

In the High Court of Punjab and Haryana at Chandigarh

**Reserved on : May 16, 2018
Date of Decision: May 22, 2018**

1) CRM M-2068 of 2012 (O&M)

A.R. Madhav Rao and others ... *Petitioners*

Versus

State of Haryana and another ... *Respondents*

2) CRM M-33057 of 2011 (O&M)

Inder Singh Bisht and another ... *Petitioners*

Versus

State of Haryana and another ... *Respondents*

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema, Advocate,
for the petitioners.

Mr. R.K. Doon, AAG, Haryana.

None for respondent no.2.

P.B. Bajanthri, J.

1. By this common order, both the afore-mentioned Criminal Misc. Petitions i.e. CRM M-2068 of 2012 and CRM M-33057 of 2011 are being decided together as similar facts are involved in both the petitions.

2. In CRM M-2068 of 2012, petitioners have prayed for quashing FIR No. 106 dated 23.03.2011, under Sections 306/34 of the Indian Penal Code, registered at Police Station, Sadar Gurgaon, District Gurgaon and report under Section 173 of the Code of Criminal Procedure dated 26.09.2011 (Annexures P/1 and P/7 respectively) along with all subsequent

proceedings arising therefrom.

3. In CRM M-33057 of 2011, petitioners have prayed for quashing FIR No. 106 dated 23.03.2011, under Sections 306/34 of the Indian Penal Code, registered at Police Station, Sadar Gurgaon, District Gurgaon and report under Section 173 of the Code of Criminal Procedure dated 20.05.2011 (Annexures P/1 and P/2 respectively) along with resultant proceedings pending in the Court of learned Judicial Magistrate Ist Class, Gurgaon.

4. Petitioners, namely, A.R. Madhav Rao, R.K. Hasija, M.P. Devnath and Nishant Mishra are advocates by profession, whereas Inder Singh Bisht and Ganesh Prasad Sati are working as Manager Taxation and Senior Manager Taxation with Xerox India Limited, Gurgaon.

5. One Iqbal Asif Khan was working as a Manager Taxation with Xerox India Limited, Gurgaon, committed suicide on 23.03.2011. In the suicide note, he has stated that he has been forced to commit suicide on account of the afore-mentioned petitioners. Based on the suicide note of deceased Iqbal Asif Khan, FIR No. 106 dated 23.03.2011 was registered at Police Station Sadar Gurgaon, District Gurgaon.

6. Learned counsel for the petitioners submitted that deceased Iqbal Asif Khan is stated to have rendered service for about 20 years with Xerox India Limited. He is well-versed with the taxation issue of the company. There was a dispute in respect of import of goods for which Commissioner of Central Excise issued show cause notice in the year 2007 and it was subject matter of various litigation before the CSTAT, Allahabad and Hyderabad. There were conflicting decisions of CSTAT. Arising out of

the aforesaid issues, deceased Iqbal Asif Khan approached the Lakshmi Kumaran Company under whom the aforesaid petitioners – advocates were working. After detailed discussion among the advocates deceased Iqbal Asif Khan, Inder Singh Bisht and Ganesh Prasad Sati (petitioners) prepared and filed petition before the Allahabad High Court. In this background, deceased Iqbal Asif Khan is stated to have made in his suicide note that petitioners are responsible for certain alleged misdeeds is stated to have been committed by the deceased Iqbal Asif Khan in drafting petition whereby there would be financial loss to Xerox India Limited and so also it would affect the members of his family, etc. Learned counsel for the petitioners further submitted that writ petition filed before the Allahabad High Court was concluded in favour of Xerox India Limited, therefore, neither the advocates nor colleagues of the deceased Iqbal Asif Khan have committed any misdeeds in filing petition or affidavit or giving any contrary information, etc. Learned counsel for the petitioners further submitted that deceased Iqbal Asif Khan must be under stress. He has also not made any specific allegation against each of the petitioner to what extent they have compelled the deceased Iqbal Asif Khan so as to commit any illegalities in presenting petition before the Allahabad High Court. Allegations in the suicide note are very vague. It was also submitted that during the investigation, competent authority have not elicited any adverse remarks against the petitioners to the extent that deceased Iqbal Asif Khan has been misled or coerced / duress him to reveal certain facts and affidavit which are contrary to factual aspects while presenting the petition before the Allahabad High Court. What has been done by the State/Investigating

Officer in the matter is suicide note has been sent to FSL, Madhuban and obtained information only in respect of whether suicide note has been written by the deceased Iqbal Asif Khan or not. Even to this day, investigating officer or agency has not filed any cogent evidence to link with the suicide of deceased Iqbal Asif Khan and petitioners. Therefore, in the absence of necessary material to link the petitioners to the suicide note where deceased Iqbal Asif Khan has written that petitioners are responsible for his suicide, unless and until cogent material or evidence linking the role of the petitioners with reference to the suicide note of the deceased Iqbal Asif Khan is made out in the investigation, petitioners are not liable for prosecution with reference to FIR No. 106 dated 23.03.2011. In support of the petitioners' contention, learned counsel for the petitioners relied on two decisions, namely,

- 1) *S.S. Chheena vs. Vijay Kumar Mahajan and another*, reported in (2010) 12 Supreme Court Cases, 190. Para No. 25 reads as under:-**

“25. 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. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”

- 2) *Madan Mohan Singh vs. State of Gujarat and another*, reported in (2010) 8 Supreme Court Cases 628. Para Nos. 11, 12 and 13 read as**

under:-

“11. In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide note, it cannot be said that the accused ever intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this.

12. In order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note.

13. It is absurd to even think that a superior officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so-called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Section 306 IPC, much more material is required. The

Courts have to be extremely careful as the main person is not available for cross-examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant/accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in the present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in Netai Dutta Vs. State of W.B. [2005 (2) SCC 659], this Court had quashed the proceedings initiated against the accused.”

7. None appears on behalf of the 2nd respondent. As is evident from the zimni orders also there is no representation on behalf of the 2nd respondent from time to time.

8. Learned State counsel while resisting the contentions of the petitioners submitted that petitioners' contention that no cogent evidence has been produced to link the suicide of deceased Iqbal Asif Khan to the petitioners may not be correct for the reasons that deceased Iqbal Asif Khan in his own hand writing has named the petitioners in the suicide note. He was discharging the duties of the post assigned to him as is evident from the record that he had approached the advocates' company for entrusting the case on behalf of Xerox India Limited. Therefore, contention of the petitioners that deceased Iqbal Asif Khan was under stress is only imaginary and presumption. Learned State counsel further submitted that pursuant to the suicide note wherein names of the petitioners have been disclosed by the deceased Iqbal Asif Khan to the extent they were responsible for suicide,

consequently, FIR has been registered. Suicide note sent for FSL Madhuban and opinion has been obtained. In this regard, affidavit of one Sh. Ramesh Chand, Sub Inspector, State Crime Branch, Haryana, Gurgaon dated 14.08.2013 is placed on record. In view of the fact that deceased Iqbal Asif Khan has pointed out the petitioners' names for his suicide, therefore, there is a prima facie case for lodging a criminal proceedings. Thus, there is no infirmity in the FIR No. 106 dated 23.03.2011. Hence, no interference is called for.

9. Heard learned counsel for the parties.

10. Before advertng to the contentions of the petitioners, it is necessary to extract the suicide note dated 22.03.2011 which has been extracted in Annexure P/8. Suicide note dated 22.03.2011 reads as under:-

"I am recording this statement by putting the presence of almighty in my mind. I have been forced to commit suicide on account of the following persons – 1. Inder Singh Bisht, 2. Ganesh Sati, 3. R.K. Hasija, Lakshmi Kumaran office, B-6 Safdarjung Enclave New Delhi, 4. Nishant Mishra Allahabad, 5. Devnath M.P., Allahabad, 6. Madhav Rao, Allahabad. I had gone to Allahabad to file one writ petition on behalf of the company. On 16.02.2011 R.K.Hasija, Advocate Lakshmi Kumaran (told me) that the writ petition had to be filed in Allahabad by all means on the following day and that I must arrange Rs.30-40 thousand and start immediately. I asked him how I could go with such promptness (whereupon I was told) that I had to file the writ under all circumstances. I am merely a responsible Manager in the Company and do not enjoy a big position. I made enquiries regarding compliance of Companies act from my colleague Ganesh Sati and Inder Singh as well a about authentication.

Ganesh Sati requested Inder Singh to hand over the power of attorney to me. Ganesh Sati requested Inder Singh to prepare a POA in my favour. The power of attorney was prepared and same was got signed by Omri Swartz, who is my boss, and was handed over to me. I have an apprehension that Inder Singh Bisht and Ganesh Sati have implicated me. I left for Allahabad carrying the said power of attorney along with me. I did not realize at that time as to what documents I have signed. I have a feeling that I have been framed through this writ petition through Madhav Rao, R.K. Hasija Devnath. I put in a lot of hard work in this writ petition along with Nishant Mishra, when I mentioned about my authorization to Nishant Mishra, he told me to retain the same with me. The writ file contains 1700 pages of writ petition and 1000 Nos. S.K. Gupta and Arvind Srivastava. I wrongly signed the writ petition. I stated on solemn oath in the name of God that the power of attorney was the same which was given (executed) by my boss Omri Swartz. SHO, SP Sahib, I request you that nobody from my family (home) has any role to play in this suicide. No one should be interrogated from my family or in-laws family because they have no role in the matter. This is entirely my mistake which is a result of my lack of understanding and this will cause a huge loss to the company. 1. Nishant Mishra, Allahabad, 2. R.K. Hasija, 3. Devnath MP, 4. Madhav Rai who are all Advocates are responsible for the affidavits tendered by me. They implicated me on account of my lack of understanding, entire responsibility also lies upon Inder Singh Bisht and Ganesh Sati because they had mislead me. Few days ago, Inder Singh Bisht said to me that everybody working here (in the company) from Director to the MD would be framed. I do not know why I could not understand the implications and they

played this game (trick) with me. I further requested you that I am entrusting the responsibility of my children to their maternal uncle who is settled in America. The bringing up of Khastifa is to be entrusted to my maternal aunt in Delhi and my maternal uncle in America, who shall have the choice of residing with his/her maternal uncle. This mistake of mine shall attract police action against me. I take full responsibility for my suicide but the persons responsible are those who have been mentioned by me. For my mistake, I beg forgiveness from God and from all people. I state once again that the members of my family or my in-laws are not responsible in any manner for this suicide, nor are my maternal aunt, uncle or any other relation responsible for this. I request the learned SP that person responsible for my death are Inder Singh, Ganesh Sati, RK Hasija, Dev Nath MP, Madhav Rao from Lakshmi Kumaran Officer. I am feeling that there is something between Madhav Rao and Lakshmi Kumaran Sahib and the responsibility for the same lies with Madhav Rao, who exerted pressure to file the writ petition in Allahabad, though MP Dev Nath and Madhav Rao were supervising. My colleague Ganesh Sati and Inder Singh also mislead me and I was compelled to give up my life. 1. My entire gratuity money may be paid to my wife, 2. One half of my PF has to be paid to my mother. If XEROX agrees the insurance money may be paid to my wife. I had chosen (embraced) death because of this Allahabad and duty of this company. These persons used to bother and harass me a lot. All of them used to obtain my signature on papers illegally.

Sd/- 22.3.2011”

11. Deceased Iqbal Asif Khan was rendering service with Xerox India Limited for nearly 2 decades. He was entrusted with the taxation

issues of the company. One of the issue is relating to receipt of show cause notice in the year 2007 by the Commissioner of Central Excise. On behalf of the company, he was pursuing the matter before the Tribunal and Allahabad High Court. In that connection, deceased Iqbal Asif Khan had gone to Lakshmi Kumaran Company where the petitioners (advocates) along with colleagues petitioners – Inder Singh Bisht and Ganesh Prasad Sati have a lengthy discussion relating to filing of a petition on behalf of Xerox India Limited insofar as challenging the action of the Central Excise Department. They have filed petition. After filing of petition, deceased Iqbal Asif Khan is of the view that petitioners have compelled him to commit certain misdeeds in respect of presenting the petition in the Allahabad High Court. In this regard, he is stated to be under stress. Consequently, he had taken a decision to commit suicide. While doing so in the suicide note, he has mentioned petitioners' names to the extent that they are responsible for committing certain misdeeds in presenting the petition due to which there would be a financial loss to the Xerox India Limited and so also it would affect members of his family. Reading of the suicide note, deceased Iqbal Asif Khan has not specified what was the alleged misdeeds stated to have been committed by him while presenting the petition on the advise or suggestion or compelling to draft petition against the interest of the company in the Allahabad High Court, further to what extent each of the petitioners are liable so as to compel the deceased to commit particular mistakes or misdeeds in preparing and presenting the petition. In other words, suicide note states that petitioners are responsible which is very vague and that too in his absence it is impracticable to investigating officer

to extract what was the real compulsion made by the petitioners while preparing and presenting the petition before the Allahabad High Court against the interest of the company. Even the investigating officer is not in a position to apprise this Court from the petition as well as affidavit which was presented before the Allahabad High Court to the extent that petitioners have misled the deceased whereby asking him to commit certain misdeeds due to compulsion. On the other hand, petition which was filed by the deceased Iqbal Asif Khan on behalf of Xerox India Limited was in favour of the Xerox India Limited. That apart, during the investigation, no cogent material has been collected or produced against the petitioners to the extent that petitioners have compelled the deceased Iqbal Asif Khan to commit certain misdeeds while preparing and presenting the petition before the Allahabad High Court. Even perusal of various court proceedings like Annexures P/5 and P-17/A to P-17/D, it is evident that orders were in favour of Xerox India Limited, therefore, question of any financial loss likely to cause to Xerox India Limited and further it would affect his family members are not forthcoming.

12. Supreme Court in the case of ***Gurcharan Singh vs. State of Punjab***, reported in ***(2017) 1 SCC 433***, held as under:-

“21. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or

absence of any of these constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 IPC. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 IPC, thus criminalises the sustained incitement for suicide.

27. The pith and purport of Section 306 IPC has since been enunciated by this Court in Randhir Singh vs. State of Punjab (2004)13 SCC 129, and the relevant excerpts therefrom are set out hereunder.

“12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC.

13. In State of W.B. Vs. Orilal Jaiswal (1994) 1 SCC 73, this Court has observed that the courts 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 transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord

and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences 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.”

28. Significantly, this Court underlined by referring to its earlier pronouncement in *Orilal Jaiswal (supra)* that courts have to be extremely careful in assessing the facts and circumstances of each case to ascertain as to whether cruelty had been meted out to the victim and that the same had induced the person to end his/her life by committing suicide, with the caveat that if the victim committing suicide appears to be hypersensitive to ordinary petulance, discord and differences in domestic life, quite common to the society to which he or she belonged and such factors were not expected to induce a similarly circumstanced individual to resort to such step, the accused charged with abetment could not be held guilty. The above view was reiterated in *Amalendu Pal Vs. State of West Bengal (2010) 1 SCC 707.*”

13. In ***Rattanlal and Dhirajlal's*** commentaries on the Indian Penal Code (32nd Edition) (2010), at page 1735 – 1736, 'abetment' has been commented as under:-

"2 Abetting Suicide

The gravamen of the offence punishable u/s 306 I.P.C. is abetting suicide. Section 107, I.P.C. defines abetment as comprising:

(a) instigation to commit the offence;

- (b) engaging in conspiracy to commit the offence, and
- (c) aiding the commission of an offence.

Abetment thus necessarily means some active suggestion or support to the commission of the offence. The word 'instigate' literally means to goad, urge forward, provoke, incite or encourage to do an act and a person is said to instigate another when he actively suggests or stimulates him to the act by any means, or language, direct or indirect, whether it takes the form of express solicitation or of hints, insinuation or encouragement. It is also not necessary that the instigation should be only in words and may not be conduct."

14. Supreme Court in the case of **Randhir Singh vs. State of Punjab** reported in **(2004) 13 SCC 129** held as under:

"Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In case of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC."

15. In **Ramesh Kumar vs. State of Chhattisgarh**, reported in **(2001) 9 SCC 618**, 'instigation' has been explained by the Supreme Court 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 spelt 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."

16. Supreme Court in the case of **S.S. Chhenna vs. Vijay Kumar Mahajan and another**, reported in **(2010) 12 SCC 190**, held as under:

"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. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

17. Supreme Court in the case of **Amalendu Pal @ Jhantu vs. State of West Bengal**, reported in **(2010) 1 SCC 707**, held as under:-

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, 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. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which let or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable."

18. Rajasthan High Court in the case of **Vijay Kumar Rastogi vs. State of Rajasthan**, reported in **(2012) CrI.L.J. 2342** has observed as under:

"10. The word 'urge' means to advice or try hard to persuade somebody to do something, to make a person to move more quickly or in a particular direction, specially by pushing or forcing such person. Therefore, a person instigating another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter. In order to prove abetment, it must be shown that the accused kept on urging or annoying the deceased by words, taunts or wilful omission or conduct which may even be wilful silence, until the deceased reacted, or pushing the deceased by his words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction. Secondly, the accused had the intention to provoke or urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly the presence of mens rea is the necessary concomitant of instigation.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by

doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

19. The offence of abetment requires '*mens rea*' (guilty mind). There must be intentional doing/aiding or goading the commission of suicide by another. Otherwise, even a mere casual remark, something said in routine and usual conversation will be wrongly construed or misunderstood as 'abetment'.

20. In ***Gangula Mohan Reddy vs State of A.P.***, reported in **(2010) 1 SCC (Crl.) 917**, Supreme Court held that to attract Section 306 I.P.C., there must be clear '*mens rea*' to commit offence.

21. Supreme Court in the case of ***Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi)***, reported in **(2010) 3 SCC (Crl.) 367**, held as under:

"This court had an occasion to deal with this aspect of abetment. 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 suicidability 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."

22. Supreme Court in the case of ***M. Mohan vs. D.S.P., Karaikudi***, reported in **(2011) 3 SCC 626**, has observed as under:

“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.

45. The intention of the Legislature and the ratio of the cases decided by this court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.”

23. Generally, the person who commits suicide used to/liked to leave a suicide note naming certain person as responsible for his committing suicide. Merely because a person has been so named in the suicide note one cannot immediately jump to the conclusion that he is an offender under Section 306 I.P.C.

24. The contents of the suicide note and other attending circumstances have to be examined to find out whether it is abetment within the meaning of Section 306 I.P.C. read with Section 107 I.P.C. There may be a case where in the suicide note victim had named a person, who is responsible for his committing suicide, but, on proper analysis, Section 306 I.P.C. may not be attracted to him.

25. The overall analysis is required to be examined with the following incidents like if a lover commits suicide due to love failure, if a student commits suicide because of his poor performance in the examination, a client commits suicide because his case is dismissed, the lady, examiner, lawyer respectively cannot be held to have abetted the

commission of suicide. For the wrong decision taken by a coward, fool, idiot, a man of weak mentality, a man of frail mentality, another person cannot be blamed as having abetted his committing suicide. In the present case, the suicide note shows that deceased Iqbal Asif Khan is stated to have compelled himself to prepare draft and presenting petition before the Allahabad High Court which was against the interest of the company to that extent he had assumed the things. Consequently, company would be put into loss and members of the family would be affected, for this kind of statement in the suicide note, petitioners cannot be blamed. The conclusion would be deceased – Iqbal Asif Khan died like a coward. Instead of protecting the family, he perished like an unsuccessful man in life foolishly. For this, how can the petitioners be directly blamed. In the absence of any specific instigation by the petitioners to the extent that they have advised or suggested or compelled the deceased Iqbal Asif Khan to prepare draft and presenting petition against the interest of the company. Merely because a person who has committed suicide, has left a suicide note immediately one cannot jump to a conclusion that it is enough to mulct the accused with criminal liability under Section 306 IPC. One has to analyse and examine the contents of the suicide note to find out whether it contains any incriminating information in the nature of instigation, provocation, forcing the victim to commit suicide.

26. The records at hand could not reveal any willful conduct which is of such a nature as is likely to drive the deceased to commit suicide. In the present case, allegations made in FIR as well as material collected during the investigation, even if they are taken at their face value and

accepted, do no prima facie constitute the offences punishable under Sections 306/34 of IPC against the petitioners. Moreover, no tangible and clinching material on record in support of the allegations / charge against the petitioners.

27. In view of these facts and circumstances, FIR No. 106 dated 23.03.2011, under Sections 306/34 of the Indian Penal Code, registered at Police Station, Sadar Gurgaon, District Gurgaon and report under Section 173 of the Code of Criminal Procedure along with all subsequent proceedings arising therefrom are set aside.

28. Both the aforementioned petitions i.e. CRM M-2068 of 2012 and CRM M-33057 of 2011 stand allowed.

May 22, 2018
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : Yes