

State vs Nadeem Ahmed And Others on 1 August, 2022

Author: Vinod Chatterji Koul

Bench: Vinod Chatterji Koul

Sr. No. 46

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRR no. 65/2012

State

..... Applicant/Petitioner(s)

Through: Mr. Suneel Malhotra, GA

Vs

Nadeem Ahmed and others

..... Respondent(s)

Through: None.

Coram: HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE
ORDER

01.08.2022

1. This criminal revision petition has been filed against order dated 31.05.2012 (for brevity "order impugned") passed by the learned Additional Sessions Judge, Doda (hereinafter referred to as "the trial Court) whereby the respondents have been discharged of offence punishable under Section 376/342 RPC.

2. The order of the trial Court has been challenged precisely on the ground that the prosecutrix has supported the allegations in her statement recorded under Section 161 Cr.P.C. whereas in her statement recorded under Section 164-A Cr.P.C., she has retracted from her statement recorded under Section 161 Cr.P.C. and has not supported the prosecution.

3. The trial Court has considered her statement recorded under Section 164-A Cr.P.C. and held that the charges have not been established against the accused-respondents herein, thus, discharged them of the said offences.

4. Mr. Suneel Malhotra, learned GA has fairly conceded to the position of law that for any such heinous offences, investigating officer is required to record the statement under Section 164-A

Cr.P.C., which statement was recorded in this case also during investigation. He further submits that the statement of the prosecutrix recorded under Section 164-A Cr.P.C. does not support the prosecution case. The trial court has considered the statement of the prosecutrix recorded under Section 164-A Cr.P.C and, while considering the same, has come to the conclusion that no case has been made out which would warrant framing of the charge against the accused-respondents herein.

5. I have also gone through the record of the file as well as the order impugned and also the statement of the prosecutrix recorded under Section 164-A Cr.P.C which has been recorded during the course of investigation. The said statement on perusal makes it clear that the prosecutrix has not supported the prosecution and in view of the matter, no case is made out for framing the charge against the accused.

6. Thus, there is no illegality in the order impugned passed by the trial Court and hence, the present criminal revision petition shall stand dismissed.

(Vinod Chatterji Koul) Judge Jammu 01.08.2022 Sahil T Whether the order is speaking? Yes/No
Whether the order is reportable? Yes/No