

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION NO. 5 OF 2016**

Rajendra Kumar Dadsena S/o Manohar Lal Dadsena, aged about 23 years, occupation, Agriculturist, R/o village Karnoud, PS Birra, Civil and Revenue District, Janjgir Champa (CG).

---- Applicant

VERSUS

State of Chhattisgarh through the District Magistrate, Janjgir, Distt. Janjgir Champa (CG).

---- Respondent

CRIMINAL REVISION NO. 172 OF 2016

Umesh Singh, son of Shashi Bhushan Singh Khatri, aged about 43 years, resident of Podi Shankar, Police Station Bamlidih, District, Janjgir Champa (CG).

---- Applicant

VERSUS

State of Chhattisgarh through the District Magistrate, Janjgir, Distt. Janjgir Champa (CG).

---- Respondent

For Applicants
For Respondent/State

Shri Sunil Sahu and Shri UKS Chandel, Advocates.
Ms. Smita Ghai, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy**Order On Board****12/05/2016**

1. As common questions of law and facts are involved in both the criminal revisions, they are being disposed of by this common order.
2. By way of these criminal revisions, the applicants seek quashment of charge under Section 306/34 IPC framed against them by the Sessions Judge, Janjgir

Champa, in Sessions Trial No.116/2015 dated 01.12.2015.

3. As per the prosecution story, Police Station Birra, on receiving information has registered Merg No.18/14 wherein they had found dead body of the deceased Sukhram Yadav hanging on 29.06.2014. FIR was registered by the Sub Inspector, Police Station, Birra, on the basis of a suicidal note in which the applicants along with other co-accused have been specifically named.
4. A plain reading of the suicidal note would reflect that the applicants along with other co-accused had put the deceased under pressure for depositing the misappropriated amount as a result of which, the deceased took the decision of committing suicide by hanging on 29.06.2014.
5. On the basis of the suicidal note, the police registered a case under Section 306/34 IPC against the present applicants and other co-accused on 03.07.2014 as Crime No.108 of 2014. The statements of the family members of the deceased were also recorded under Sections 164 and 161 Cr.P.C. It was thereafter that the police authorities filed challan on 02.04.2015. The matter was placed before the Sessions Judge who framed the charge under Section 306/34 IPC. The entire framing of the charges by the court below as per the counsel for the applicants was on the basis of the suicidal note.
6. The applicants have therefore, through the instant criminal revisions, intended to challenge the said framing of charges under Sections 306/34 IPC. The challenge by the applicants was that no case under Section 306 IPC nor the ingredients under Section 107 IPC is made out against them for the alleged death of deceased.
7. Counsel for the applicants submit that a plain reading of the suicidal note itself would reflect that the suicide note was written by the deceased on 10.03.2014 addressed to the Station House Officer, Police Station, Birra, whereas, he

had committed suicide on 29.06.2014 i.e. one day prior to his retirement just to avoid depositing of alleged amount with the government. A perusal of suicide note would also show that he tried to complain the matter with regard to alleged misappropriation of funds two months prior, but he didn't do so. The contention put forth by the applicants challenging framing of charge was that there is no material on record that the applicants have abated the deceased to commit suicide. Therefore, since no case is made out against the applicants, they are entitled for being discharged from the offence under Section 306/34 IPC.

8. In support of his contentions, they placed reliance on the decision of the Supreme Court rendered in the matter of Sanju Alias Sanjay Singh Sengar vs. State of M.P. Reported in (2002) 5 Supreme Court Cases 371 as also the judgment dated 3.11.2011 passed by this Court in criminal revision No.511/04 (Nihalluddin @ Munna vs. State of Chhattisgarh). Both the cases referred above pertain to the offence punishable under Section 107 IPC. The Supreme Court in the case of Sanjay Singh Sengar vs. State of M.P. (Supra) has categorically held that "ingredients of Section 107 are that instigating a person to do a thing and "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite to commit an act which in the instant case is not reflected from the plain reading of the suicidal note. The supreme court in para – 12 of its judgment has held as under:-

"The word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation".

9. Similarly, this Court while deciding Cr. Rev. No.511/04 in the case of Nihalluddin Vs. State of Chhattisgarh dated 3.11.10 has also relied upon the

above referred judgment of Supreme Court and also the earlier judgments referred by the Supreme Court, considering the ingredients required for an offence under Section 306/107 IPC held that there should be a clear mens rea to commit an offence under this section and there should be a direct or active act by the accused which led the deceased to commit suicide. This court while deciding the case of Nihalluddin vs. State of Chhattisgarh (supra) further held that there must be some evidence of instigation or cooperation or initial assistance by the accused persons forcing the victim/deceased to commit suicide to attract the offence under Section 306 IPC.

10. Further, if we read the suicidal note put forth by the prosecution, on the basis of which charges have been framed against the applicants, and the circumstances narrated by the deceased in the suicidal note, it is evidently clear that the deceased was in great stress. If we further evaluate the contents of suicidal note, it would also reveal that the suicidal note does not reflect any ingredients to frame a case against the applicants for abatement of suicide committed by the deceased. Such ingredients being absent, offence under Section 306/34 IPC would not be made out.

11. For the foregoing reasons, both the revisions are allowed. The impugned order dated 01.12.2015 passed by the Sessions Judge, Janjgir, framing charges against the applicants is set aside. The charges framed under Section 306/34 IPC against both the applicants is quashed and they are discharged from the criminal case.

Sd/-
(P.Sam Koshy)
JUDGE