

CRM-M-41729-2016 (O&M)
Date of Decision : 12.12.2016

Shanu @ Heena Khan

.....Petitioner

versus

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner.**M.M.S. BEDI, JUDGE (ORAL)**

Petitioner is wife of the deceased and she has been charged for offence under Section 306 IPC allegedly being responsible for the suicide committed by her husband.

Learned counsel for the petitioner has submitted that as per the suicide note, no offence is made out against the petitioner.

With the assistance of learned counsel for the petitioner, I have gone through the suicide note and the allegations levelled against the petitioner that she being a wife, having not treated the deceased well, he has committed suicide.

Learned counsel for the petitioner has argued that the petitioner was not present in the matrimonial house and was at parents house at the time of commission of suicide by the deceased; no avert act has been attributed to the petitioner; suicide note not constituting any

offence, the charges deserves to be quashed.

I have heard learned counsel for the petitioner. He has also cited judgment in “Gangula Mohan Reddy versus State of Andhra Pradesh” reported as 2010 (1) SCC 750, in support of this contention that for convicting an accused for an offence under Section 306 IPC, there has to be a clear *mens rea* to commit the offence and some active act or direct act which led the deceased to commit suicide. Counsel submitted that a perusal of the suicide note indicates that the deceased has not attributed any specific act to the petitioner.

Learned counsel for the petitioner also submitted that the petitioner had filed a complaint against the deceased and his parents and that the deceased had apologized for his conduct for misbehaving with the petitioner.

After hearing learned counsel for the petitioner and going through all the documents, the fact that the petitioner was not maintaining cordial relations with the deceased is *prima facie* apparent from the record. Whether the act of the petitioner, as mentioned in the suicide note, would fall under the definition of Section 107 IPC or not, cannot be determined at this stage. No hard and fast straight jacket formula can be laid down as to what act of spouse could be considered as harassment to such an extent that the other spouse is compelled to commit suicide. The provisions of Section 107 IPC provides that a person who instigates any person to do a thing or who engages with any person in any conspiracy for doing a particular thing or who

intentionally aids, by any act or illegal omission, commits the act of abetment of a particular thing. The offence in the particular cases depends upon the temperament of each individual which cannot be determined and has to be assumed in the circumstances of each case.

I have also considered the contention of learned counsel for the petitioner that the petitioner is a widow having two minor children to look after and that it is not feasible for her to face the trial. He has also submitted that in case, this Court does not deem it appropriate to quash the proceedings, at least the personal appearance of the petitioner, before the trial Court be exempted subject to any condition imposed.

I have considered the submission of learned counsel for the petitioner in the alternative and I am of the opinion that the circumstances warranting exemption may be specified in any application for exemption filed before the trial Court. Taking into consideration the said circumstances, it will always be open to the trial Court to pass any order exempting the appearance of the petitioner subject to any condition.

Dismissed.

(M.M.S. BEDI)
JUDGE

12.12.2016
Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No