

Court No. - 84

Case :- CRIMINAL APPEAL No. - 6838 of 2023

Appellant :- Aman Kumar

Respondent :- State Of U.P. And Another

Counsel for Appellant :- Sundeep Shukla

Counsel for Respondent :- G.A., Satyam Narayan

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard learned counsel for the appellant, learned counsel for the opp. party no.2, learned A.G.A. and perused the record.

The present appeal is preferred against the order dated 30.7.2022 passed by Special Judge SC/ST Act, arising out of case crime no. 127 of 2022 u/s 306 I.P.C. and 3(2)(5) of SC/ST Act, police station Pallavpuram, District Meerut, whereby the appellant has been summoned to face trial under above mentioned sections.

It is argued by the learned counsel for the appellant that the deceased/victim was in one sided love with the appellant and when he denied of marriage with the girl, she herself committed suicide by eating some poisonous substance. She was a major girl. She could never be instigated to consume any poisonous substance. As per the post mortem report, the viscera of the deceased was preserved and viscera report is still awaited. The attention of the court is drawn towards the statement of constable Akash who is said to have sent Aman Kumar/appellant and the deceased to the hospital. As per CCTV footage also the deceased went alone from her house. As per statement of witness Rahmat Ullah, the victim was sitting alone on the back seat of the bus wherein Rahmat Ullah was travelling. She borrowed his mobile on the pretext of making a call to her house and made a call to the appellant that she had consumed some poisonous substance. After this only Aman Kumar/ appellant reached at the spot and took the victim to the hospital. This act does not come within the definition of abetement because as per definition of abetement under section 107 I.P.C., there is neither any instigation nor any conspiracy or an act or omission in pursuance of that conspiracy on behalf of the appellant.

The attention of the court is also drawn towards the judgment of Apex Court in **State of West Bengal Vs. Indrajit Kundu and**

others decided on 18.10.2019 and is submitted that as per the facts of the case when the parents of the deceased girl shouted at her calling her a call-girl, next day the deceased girl committed suicide and on the basis of material placed before the Apex Court, the Apex court reached at the conclusion that suicide committed by the victim next day of calling her a call-girl by her parents does not come within the definition of abetment. The apex court found that suicide committed by the victim cannot be said to be the result of any action on the part of the respondent nor can it be said that commission of suicide by the victim was the only course open to her, due to the action of the respondents.

On the basis of the above finding of the Apex Court, it is argued by the learned counsel for the appellant that he never instigated the victim/deceased to consume poison or otherwise commit suicide. It was mere her one sided love with the appellant that when the appellant was not responding the calls of the victim/deceased, she herself committed suicide. Not attending calls of the deceased does not come within the definition of abetment. As neither there was any proposal of marriage from the side of the appellant nor their marriage was fixed thus, the appellant can not be said to put the deceased in a condition that she was left with only remedy to commit a suicide.

Learned A.G.A.drew the attention of the court towards the telephonic conversation between the appellant and her maternal grand mother appended with the paper book wherein he had informed her grand mother that the deceased had consumed some poisonous substance but she is still alive. This act/conversation of the appellant would not be said to be an abetment.

Learned counsel for the opp. party no. 2 opposed the prayer and submitted that the deceased was a 19 years old student pursuing her B.A. Part-I course. On the basis of the statements of the witnesses placed on record, the direct involvement of the appellant is there in the suicide committed by the victim.

From the above discussions, it is clear that the deceased herself consumed some poisonous substance. It also appears from the facts above mentioned that the deceased and the appellant were in talking terms. It is very much clear from the statement of constable Akash that when he got information that a young girl in inebriated condition is lying on a bench on the bus stand, he reached on the spot. The present appellant is also said to have come on the spot as soon as he reached there. In front of him, the present appellant accepted that he knew the victim she was 'Khushi'. As per the

constable the deceased in inebriated condition and the appellant both were sent to the District hospital by an E-rickshaw. The constable also went to the hospital where first aid was given to her. Then the victim was referred to Medical college, Meerut and was sent there by an ambulance along with Aman Kumar/appellant. It was only after this that the father of the deceased was informed by this constable. Arrival of the appellant on the spot prima facie shows the involvement of the appellant with the victim. As per the learned counsel for the appellant it may be one sided love or it may also be possible that both might be in love. Whether there was any instigation on the part of the present appellant in committing suicide by the deceased or not would only be decided after the evidence of the parties. So far as the judgment referred above (**West Bengal Vs. Indrajit Kundu and others**) is concerned that judgment was passed at the stage of prayer of discharge, while in the present case it was the stage of taking cognizance against the appellant wherein the trial court had to see only the prima facie case. The presence of the appellant along with the deceased when she was found in inebriated condition at the bus station shows his prima facie involvement, the matter shall be finally decided by the trial court itself after the evidence of the parties.

In the opinion of the court, the appeal has no merits and is liable to be dismissed.

Appeal is hereby dismissed.

Order Date :- 6.11.2023

Gss