

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 16081 OF 2016

ORDER :

The petitioner is the accused of Cr.No.1365 of 2015 of Rajendranagar Police Station registered originally u/ sec.174CrPC on 22.12.2015 and later altered the Section of law for the offence punishable u/ sec.306 of IPC, on the report of the 1st respondent-defacto complainant and after investigation, the police on filing chargesheet, the learned VIII Metropolitan Magistrate, Cyberabad at Upperpally, Rajendra Nagar, Ranga Reddy district, taken cognizance for the offence u/ sec.306 IPC and numbered as PRC No.36 of 2016 to commit the case to the Court of Sessions.

2. The petitioner impugning the proceedings in said P.R.C.No.36 of 2016, filed this Criminal Petition with the contentions in the grounds of petition that her relative-deceased Dasaratha Reddy, loved her while she was a student but on the advice of the elders she concentrated on her studies and got selected in a campus by the reputed company. The deceased went to London and returned to India in 2014 as he could not stay there any further. On a complaint given by one Rambabu, HR, Meridian School, a case in Cr.No.600 of 2015 of Madhapur(Guttala) Police Station was registered against the deceased shown as A.3 and two others for offences punishable u/ sec.420,468 and 471 r/ w 34 IPC and the deceased was arrested on 17.10.2015 and subsequently was released on bail and the police filed a chargesheet against them on 06.11.2015 and numbered as C.C.No.1380 of 2015 pending

on the file of the XXV Metropolitan Magistrate, Kukatpally at Miyapur, Cyberabad on the allegation that the deceased produced some fake appointment letter, joining letter, pay slip and salary break up and employment certificate and uploaded to the U.S Consulate for visa and on verification by the U.S Consulate said particulars furnished by the deceased are forged and unable to bear the humiliation the deceased committed suicide on 21.11.2015 having consumed Monocrotophas at Himayath Sagar and uploaded the video of his consuming poison through Whats App including to the petitioner's phone number.

3. From the above, the petitioner submits that to attract Section 306 IPC, there should be instigation or aiding the deceased to commit suicide but none of the ingredients are there in the charge sheet or the 161CrPC statements shows that the petitioner has aided the deceased to commit suicide. The petitioner is aged about 23 years and she completed her B.Tech. In fact, the deceased also made an attempt to hack the e-mail of the petitioner and also tried to send an e-mail to the employer of the petitioner and the petitioner informed her employer that she created a new mail ID and asked them not to consider and respond to her old mail ID. The petitioner further submits that her future will be ruined if the proceedings are allowed to continue against her. She also submits the expression of the Apex Court in Gangula Mohan Reddy Vs. State of Andhra Pradesh¹ in which it is held that abetment involves a mental process of instigating a person or

¹ (2010) CrILJ 2110 SC

intentionally aiding a person in doing of a thing and without a positive act on the part of the accused to instigate or aid in coming suicide, conviction cannot be sustained. The petitioner also relied on other expression in *Madam Mohan Singh Vs. State of Gujarat*² in which it is held that unless there is specific allegation and material of definite nature, it would be hazardous to ask the accused to face the trial and a criminal trial is not exactly a pleasant experience. She further submits that continuation of the proceedings in PRC No.36 of 2016 is nothing but clear abuse of process of law and the same is liable to be quashed.

4. The complaint of the defacto-complainant reads that on 21.11.2015 at about 1800 hours cousin of the complainant deceased Dasharath Reddy previously went to London for the employment purpose and later his visa was cancelled and he remained jobless. In spite of the efforts, the deceased failed to secure any job in India and therefrom he was very much disgusted for not securing job and not getting married and undergone heavy mental pressure and insult, on 21.11.2015 at about 6.00pm at Himayathsagar some unknown person fell unconscious by consuming alcohol and he was shifted to Shadan hospital through 108 ambulance for treatment by unknown persons and while undergoing treatment the person succumbed on same day at 7.30pm. and later the person was identified as the deceased.

² 2010(8) SCC 628

5. Heard the learned counsel for the petitioner and also the learned Public Prosecutor representing the 2nd respondent-State from the 1st respondent failed to attend despite notice served and proof filed of his acknowledgment.

6. From the report setting the law in motion, there is no whisper against the petitioner from the investigation material covered by the police final report citing as many as 12 witnesses which include L.Ws. 2 and 3 parents of the deceased, L.W.4 Rajasekhar Reddy, the cousin of the deceased, L.Ws. 5 and 6 friends of the deceased concerned, the very gist of the chargesheet refers to it speaks from the receipt produced by the parents of the deceased i.e. L.Ws. 2 and 3 along with some documents showing Nitya Annadana Pathakam where the deceased mentioned the name of the petitioner herein Sulekha as if his wife and also receipt of purchase of Monochrotophas receipt from M/s New Mega Seeds Fertilizers Shop, opposite to Apollo Hospital, Hiderguda, Hyderabad and photographs from mobile and Photostat copies of the photographs. It appears from said investigation as per the final report that the deceased during his stay at London when accused developed love affair and they were kept on chatting through phone or net and after deceased returned India having lost job, they both went to pilgrimage and tourism for several places and also roamed around Hyderabad and the accused used to come to the deceased along with his two friends L.Ws.5 and 6 residing at Kukatpalli in a room. It is after knowing about the

accused is involved in Cr.No.600 of 2015 supra for offence of cheating and forgery registered by Madhapur police, the accused started keeping distance with the deceased and was avoiding to talk to him that could not be digested by the deceased because of their past acquaintance and the deceased therefrom felt humiliation and vexed with love affair with her in not responding to his so many calls and whats App messages and on knowing about the accused was going to marry another person by discontinuing love affair with the deceased he committed suicide. The other crucial aspect from the chargesheet disclosing from investigation is that on the morning of fateful day i.e. on 21.11.2015 at about 7.30am the deceased sent a message to the accused saying he was consuming poison but even after knowing the same the accused did not inform anybody thereby the police concludes that the accused abetted the commission of the offence.

7. Even the Section 39 CrPC did not mention Section 306IPC for non-disclosure of the information having aware of the committing of such offence intentionally to make the accused liable for the abatement of the deceased to commit suicide but for that the chargesheet no way links the accused to the cause of death of the deceased as outcome of her abatement.

8. In this regard, the very recent expression of the three Judge Bench of the Apex Court in Pawan Kumar v. State of H.P.³ lays down what abetment is in which it speaks referring to several expressions, in particular, the three Judge Bench expression of

³ 2017 SCC Online SC 509

Ramesh Kumar v. State of Chhattisgarh⁴, what is laid down is that mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a conviction in terms of Section 306 I.P.C. is not sustainable and there has to be positive action that creates a situation for the victim to put an end to life of the victim. The word 'abetment' is not explained in Section 306 I.P.C. The definition of abetment provided in Section 107 I.P.C. has to be considered. Whether the person has abetted the commission of suicide of another or not is to be gathered from facts and circumstances of each case and to be found out by continuous conduct of the accused involving his mental element. Such a requirement can be perceived from the reading of Section 107 I.P.C. which speaks abetment of a thing either by instigates any person to do that thing or 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 intentionally aids, by any act or illegal omission, the doing of that thing. The meaning of 'instigates' considered by the three Judge Bench of the Apex Court in Ramesh Kumar (supra), referring to the dictionary meaning of it literally means to goad, urge forward, provoke, incite or encourage to do an act. A person is said to instigate another person when he actively suggests or stimulates him to an act by any means or language, direct or indirect, whether it takes the form of express

⁴ (2001) 9 SCC 618

solicitation or of hints, insinuation or encouragement. Instigation may be in (express) words or may be by (implied) conduct. The word ‘Urge forwards’ means to advise or try hard to persuade somebody to do something, to make a person to move more quickly in the particular direction, specially by pushing or forcing such person. Therefore, a person instigating another has to “goad” or “urge forward” the latter with the intention to provoke, incite or encourage the doing of an act with a latter. A casual remark or something said in routine or usual conversation should not be construed or misunderstood as “abetment”. As held in *Randhir Singh v. State of Punjab*⁵ at para-12 that “abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In *Praveen Pradhan v. State of Uttaranchal*⁶, it was held at para-18 that instigating has to be gathered from the circumstances of a particular case. No straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Referring to *Amalendu Pal alias Jhantu v. State of West Bengal*⁷ which referred *Randhir Singh*(supra) and *Kishori Lal v. State of M.P.*⁸ and *Kishangiri Mangalgiri Goswami v. State of*

⁵ (2004) 13 SCC 129

⁶ (2012) 9 SCC 734

⁷ (2010)1 SCC 707

⁸ (2007) 10 SCC 797

Gujarat⁹, it was held at para-12 that the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. Also referring to *Netai Dutta v. State of W.B.*¹⁰, it was at para-6 observed that in the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab kumar Nag. Referring to *Chitresh kumar Chopra v. State (Government of NCT of Delhi)*¹¹ which referred *Ramesh Kumar (supra)* holding that to satisfy the requirement of “instigation”, though it is not necessary that actual words must be used to that effect of 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 spelt out. 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

⁹ (2009) 4 SCC 52

¹⁰ (2005) 2 SCC 659

¹¹ (2009) 16 SCC 605

“instigation” may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

9. At para-45 of Pawan Kumar (supra), it is observed referring to para-20 of Chitresh kumar Chopra (supra) that the question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same 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, which may either be an attempt for self-protection or an escapism from intolerable self. This is the principle of law scanning the same referring to the several expressions ultimately laid down by the latest three Judge Bench expression of the Apex Court in Pawan Kumar (supra). But for that stray sentence of she having knowledge from his messaging to her about his going to commit suicide and not informing to any other person, there is no other material including from taken the entire prosecution case on face value of she discontinued the longstanding love affair with him on knowing that he was involved in the criminal case for the offence of forgery and cheating in Cr.No.600 of 2015 of Madhapur

P.S that no way attracts the offence. In view of the above discussion and the expressions, this Court found nothing to continue proceedings in the crime supra against the petitioner.

10. In the result, the Criminal Petition is allowed by quashing the proceedings in P.R.C.No.36 of 2016 on the file of the VIII Metropolitan Magistrate, Cyberabad, against the petitioner. The petitioner is acquitted and her bail bonds shall stand cancelled.

11. Consequently, miscellaneous petitions, if any, pending in this Criminal Petitions, shall stand closed.

Date:05.09.2017
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Dr. B.SIVA SANKARA RAO J,

