

State vs. Suman Mittal etc. 1212-19

Present: Sh. Harveer Malik, APP for the State assisted by Sh. Sushil Sardana, counsel for the complainant.
Accused Utsav, Suman, Shyam Sunder on bail with Sh. N.P. Sharma, Adv.

Today the case was fixed for argument on charge as well as for filing reply and argument on the application for permanent exemption of accused Suman and Shyam Sunder. Reply not filed. Argument heard.

As regard to the application of charge, it is submitted by the Ld. APP for the State that there are sufficient evidence on the file to frame the charge against the accused persons. Accordingly, charge be framed against them.

On the other hand, Id. Defence counsel has submitted that accused and his family members were falsely implicated with the purpose to harass them. It is further submitted that the complainant herself left the house of the accused. It is further argued that no injury is attributed by the complainant to the accused persons. It is further submitted that accused persons may discharge in support of his contention, the Ld. Counsel for the accused persons has placed on file the written arguments as well as the following authority in case “ **T. Kaleem & Ors. Versus The State of A.P**” 2014 (2) Criminal Court Cases 720 (A.P).

After hearing the arguments advanced by Ld. APP for the State and Id. Defence Counsel and perusal of the case file, this court is of the considered view that there are sufficient evidence for framing of charge against accused persons under Section 406/498-A/34 of IPC. However, no offence under Section 506 IPC is made out. It is well settled law that the court has to see prima-facie case at the time of framing of charge. Accordingly, **the accused persons be charged under Section 406/498-A/34 IPC.**

Further, as regard to the application for permanent exemption of accused Shyam Sunder and Suman Mittal moved by the defence counsel, it is submitted that accused Shyam Sunder is an old age person, residing at Rohini, Delhi and suffering from various disease like Brain stroke, high blood pressure, diabetes due to which he is facing difficulty during traveling and further accused Suman Mittal who is also suffering from knee and back pain and she has stayed at home to take care of her husband and it is very difficult for her to travel from

Delhi to Rohtak on each and every date of hearing and requested that permanent exemption of both the accused persons be allowed. However, they are ready to appear before the court as and when required.

On the other hand, Ld. APP for the State as well as ld. Counsel for the complainant have not filed reply to these applications. However they have opposed the application alleging that the presence of the accused persons are required on each and every date and prayed for the dismissal of the application.

After hearing the arguments advanced by Ld.APP for the State and ld. Defence counsel and from perusal of the case file, this court is of the considered view that both accused Shyam Sunder and Suman Mittal are old age person and further the trial of the case will take long time and there is no reason for calling the such old aged and ill witnesses again and again on each and every date of hearing and remain sitting in the court, as the same will cause harassment and mental agony to the old age persons. Further, in case of **“Rajesh Sharma and others Vs. State of U.P & ors” 2017 AIOI 3613**, it was held by the Hon’ble Apex Court that “personal appearance of all the family members and particularly out station members may not be required and the trial Court ought to grant exemption from personal appearance or permit appearance by video conferencing without adversely affecting the progress of trial.”

Keeping in view the particular facts of the present case and as per law laid down by Hon’ble Apex Court, the present application for permanent exemption of accused Shyam Sunder and Suman Mittal is hereby allowed. However, they are directed to appear before the court as and when required.

Now, the case is adjourned to 09.10.2018 for prosecution evidence . Summons upon unexamined Pws be issued for the date fixed through special messenger.

(Bharat)
JMIC, Rohtak
UID No. HR0453

05.07.2018
Sunny Pruthi
Next Date: 09.10.2018
Purpose: