

Complainant cannot move application for framing of charges against the accused: Allahabad High Court

Jawahar Lal And Another

...Applicant

versus

State Of U.P. Thru. Prin. Secy. Home Lko. And Another

...Opposite Parties

Date of Judgement: 29.11.2023

Citation: 2023:AHC-LK0:78945

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Facts:

- FIR lodged against applicants alleging they killed complainant's son who was having an affair with applicant no. 2
- Initially FIR filed for missing person. Later dead body found and FIR modified to allege murder by applicants.
- Chargesheet filed by police under Section 306 IPC (abetment to suicide).
- On complainant's application under S.228 CrPC, charges framed against applicants u/s 302/34, 201 IPC.

Applicants' Arguments:

- Delay of 25 days in filing FIR shows malafide intention.
- Chargesheet filed by police under Section 306 IPC after investigation but trial court framed charges under Sections 302/34, 201 IPC on complainant's application. This is impermissible.
- Relying on Supreme Court judgment in P. Karthikalakshmi case, complainant has no right to seek alteration of charges. The power lies exclusively with the Court.

Complainant's Arguments:

- Statement of applicant no. 2 indicates motive to kill the deceased.
- Though complainant moved application seeking framing of charges, Court applied its mind and framed charges. No illegality.
- No bar in CrPC against complainant moving an application for framing of charges. It only helped Court frame correct charges.

State's Arguments:

- Accused can move discharge applications though CrPC is silent. So complainant can also move application for framing charges. No illegality.

Court's Reasoning and Conclusion:

- CrPC S.228 does not permit complainant to file application for framing charges. Court has to apply mind based on chargesheet only.
- Framing charges based on complainant's application is against CrPC S.228. Relying on complainant's application made the order unsustainable.
- Impugned order set aside. Matter remitted back to frame charges as per procedure in CrPC S.228.
- Application allowed.

Sections Referred: IPC Sections 302, 306, 201, 34; CrPC Sections 227, 228, 464

Case Law Referred: P. Karthikalakshmi vs Sri Ganesh (Supreme Court)

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