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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 210/2017 & CrI.M.A.5032/2017 (Stay)

DEEPIKA CHOPRA Petitioner

Through: Mr.Ravi Prakash, Adv.

versus

THE STATE & ANR Respondents

Through: Dr.M.P.Singh, APP.
Mr.Sunil Kumar, Adv. for R-2.
SI R.N.Pathak, P.S.Jagat Puri.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **16.08.2017**

Heard the counsels for the parties.

The petitioner has challenged the order dated 18.02.2017 passed by the learned Trial Court in Sessions Case No.46/2015 in connection with FIR No.314/2014 (P.S.Jagat Puri) whereby the application for discharge of the petitioner has been rejected. The petitioner has also challenged the formal charge which has been framed against her under Section 306 of the IPC vide order dated 18.02.2017.

The petitioner and the deceased were married in the year 2011. It has been submitted that the petitioner started residing separately from the deceased since February, 2013. The deceased is said to have committed suicide by hanging himself from the ceiling on 25.12.2013. The respondent No.2, who is no more, thereafter lodged FIR No.314/2014, alleging that the

petitioner and her parents are responsible for the suicide of the deceased.

In the FIR, respondent No.2 has clearly stated that all dowry articles, including car and jewellery have been returned to the petitioner. The FIR inter-alia states that the petitioner and her parents were pestering the deceased about which the deceased always complained to him. The respondent No.2 is said to have given solace to him that things would be sorted out after divorce between him and the petitioner is effected.

During the course of investigation of the aforesaid FIR, some of the neighbours and persons working with the deceased were interrogated. They are said to have made statements before the police that whenever they met the deceased, he complained about the ill treatment of his wife and his in-laws.

Such statements cannot be treated as materials which would justify the trial of the petitioner for the offence under Section 306 IPC.

I have gone through the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure and none of these statements specifically state about the actual instance of torture or instigation which could have abetted the deceased to commit suicide. It is really unfortunate that the deceased ended his life but then equally unfortunate would be the situation when his wife would unnecessarily be put to trial for having instigated such suicide.

Section 306 IPC provides for punishment for abetting to commit suicide. Section 306 reads as hereunder:-

“306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

For a person to be charged with an offence under Section 306 of the IPC, it is of utmost importance that there should be cogent material against the accused for abetting such crime. To attract the ingredients of the abetment, provisions of Section 107 of the IPC is required to be gone into.

Section 107 of the IPC reads as hereunder:-

“107. Abetment of a thing.—A person abets the doing of a thing, who—

First — 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.”

Any of the messages sent by petitioner, which have been alleged during the course of investigation of the FIR lodged by respondent No.2, can at all be said to be any statement/overt act towards abetment of suicide. Assuming but not admitting that the petitioner sent sms messages which were in the nature of a curse, those had to be understood in the context of the dispute between the husband and wife (marital dispute). In cases where there is marital dispute, it is not unknown that all the blame is thrown on either side.

The law ought not to and does not take care of fragile human sentiments.

If a person is to be charged for commission of an offence, necessary ingredients must be satisfied for the same. Merely because on some occasion, the petitioner is alleged to have sent sms message that the

deceased would meet a tragic end, that is no material in the eyes of law to justify the framing of charge under Section 306 IPC against the petitioner. It can only be seen as an emotional outburst of an estranged wife.

The case, on the contrary, is of a disturbed marital relationship between the petitioner and the deceased. The fact that the petitioner and the deceased were living separately is sufficient indication of the fact that they were not pulling on well. In such circumstances, any statement of the deceased to the neighbours or to anybody who was working with the deceased cannot be taken as any tangible evidence of the fact that the deceased was forced to commit suicide.

Dr.M.P.Singh, learned Additional Public Prosecutor, however, has submitted that pursuant to framing of charge, five prosecution witnesses have already been examined who have supported the prosecution version of abetment to commit suicide. This Court does not consider it to be an impediment in the order for discharge.

The order impugned is not at all convincing.

For the reasons aforestated, the order refusing to discharge is set aside. The charge is also, accordingly quashed.

The petition is allowed.

The petitioner stands discharged.

ASHUTOSH KUMAR, J

AUGUST 16, 2017

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