJ NARWANI
JUNIOR PERSONAL ASSISTANT.