

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR.M.P. No.1140 of 2015**

Ankit Patel, S/o. Basant Kumar Patel, aged about 21 years, Medical Student, Permanent Resident of Village-Ghughwa, Post – Jatari via Kodatarai, Thana-Pusaur, District – Raigarh with presently resident of Qtr.No.44, Panchvati Nagar, Boirdadar, Raigarh (C.G.)

---- Petitioner**Versus**

State Of Chhattisgarh, Through : Thana Chakradhar Nagar, Raigarh (C.G.)

---- Respondent

For Petitioner	:	Mr. U.N. Awasthi, Sr. Advocate with Mr. Dhaniram Patel, Advocate.
For State/Respondent	:	Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**C A V Order****21/12/2015**

1. Challenge in this petition is to the proceedings of Criminal Case No.16/2015, State of C.G. Vs. Hiramani Patel & another, arising out of the Crime No.317/2014, for the offence punishable under Section 306/34 of I.P.C. registered at P.S. - Chakradhar Nagar, Raigarh.
2. The prayer is made to quash the FIR dated 10.11.2014, consequent illegal arrest & investigation and the repeated remand on the different dates, thereby entire proceeding has been sought to be quashed of criminal case.

3. Brief facts of the case are that one Nishant Upadhyay, student of MBBS First year, committed suicide on 08.11.2014 by hanging himself in hostel of Medical College at Raigarh. It is the case of the prosecution that he was subjected to torture and ragging by the petitioner and other co-accused. Consequently, because of such circumstance, he committed suicide. According to the prosecution, the petitioner alongwith other co-accused used to beat the deceased and also subjected him to wash their cloths and further used to misbehave in state of intoxication after consuming liquor and cannabis and the torture extended to the extent that the deceased was under fear while in hostel and thereby hanged himself on 08.11.2014.
4. Learned counsel for the petitioner would submit that the evidence collected by the prosecution do not make out the case of instigation to commit suicide against the petitioner. It is stated according to the complainant himself, the deceased returned from his holidays after Deepawali festival on 07.11.2014 at 10.30 PM subsequently on 08.11.2014, he committed suicide, therefore, between the short period of time i.e. 07.11.2014 to 08.11.2014, there can not be any chance of instigation and it amounts to abuse of process of Court. It is stated that the petitioner himself is a student and part of Ante Ragging Committee and he has been falsely implicated because of the political influence of the parents of the deceased. It is further submitted that according to the report itself, when the deceased returned on 07.11.2014, he was hail & hearty and was happy and on the next day, he had committed suicide, it can not be attributed to the petitioner. He would further submit that the arrest made is bad in law as it has been done against the statutory

mandates of Section 41 of Cr.P.C. He would further submit that even the charge-sheet is seen, it would not make out the case of any abetment and without any evidence, the petitioner who is the student, he has been implicated in the case, which violates his right under Article 14 and 21 of the Constitution of India. He would further submit that the evidence collected by the prosecution would fall in the category of hearsay evidence and also would be inadmissible in view of Section 32 of the Evidence Act and no direct evidence has been produced. Therefore, it is contended that the entire prosecution, the arrest, the repeated remand and cognizance is contrary to the law. The counsel therefore, submits that the petition has to be allowed at threshold.

5. Per contra, learned State counsel opposes the arguments and would submit that according to the prosecution, the evidence collected, the applicant alongwith co-accused used to torture the deceased and he was subjected to assault by the petitioner and the co-accused. Further ragging was also made on him and the deceased was also made to wash the cloths of the petitioner and co-accused. He would further submit that according to the statements of Aishwarya, Rishabh Singh and father of the deceased, Anup Kumar Upadhyay, prima-facie case is made out against the petitioner.
6. I have heard the learned counsel for the parties and perused the charge-sheet.
7. The FIR was made by the father of the deceased, wherein this petitioner has been categorically named that in state of intoxication, while ragging the deceased, he was physically tortured. It is stated that this was told by his son. The charge-sheet also contains face-book

interaction wherein the deceased has narrated that “Mar Rahe Hai Bahut Jyada” including the teachers, HOD and seniors. Further allegation is attributed to the seniors as also some teachers that threat was extended to make the deceased faint in examination. Different narration repeatedly it has been stated that senior “Marte Hai”. Now reverting back when the statement of Aishwarya one of the witness is perused, she has stated that when she met with Nishant, at Varanasi during vacation, he had named of his two seniors i.e. Heeramani Patel & Ankit Patel, and it was told that both the seniors in state of intoxication of liquor and cannabis, used to assault, the deceased and one teacher namely Pooja Mam used to insult him on the ground that he has procured the seat of SC & ST. Statement further discloses that when it was advised by such witness to report the matter to the management, it was replied that the teachers also do not cooperate. In demonstrating the ragging and it was narrated that deceased was not allowed to go out of the class and they were forced to wash the cloths of the seniors.

8. In statement of Rishabh Singh is also of relevance since he also stated that before going to college he had conversation with the deceased. It is stated that when the witness Rishabh asked the deceased how is he, it was replied that he was not well and he was being brutally beaten and HOD and some teachers were also named. Further statement of Rishabh Singh shows that when he met with deceased on 21.10.2014 he had talked with him, the deceased was under great fear to go back to the college because Heeramani Patel and Ankit Patel in the state of intoxication used to beat the deceased and it was also disclosed that

they used to get their clothes washed. When it was asked by this witness that why the deceased did not make any complaint, it was replied that the students were instigated by the professors. The mother of the deceased, Preeti Upadhyay has also narrated the same thing and named that her son has complained that Heeramani Patel and Ankit Patel in the state of intoxication used to torture and assault him and they used to rag deceased in different ways.

9. Therefore, perusal of the statement and the documents collected by the prosecution, prima-facie it appears that primary evidence is present. At this stage taking into the nature of allegations it can not be determined whether it would end up in acquittal or conviction. The evidence prima-facie shows immediately before the deceased returned back to his hostel, he met with his friend at Varanasi and disclosed name of this applicant, who was harassing him. The statement would go to show that the petitioner was scarred of the conduct of applicant and co-accused which continued and ultimately ended up at suicide, therefore, the primary evidence of instigation can be gathered from the circumstances by reading of the statement and inference can be drawn. The same however, is subject to test during evidence before the Court below as the petitioner would be at liberty to demolish the evidence by cross-examination.
10. So, if the suicide of the deceased on 08.11.2014 is considered in terms of the allegation levelled against this petitioner, it establishes the casual nexus relationship. This fact can not be shelved that different individuals in a given situation react and behave differently because of the personal meaning they add to each event. Thus accounting for

individual vulnerability to suicide, each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life. Therefore, on the basis of the material on record, I am of the opinion that commission of offence has a probable consequences with the allegation levelled by the witnesses.

11. In the light of the material on record, prima-facie by invoking the jurisdiction under Section 482 of Cr.P.C., this Court can not go into mini trial so as to infer and accept the arguments of the petitioner and appreciate the evidence. It is for the petitioner to establish his defence by demolishing the case of the prosecution during cross-examination. In a result, the submission made by the petitioner appears to be misconceived. This Court in exercise of its power under Section 482 Cr.P.C. can not hold a full fledged enquiry, specially when the offence is prima-facie broadly satisfied.
12. In a result, the petition has no merits and accordingly it is dismissed at the motion stage itself.

Sd/-
(Goutam Bhaduri)
JUDGE