

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 1302 of 2016

1. Smt. Shraddha Vahne D/o Deepak Vahne Aged About 25 Years R/o Sirgitti Bilaspur Tehsil & District Bilaspur, Chhattisgarh.
2. Deepak Vanhe S/o Vasudev Vahne Aged About 61 Years (Tehsildar- Kanker) R/o Sirgitti Bilaspur Tehsil & District Bilaspur, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through Police Station Torwa Bilaspur, Chhattisgarh.
2. Manharan Lal S/o Late Shri Chhedi Lal Aged About 40 Years R/o Devridih, Bilaspur, Police Station Torwa, Tehsil & District Bilaspur, Chhattisgarh.

---- Respondents

For the Petitioners	:	Shri Sourabh Dangi, Advocate.
For Respondents No.1.	:	Shri Ashish Shukla, G.A.
For Respondent No.2.	:	Shri Rakesh Pandey, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13.09.2017.

Heard.

1. This petition under Section 482 of the Code of Criminal Procedure has been brought with a prayer to quash the criminal proceedings pending against the petitioner before the Court below.
2. Brief facts of this case are these that deceased Shivcharan Vastrakar was the husband of petitioner No.1. On 25.07.2013 at

about 12:15 in the afternoon deceased assaulted petitioner No.1 with a razor blade causing grievous injuries on various parts of her body. She was hospitalized and treated. FIR vide (Annexure P-3) was registered against deceased Shivcharan Vastrakar for offences under Sections 498A, 324, 307 of IPC. Deceased committed suicide on 02.10.2013. Merg No.46/13 was registered by PS- Korba District-Bilaspur. Subsequent to inquiry, a closure report was submitted of which a notice was given on 04.03.2015 to respondent No.2/ complainant.

3. In the meanwhile, respondent No.2 filed the complaint before the JMFC, Bilaspur, alleging in it that petitioners, abetted the deceased to commit suicide. The Magistrate after completing the inquiry committed the case to Sessions Court, Bilaspur. The Court of 6th Additional Sessions Judge, Bilaspur has framed charges under Section 306/34 of Cr.P.C. Hence, this petition.
4. It is submitted by learned counsel for the petitioners that the prosecution of the petitioners is absolutely an abuse of process of law. After the suicidal death of deceased on 02.10.2013, Merg inquiry was conducted and during which a suicide note was seized from the body of the deceased on the same date, which has been inquired into and considered before submitting the closure report by the Inquiry Officer. Said suicide letter allegedly written by deceased discloses that deceased was in frustration because of some disagreement with petitioner No.1 and thus was dissatisfied with the conduct of petitioner No.1. Only

allegation against the petitioner No.2 is that he had given a mobile set to the daughter of petitioner No.1, which was used by petitioner No.1 to keep herself busy all the times and this was the main grievance of the deceased and also the reason of quarrel between them.

5. It is submitted by learned counsel for the petitioners that petitioner No.1 filed a complaint case against the deceased about subjecting her to cruelty, because of the assaults made by deceased on petitioner No.1, case under Section 307 of IPC was registered against the deceased. It is submitted that after the said incident in which the deceased had caused injuries to petitioner No.1, she is residing separately and even on the date when the deceased committed suicide, she was not residing with the deceased. It is submitted that under no circumstance it can be said that present is a case of abetment to commit suicide as the essential ingredients of Section 107 of IPC are missing in the present case. Hence, prayed that the criminal proceedings against the petitioners be quashed.
6. Reliance has been placed on the judgment of Supreme Court in **Hiralal and Ors. Versus State of Uttar Pradesh and Ors.** reported in **(2009) 11 SCC 89**, **Chunduru Siva Ram Krishna Versus Peddi Ravindra Babu and Anr**, reported in **(2009) 11 SCC 203**, **Citizens For Justice and Peace Versus State of Gujrat and Ors**, reported in **2009 11 SCC 213**, **Neelu Chopra and Anr, Versus Bharti** reported in **2009 10 SCC 184**, **M.**

Mohan Versus State Presented by the Deputy S.P, reported in **2011 3 SCC 626**, **Ramesh Kumar Versus State of Chhattisgarh** reported in **(2001) 9 SCC 618**, **Sanju Alias Sanjay Singh Sengar Versus State of M.P.** reported in **2002 5 SCC 371**, **State of Telengana Versus Habib Abdullah Jeelani and Ors**, reported in **2017 2 SCC 779**.

On the point of scope of interference and exercise of jurisdiction under Section 482 of Cr.P.C, reliance has been placed on judgments of the Supreme Court in **Suryalakshmi Cotton Mills Ltd vs Rajvir Industries Ltd. & Ors.** (2008)13 SCC 678 and **State of Orissa vs. Debendra Nath Padhi**, (2005) 1 SCC 568.

7. Learned counsel for the State submits, that petitioner has referred to some documents which are not part of the charge-sheet and therefore the same cannot be looked into at the stage of framing of charges against the petitioner. Reliance has been placed on the judgment of Supreme Court in **Amit Kapur Versus Ramesh Chandar and Anr.** (2012) 9 SCC 460, in which it was held that in exercise of revisional jurisdiction, the documents other than the documents which are part of charge-sheet cannot be referred to. In support of aforesaid submission, he also placed reliance on the order of this Court in CRR No.1197/216 **Chandra Prakshan and Ors. Versus State of Chhattisgarh** decided on 01.08.2017 on the same point.

Relying on the decision of the Hon'ble Supreme Court in the matter of **Pawan Kumar Versus State of Himachal Pradesh**

reported in (2017) 7 SCC 780, it is submitted that as observed in para 42 on this judgment, it is established that accused kept on irritating or annoying the deceased by words, deeds or willful omission or conduct which may even be a willful silence until the deceased reacted or pushed or forced the deceased by move forward more quickly in a forward direction, and that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above, grounds of abetment of suicide. The contents of the case against the petitioners prima facie makes out the case of abetment to commit suicide.

8. In addition to relying upon the written argument of the respondent No.1, learned counsel for respondent No.2 has placed reliance on the judgments of the Supreme Court in Amit Kumar Versus Ramesh Chandra (2012) 9 SCC 460. State of Rajasthan Versus Fateh karan Mehdu AIR 2017 SC 796 and Pawan Kumar Versus Himachal Pradesh (2017) SCC 780.
9. I have heard the learned counsel for the parties and perused all the document placed on record.
10. The Hon'ble Supreme Court while dealing with the identical issue in M. Mohan's case (supra) has held thus;

"41. This court in Para-20 of Ramesh Kumar's has case examined different shades of the meaning of 'instigation'. Para-20 reads as under:

"20. Instigation is to goad, urge forward, provoke,

incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect. or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being slept out. the present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

In the aforesaid case the Supreme Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the accused-appellant having abetted commission of suicide by Seema (appellant's wife therein) may necessarily be drawn.

42. [In State of West Bengal v. Orilal Jaiswal & Another](#) (1994) 1 SCC 73, this Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty

meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

43. This court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* 2009 (16) SCC 605, had an occasion to deal with this aspect of abatement. The court dealt with the dictionary meaning of the word "instigation" and "goading". The court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suitability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. 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.”

11. After due consideration on the submissions made and documents on record, it appears that the deceased had grievance with his wife i.e. petitioner No.1, on account of disagreement, misunderstanding and also other reasons as it is alleged by some of the witnesses in their statements that deceased doubted the character of petitioner No.1. The development of dispute between both of them came to an advanced stage when the deceased assaulted the petitioner No.1 with razor blade causing her various injuries and he also injured himself from the same razor blade for which he was needed to be hospitalized and treated. This shows the height of frustration. He may be dissatisfied with the conduct and behavior of petitioner No.1, but his does not in any manner amounts to abetment to commit suicide.

12. In this case as the deceased is husband of the petitioner No.1, hence, there is no presumptive provision under IPC or Evidence Act, in this respect. For the application of Section 107 of IPC there must be evidence of direct instigation by any person to do an act or omission or a conspiracy between more than one person so that any act is committed as a result of abetment by conspiracy or thirdly any person intentionally aids so that the abetted act is committed by another person. The plain reading of the evidence on record makes it clear that there is no statement of any of the

witnesses to the complaint against the petitioner, that any act was done by the petitioners, which could be taken as fulfillment of the requirements under Section 107 of IPC. The objection of the respondent/State that the documents other than the documents of the charge-sheet and complaint cannot be looked into, does not find place here because this petition has been filed under Section 482 of Cr.P.C praying for exercise of inherent jurisdiction by this Court. Had it been a revision preferred against the charge, the objection raised by respondent/State would have been substantial.

13. On the basis of the reasons aforementioned it is found that the prosecution of petitioner on the basis of the complaint made by respondent no.3 is sheerly an abuse of process of law. The grievance and frustration of the deceased with petitioner No.1 cannot be taken as abetment to commit suicide.

14. In the result, the petition is allowed and the criminal proceedings pending against the petitioners before court below as ST No. 71/2016 are hereby quashed.

15. Petition stands disposed off.

Sd /-

(Rajendra Chandra Singh Samant)
Judge