

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. REVISION APPLICATION NO. 146 OF 2015

Shri Sudhir Mukund Chavan

... Applicant.

V/s.

The Inspection of Police,
Wanavadi Police Station, Pune & Anr.

... Respondents.

Mr. Kuldeep S. Patil, Advocate for the Applicant.

Mr. Ajay Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 31st MARCH, 2015

P.C. :

1 Admit. By consent, heard finally at the stage of admission.

2 The applicant is facing trial for the offence punishable under section 307 of the Indian Penal Code. The co-accused Ms. Nausheen Maqsood Lambe (Navsheen Maqsood Lambe) was facing trial with the aid of section 34 of the IPC in the same case. She has been directed to be discharged by the order of this court dated 9th January, 2015 passed in criminal revision application no. 345 of 2014.

3 The deceased - Pravin was studying at Pune and was staying at A/119 Panchratna Apartment, Bhairobhanala,

Pune. The deceased had developed intimacy with the co-accused Ms. Nausheen, who was also studying at Pune. It is alleged that during the period of friendship / intimacy between the deceased and said Nausheen, Nausheen developed relationship with the applicant - Sudhir Chavan, who was working as Senior Officer of the Company where Nausheen herself was working. The deceased did not like her intimacy with the applicant. The applicant also came to know about the same. It is alleged that the applicant had threatened the deceased, directing him to leave Pune else he would be killed.

4 The deceased had committed suicide at his native place at Aurangabad in the month December 02, 2012. The matter was reported to the police at Wanavadi Police Station, Pune and FIR was registered for the offence punishable under section 306 of the IPC against the applicant and the said Nausheen.

5 It is submitted by learned counsel Mr. Kuldeep Patil for the Applicant that there are no allegations at all of any nature in the chargesheet which may amount instigation on the part of the applicant. It is submitted that some vague allegations have been made and that these allegations may not fall within the definition of the abetment as defined under section 107 of the IPC. The learned counsel Mr. Kuldeep Patil has relied upon the judgment of the Supreme Court in the case

of **Gangula Mohan Reddy vs. State of Andra Pradesh**, (2010) 1 SCC 750. The relevant portion is reproduced as under :

“17. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide.”

The learned counsel has also relied upon the judgment of the Supreme Court in the case of **Sanju @ Sanjay Singh Sengar vs. State of M.P.** (2002) 5 SCC 371. The relevant portion is reproduced as under :

“6 Section 107 IPC defines abetment to mean that a person abets the doing of a thing if he firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing, or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing.”

14 A plain reading of the suicide note would clearly show that the deceased was in great stress and

depressed. One plausible reason could be that the deceased was without any work or avocation and at the same time indulged in drinking as revealed from the statement of the wife Smt. Neelam Sengar. He was a frustrated man. Reading of the suicide note will clearly suggest that such a note is not the handiwork of a man with a sound mind and sense. Smt. Neelam Sengar, wife of the deceased, made a statement under Section 161 CrPC before the investigation officer. She stated that the deceased always indulged in drinking wine and was not doing any work. She also stated that on 26-7-1998 her husband came to them in an inebriated condition and was abusing her and other members of the family. The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25-7-1998 and if the deceased came back to the house again on 26-7-1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25-7-1998. Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of "abetment" are totally absent in the instant case for an offence under Section 306 IPC. It is in the statement of the wife that the deceased always remained in a drunken condition. It is common knowledge that excessive drinking leads one to debauchery. It clearly appeared, therefore, that the deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25-7-1998 where the appellant is stated to have used abusive language. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to the irresistible conclusion that it is the deceased and he alone, and none else, is responsible for his death."

6 My attention has been invited to the statement of the complainant who is brother of the deceased. The deceased had allegedly told her brother that the applicant had threatened her. Alleged statement was made by the deceased before the complainant in the month of April, 2012 and the incident had taken place in the month of December, 2012. This court while deciding the application of the co-accused Navsheen has already stated that since there was a long gap between the alleged statement and the incident of the death of the deceased, the statement made by the deceased to her brother cannot be called as a dying declaration. There is no other material except the vague allegations. In my view, no case is made out for framing charge under section 306 of IPC against the applicant.

7 The application of the applicant had been rejected by the learned trial court by his order dated 09.09.2014. The said order is set aside.

8 The applicant is discharged of the offence punishable under section 306 of the IPC. His bail bond shall stand cancelled.

9 The revision application is disposed of in the above terms.

(JUDGE)