

Orders on application U/s 227 of Cr.P.C.

The advocate for Accused No.2 has filed an application U/s 227 of Cr.P.C prayed to discharge the Accused No.2 for the offences punishable Under Section 302 and 201 of IPC.

2. He is contended that no specific allegations against the Accused No.2 in complaint, FIR, and statements of Accused No.1. his name is not mentioned in the complaint, FIR and statements of Accused No.1, no reasonable grounds to believe that he is involved in alleged offences, no prima facie case against him, he is falsely implicated in the case by police only for the reason of he sold the mobile phone sim card to Accused No.1. The respondent police have not considered the documents collected during the sell of the sim card. The FIR, complaint and statements of Accused No.1 not disclosed the rule of petitioner and he is no way colluded with the Accused No.1, not committed the alleged offences and he is not committed any offences, the allegations are not attracted against the petitioner, no way concern to the Accused No.1 and he has no intention and no mensuria to commit the offences. No allegations made from the Accused No.2 except simcard sold receipt

took no iota of evidence against him, no witnesses against the AccusedNo.2 except CW12, 14 and 24 are not responsible of the alleged offences and the allegations against the AccusedNo.2 only to selling of simcard by violating the mandatory requirements, the alleged offences against him are groundless and no sufficient grounds have perusing against him. Among other grounds he is prayed to allow the application.

3. The learned Public Prosecutor has filed objections contending that there is a prima facie material against the Accused and the alleged offences are henious offence and already the charge sheet has been filed. After detailed investigation the application is not maintainable under the law and facts of the case the charge sheet materials and statements of the witnesses are prima facie shows that the Accused has committed the alleged offences, if he has any grievances he may raised the same is defenced at the time of cross examination and truth will come out and at this stage the application is not liable to be considered and the alleged offense requires full pledged trial. The application is filed only to drag on the matter. Among other ground he has prayed to reject the application.

4. Heard arguments and perused the documents.

5. The points that arise for my determination are as under:

1. whether the Accused No.2 has made out just and reasonable grounds to allow the application and to discharge him for the offences punishable U/s 302 and 201 of IPC

2. What order?

6. My findings on the above points are

Point No.1: Negative.

Point No.2: As per the final order

For the following:-

REASONS

7. The IO has filed charge sheet against the Accused persons alleged the commission of offences punishable U/s 201 and 302 of IPC.

8. The case of the prosecution is that, on 14.12.2017 at about 3.30 PM the dead body of Anil was found in the land of Sy.No.31 of Uttari village, the police have arrested the AccusedNo.1 Shiva BasaveGowda on 19.12.2017 on the allegation of murder of Anil. AccusedNo.1 had love affair with his

colleague Nethra, the said Nethra was engaged with deceased Anil and due to love affair the AccusedNo.1 murder the deceased by Electrocution AccusedNo.2 is the mobile phone simcard promoter and the shop of Gandi Bazar, Bengaluru and Accused No.1 had purchased the mobile phone simcard in name of one Manjunatha from the Accused No.2 and Accused No.1 utilize simcard to communicate with the deceased and the Accused No.2 negligently sold the simcard to the AccusedNo.1 without following the company rules and he is not properly verified the documents to issue mobile sim card to the Accused No.1. On 30.03.2018 the police arrested the Accused No.2.

9. The circle inspector of Kaggalipura police station had filed a complaint by alleging the above said fact. It is true that the name of the Accused No.2 is not appear in the FIR and complaint, but during the investigation the statements of the witnesses had recorded and during investigation the IO has found that the Accused No.2 is sold the mobile sim card without following the rules contemplated as per the guidance of the company it helps to screen the vendor by selling the same to one person in the name of the Yogesh of Hassan but Accused No.2 and it helps him to screen

the offender after investigation the IO found that the applicant helps the Accused No.1 to screen him and Accused No.2 gave voluntary statement before the IO and recorded the statements of CW12, 14 & 24, they have clearly stating about the alleged offences. The voluntary statement of the Accused and the statement of the witnesses CW12, 14 and 24 show that the prima facie material to frame charge against Accused without recording the evidence of witnesses no opinion can be formed against either side though the name of the Accused No.2 is not appear in the complaint and FIR it is only not the ground to discharge the Accused the alleged offences requires the trial. The Accused has right to arise grounds alleged in the application at the time of cross examination was during the final hearing of the case, the alleged offences are heinous punishable with imprisonment for life and death. The name not appeared in the FIR and complaint as not taken so seriously and the IO has clearly mentioned the rule of the Accused No.2 in the charge sheet materials the allegations requires the trial. I am of the opinion that there are sufficient materials to frame the charge against the Accused persons.

10. Point No.2: In view of the discussions made above, I proceed to pass the following:

ORDER

The application filed by the Accused No.2 is rejected.

IV Addl. Dist. & Sessions Judge.,
Bengaluru Rural District,
Bengaluru.

For charge

6th ADJ.