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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA**

**ON THE 14<sup>th</sup> OF MARCH, 2024**

**CRIMINAL REVISION No. 4558 of 2023**

**BETWEEN:-**

**SOHAN KOHLI S/O NARAYAN KOHLI, AGED ABOUT 36  
YEARS, OCCUPATION: NIL GRAM MENDAL, SIMROL,  
INDORE (MADHYA PRADESH)**

**.....PETITIONER**

**(SHRI NILESH CHOUDHARY, ADVOCATE)**

**AND**

**THE STATE OF MADHYA PRADESH STATION HOUSE  
OFFICER THROUGH POLICE STATION SIMROL  
DISTRICT INDORE (MADHYA PRADESH)**

**.....RESPONDENT**

**(MS. VANDANA RATHORE, PANEL LAWYER)**

.....  
*This revision coming on for admission this day, the Court passed the  
following:*

**ORDER**

Heard.

This criminal revision has been preferred by the petitioner/accused u/S 397 r/w S.401 of the Code of Criminal Procedure, 1973, being aggrieved by the order dated 28.08.2023 passed by the 5th Additional Sessions Judge, Dr. Ambedkar Nagar, District, Indore, whereby learned Trial Court has framed charges against the petitioner u/S 302 and 201 of IPC.

2. Prosecution story, in brief is that on 02.11.2022, at 08:55 PM, father(present petitioner) of the deceased Sanjana @ Sakina lodged a Dehati Nalisi stating that on the same day, his father was admitted at M. Y. Hospital,

Indore and his wife had gone to Indore to look after his father. The petitioner had gone to his farmland and his daughter/deceased was alone in the house. When the petitioner returned home at around 08:00 PM, he saw that the deceased committed suicide by hanging in the house. During post-mortem, it was found that death of deceased was due to asphyxia as a result of compressive injuries in neck within 24 hrs. Nature of death was homicidal. After mere enquiry, an FIR was lodged against the petitioner and a minor brother of the deceased. During investigation, it was found that there was telephonic conversation between the deceased and a person named Shubham @ Shivam. In the evening of 02.11.2022, Shubham had called Dayanand and had asked him to give phone to the deceased and let him talk to her. The conversation was heard by co-accused/brother of the deceased. Brother had given life threat to Shubham and he rushed to pelt stone on the deceased but Dayanand and others had intervened in the matter. It was also found that the petitioner and co-accused killed the deceased by strangulation and to hide the offence, the petitioner had given false information that the deceased had committed suicide. The accused persons wanted to do last rites of the deceased without intimating the police. But the police had reached at the place of incident after receiving information from unknown person. The petitioner had stated that he had burnt the noose rope. It was also found that the height of hook on which noose was tied, was 9 ft 4 inch high, which was far beyond the reach of the deceased. During investigation, the petitioner was arrested. A blood stained shirt of the petitioner and rope used in the crime were seized from the petitioner. After completion of investigation, charge-sheet has been filed

3. Learned counsel for the petitioner/accused submits that the petitioner

has not committed the offence and has falsely been implicated in the case. At the time of the incident, the petitioner was not present at his house. As alleged, allegation of strangulation of the deceased is on minor son of the petitioner and the petitioner has concealed the evidence and had given false information of the incident to the police. Prima facie, charge u/S 302 of IPC is not made out against the petitioner but the Trial Court, without considering the evidence collected during investigation, has wrongly framed charge u/S 302 of IPC against the petitioner. Therefore, it is prayed that the impugned order is liable to be set aside.

4. On the other hand, learned counsel for the respondent/State has opposed the prayer of the petitioner and submits that as per post-mortem report, injuries were found on the bodies of the deceased and the concerned doctor opined that cause of death of deceased was asphyxia as a result of compressive injuries on neck and was homicidal in nature. The incident had taken place inside the house of the petitioner. It is not disputed that the deceased was residing with the petitioner in the same house. The defence taken by the petitioner that he was not present at the time of the incident in the house is a matter of evidence. There is prima facie sufficient material in the case against the petitioner therefore, learned Trial Court has rightly framed charges against the petitioner. Hence, the petition is liable to be rejected.

5. I have heard learned counsel for the parties and perused the records.

6. The Hon'ble Supreme Court in the case of **Ghulam Hassan Beigh V Mohammad Maqbool Magrey & Ors. [2022 LiveLaw (SC) 631]** has reiterated as under:-

*“21. This Court in the case of Union of India v. Prafulla Kumar Samal and another, (1979) 3 SCC 4, considered the scope of enquiry a judge is required to make while considering the question of framing of charges. After*

*an exhaustive survey of the case law on the point, this Court, in paragraph 10 of the judgment, laid down the following principles:-*

*“(1) That the Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.*

*(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be, fully justified in framing a charge and proceeding with the trial.*

*(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*

*(4) That in exercising his jurisdiction under section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”*

7. In the instant case, injuries were found on the body of the deceased. Incident had taken place inside the house. Death of the deceased was homicidal in nature. Though, there is no direct evidence in this case and the case depends upon circumstantial evidence. Strong chain of the circumstance is present against the petitioner. Therefore, this Court is of the view that learned Trial Court has rightly framed charges against the petitioner. The impugned order is not perverse and improper therefore, the same does not require any interference.

8. Resultantly, this criminal revision sans-merits and is hereby **dismissed**.

**(PRAKASH CHANDRA GUPTA)**  
**JUDGE**

