

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1173 of 2019

- Ashu Dewangan, S/o. Shri Ram Khilawan Dewangan, Aged About-25 years, R/o. Nayapara Ward No.15, Bemetara, Tehsil & District-Bemetara, Chhattisgarh.

---- Applicant

Versus

1. State of Chhattisgarh Through the Station House Office, Bemetara, P.S.-Bemetara, District-Bemetara, Chhattisgarh.

---- Respondents

For applicant	:	Mr. Surfaraj Khan, Advocate.
For Respondent/State	:	Mr. Sudeep Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

30/01/2020

Heard.

1. This criminal revision has been brought challenging the legality, propriety and correctness of the order passed by the learned trial Court thereby framing charge against the applicant under Section 306 of the Indian Penal Code.
2. The applicant has been charge-sheeted for the commission of offence under Section 306 of IPC. On the basis of the material present in the charge-sheet, the learned trial Court has framed charge under Section 306 of IPC mentioning the ground, that this applicant had cheated deceased Ranu Verma in love and also quarreled with her raising doubt on her character which amounts to abetment and therefore, the deceased committed suicide on 13.12.2018.
3. It is submitted by the learned counsel for applicant, that the whole materials that are present in the charge-sheet do not make

out a *prima facie* case against the applicant for framing of charge under Section 306 of IPC. There is no dispute that deceased Ranu Verma had committed suicide on 13.12.2018 by consuming some poisonous substance. The only circumstance which has been regarded as evidence against the applicant by the prosecution is this, that a suicide note was found left by the deceased, in which, she had mentioned that she had love affair with applicant since the year 2017, and on account of engagement of applicant with some other girl, she felt cheated and therefore committed suicide. There is no clear evidence present in the entire charge-sheet to show that the applicant had instigated, conspired or aided in the said commission of suicide by deceased. The deceased being unable to cope with the situation in which she was, she had committed suicide. Reliance has been placed on the judgments dated 5.3.2019 & 17.5.2019 passed by a co-ordinate Bench of this Court in CRR No.111 of 2018 & CRR No.98 of 2010 respectively. In these circumstances, framing of charge against the applicant is erroneous and he is entitled for discharge.

4. Learned State counsel opposes the petition and the grounds raised in this petition. It is submitted that there is evidence present in the charge-sheet to show that this applicant by deliberate act on his part has conducted himself in such a manner that the deceased was left with no alternative but to commit suicide. The suicide note left by the deceased holds the applicant directly responsible for her death and also there are statements of other witnesses who support in this respect. Therefore, no error has been committed by the learned trial Court in framing charge against the applicant for his prosecution under Section 306 of IPC.
5. In the case of Ramesh Kumar Vs. State of Chhattisgarh, reported in (2001) 9 SCC 618. The Supreme Court has held in para-20 and 21 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 consequence. Yet a reasonable and specifically be suggestive of the 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.

21. In State of W.B. v. Orilal Jaiswal¹ 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 her 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.”

It was further held by Supreme Court in M. Mohan v. State, reported in (2011) 3 SCC 626 that 'abetment' is essential for the commission of offence under Section 306 of IPC. Para-45 of the said judgment is reproduced below:-

“45. 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.”

Similarly, in the matter of State of Kerala v. S. Unnikrishnan Nair reported in 2015 AIR SCW 4814. The Supreme Court held in Para-13 and 18 which are reproduced below:-

“13. As we find from the narration of facts and the material brought on record in the case at hand, it

is the suicide note which forms the fulcrum of the allegations and for proper appreciation of the same, we have reproduced it herein-before. On a plain reading of the same, it is difficult to hold that there has been any abetment by the respondents. The note, except saying that the respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else. The respondents were inferior in rank and it is surprising that such a thing could happen. That apart, the allegation is really vague. It also baffles reason, for the department had made him the head of the investigating team and the High Court had reposed complete faith in him and granted him the liberty to move the court, in such a situation, there was no warrant to feel cheated and to be put in trouble by the officers belonging to the lower rank. That apart, he has also put the blame on the Chief Judicial Magistrate by stating that he had put pressure on him. He has also made the allegation against the Advocate.

18. Coming to the case at hand, as we have stated earlier, the suicide note really does not state about any continuous conduct of harassment and, in any case, the facts and circumstances are quite different. In such a situation, we are disposed to think that the High Court is justified in quashing the proceeding, for it is an accepted position in law that where no prima facie case is made out against the accused, then the High Court is obliged in law to exercise the jurisdiction under [Section 482](#) of the Code and quash the proceedings. [See V.P. Shrivastava v. Indian Explosives Limited and Others[6]].”

6. The facts of this case need consideration in view of the law settled by the Supreme Court in the pronouncements mentioned herein above.
7. Admittedly, the deceased committed suicide on 13.12.2018 leaving behind her suicidal note, which was seized during inquest proceeding. She has mentioned in the suicidal note that she was having love affair with the applicant since 2017 and later on, the applicant got engaged with some other girl, which was the cause of grief of the deceased. She further mentioned in the suicide note that the applicant has cheated her in love and only on this basis, the applicant has been held responsible for

commission of suicide by the deceased. The cause behind commission of suicide by the deceased has not been mentioned in the morgue intimation. Apart from that, the witnesses have also stated the same reasons for commission of suicide by the deceased, as are mentioned in the suicide note.

8. Although there is evidence that there was lover affair between the applicant and the deceased but there is no statement as to any act, statement or other thing on the part of the applicant to show that he had in any manner instigated the deceased to commit suicide or that he entered into conspiracy with some other person so that the deceased felt compelled to commit suicide or that he had aided in the commission of suicide by the deceased in any manner, which are essential ingredients of the abetment as per Section 107 of IPC. Therefore, there is nothing to show that the applicant has done any act which may be covered within the definition of abetment under Section 107 of IPC.
9. Even if it is believed on the basis of the suicide note that the applicant had got engaged with some other girl, it is only a circumstance which can be regarded to have cause grief to the deceased and, therefore, the caused of her suicide might be this grief as she was believing that applicant would marry her and he has not acted in accordance with her expectations. It may be so that the applicant may have deceived the deceased in love, but such deceit will not come within the definition of abetment as defined under Section 107 of IPC. Hence, I am of this view that in the present case there had been *prima facie* no material present in the charge-sheet to frame charge under Section 306 of IPC against the applicant. Accordingly, this revision petition is allowed. The impugned order framing charge against the applicant is set aside and the applicant stands discharged.

Sd/-

(Rajendra Chandra Singh Samant)
Judge