

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 26.02.2020

Order Passed on : 20/03/2020

Cr.R. No.1319 of 2018

1. Raj Shekhar Paliwal S/o Shri Dr. Vedprakash Paliwal Aged About 51 Years
2. Smt. Meena Paliwal W/o Shri Rajshekhar Paliwal Aged About 51 Years
(Both are r/o Sai Gunjan, Cross Street, No- 8, Anand Nagar Near
Maharishi Vidya Mandir, Police Station- Supela, District- Durg,
Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police
Station- Nandini Nagar, District- Durg, Chhattisgarh
2. Karamvir Shastri R/o D.A.V. Ispat Public School, Nandini Mines, Durg,
District- Durg, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Sunil Otwani, Advocate.
For Objector	:	Mr. N. Naha Roy, Advocate.
For respondent	:	Mr. Avinash K. Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

20/03/2020

1. This petition has been brought challenging the order framing charge against the applicants. The facts of the case are these that deceased Samiksha Shastri aged about 17 years was a student of class 11th in D.A.V. School Nandini Mines, District- Durg. She committed suicide on 20.02.2018. After lodging morgue intimation, a suicide note was seized

by the police in which she has complained about being harassed by these applicants, who used to scold her for any reason and she held these applicants responsible for her suicide. Subsequent to inquest procedure, the F.I.R. has been lodged, the case has been investigated and charge-sheet has been filed against the applicants. The learned trial Court has framed charges against the applicants for commission of offence under Section 306 read with Section 34 of I.P.C.

2. It is submitted by the learned counsel for the applicants that there is no prima-facie case present against the applicants for framing of charge under Section 306 of I.P.C. It is further submitted that the suicide note left by the deceased although mentions about her complaint that the applicants had been overstrict and left no occasion to catch her and scold her because of which she was depressed. The applicants are in teaching job, therefore, it is their duty to keep students in discipline and they have no intention other than that. The deceased was herself depressed and therefore, she has committed suicide. The suicide letter itself does not mention that applicant had in any manner abetted her to commit suicide. Similarly, the statement of Karamvir Shastri, the father of deceased shows that his daughter was being scolded by the applicants in teaching hours and then she was insulted publicly. Although there is no description of the insult, he has himself mention that his daughter did not appear in the physical training practical examination and on her subsequent appearance she was scolded by her teacher, the applicant No.2, because of which the deceased had become very upset.
3. On perusal of this statement itself, it would appear that the deceased was not herself a disciplined girl because of which she was taken to task by the applicants. It may be a case that the applicants were overstrict

but there activities cannot be regarded as an act of abetment. There had been no mens-rea on the part of the applicants.

4. Reliance has been placed on the judgment of Bombay High Court in the case of **Smt. Jayashree wd/o Sunil Kotgirwar Vs. State of Maharashtra & Anr.** reported in **2017 SCC OnLine Bom 342**. In that case, the deceased was a student against whom there was a complaint that she had stolen a mobile phone and the same was told to her by her teacher, subsequent to which, she hanged herself. The High Court held that this act of the teacher was not an abetment. It is further submitted that in the case of **Ankita Goyal Vs. The State of Madhya Pradesh** in Criminal Revision No.1172 of 2016. The Single Bench of M.P. High Court has held that the accused, who was a teacher, used to threaten and demand money from the deceased because of which she committed suicide. It was held that the act of the accused person was not an act of abetment.
5. Reliance has also been placed on the judgment of **Madan Mohan Singh Vs. State of Gujrat & Anr.** reported in **2010 8 SCC 628**, in which it was held that the ingredients of Section 107 of I.P.C. must be present to make out a case under Section 306 of I.P.C. It is submitted that in the case of **Sanjay @ Sanju Sanjay Singh Sengar Vs. State of Madhya Pradesh** reported in **(2002) 5 SCC 371**, the facts were itself that a quarrel took place between the accused and the deceased person in which the accused told the deceased to go and die. Subsequently, the deceased was found dead. The Supreme Court has held that the words 'go and die' itself do not constitute the ingredients of instigation and also held that the suicide note holding the accused responsible was not sufficient to held the charge against the accused person.
6. Reliance has also been placed in the judgment in the case of **Praveen**

Kumar Lunia and one another Vs. State of Chhattisgarh in **Cr.R. No.922 of 2019 decided on 04.10.2019**, by the co-ordinate Bench of this Court and in **Tikam Chand Rathi Vs. State of Chhattisgarh** reported in **2019 LawSuit (Chh) 809**, and the decision of this Court and **Vijayalakshmi Vs. The State of rep. By the Inspector of Police & Anr.** reported in **2013 SCC OnLine Mad 42** and on the **State of M.P. Vs. S.B. Johari & Ors.** reported in **(2000) 2 SCC 57**. It is submitted that this is also is similar case. Hence, it is prayed that the applicants may be discharged.

7. Learned State counsel appearing for respondent No.1 submits that the chain of events are complete, which shows that the deceased was continuously harassed and tortured by the applicants for various reasons because of which she felt insulted. The witnesses have very clearly stated that the applicants are the persons who are responsible for the suicidal death of the deceased. Hence, it is a case, in which the deceased was victimized by these applicants, which has resulted in the incident. This material present is sufficient to hold that there is a prima-facie case against the applicants. Hence, there is no substance in this revision petition, which may be dismissed.
8. Learned counsel for respondent no.2 adopts arguments advanced by the learned state counsel and submits, that the applicants have continuously harassed the deceased and created such atmosphere because of which she was left with no option but to commit suicide. The evidence present in the case very clearly demonstrates how the applicants had acted with the deceased. It is also submitted that in the case of **Praveen Pradhan Vs. State of Uttranchal and anr.** reported in **(2012) 9 SCC 734**, the supreme court has held that to conclude that there had been instigation to commit suicide, the facts of each case has

to be relied open and there is no straight jacket formula laid down and there can be no straight jacket formula laid down for the same. In this particular case, the Supreme Court has held that according to the facts present, the deceased was subjected to persistent harassment which created a circumstance for the deceased from which she could not come out and she committed suicide and this one is also a similar case.

9. Reliance has also been placed on the judgment of Supreme Court in **Chitresh Kumar Chopra Vs. State (Government of N.C.T. Delhi)** reported in **2009 16 SCC 605**. Hence, it is submitted that this is not a case of discharge.

10. In reply, it is submitted by the learned counsel for the applicants that the case is not similar to the case in the **Praveen Pradhan** (Supra) and **Chitresh Kumar Chopra** (Supra), the applicants have the authority to keep the students under discipline and they were simply exercising that authority without any intention of causing harm to the deceased. The deceased being over-sensitive has taken it otherwise. She has taken seriously the harsh words spoken to her. Strict action taken against the deceased were for the purpose of her betterment and there had been no other intention on the part of the applicants. Therefore, it cannot be said that the applicants had created any circumstance from which the deceased could not come out. It is a different case and the applicants are not at all responsible for the suicidal death of the deceased.

11. Heard learned counsel for the parties and perused the documents present on record.

12. It is not disputed that deceased has committed suicide. The suicidal note speaks that the deceased felt harassed for the reason that the applicants used to find pretext for scolding her and she felt insulted,

because of which she felt tortured. Karambir Shashtri, father of the deceased, has stated that the deceased was scolded on one occasion because she did not appear for the physical training examination by the applicant No.1 because of which she became very upset. Then, on another occasion when the deceased was in monthly cycle, she was forced to run in physical training exam. Then on one occasion, the deceased was scolded by the applicant No.1 for the reason that she had lost her Biology copy. She has also stated that the deceased went in depression.

13. Sukanti Shashtri, mother of the deceased has stated that the applicant used to find pretext for scolding her daughter, the deceased. She stated that on the day of annual functions, the deceased go well-prepared and well-dressed because of which she was scolded by the applicant No.2 stating that she has come over fashioned, because of which the deceased became upset. She has also stated about the loss of the Biology copy, for which the deceased was scolded by the applicant No.1 and about the non-appearance of the deceased in the practical exam of physical training for which she was again scolded by the applicants. She has also stated about the practical exam for which the deceased was forced to run despite her being undergoing the monthly cycle. She has stated that on one occasion, in oral examination, the applicant No.1 has questioned the deceased and have scolded her for not answering properly because of which she became very much upset. The statement of other witnesses namely Meghna Sharma, Maya, Vinod, Simran Dhanwari, Gaurav Mehto, Rishabh Sahu, Prashant Kumar Thakur, Ranu Pandey and Soma Mandal are same.

14. On perusal of the statement of witnesses under Section 161 of Cr.P.C., it is found that there had been occasions and reasons for which the

deceased was taken to task by the applicants, it does not appear that the applicants had acted on any false pretext, there had been reasons for their acting or reacting with respect to the activity or any failure on the part of the deceased which is mentioned in the statements of the witnesses- Karambir Shashtri and Sukanti Shashtri. It appears that the deceased was very much sensitive and she used to become upset after such occasions when she taken to task by the applicants. By taking into consideration, the whole circumstances that occurred before the deceased committed suicide, it can be said that the applicants have acted when they found some kind of fault on the part of the deceased. Being Principal and teacher of the school, the applicants have authority to keep their students under discipline. Imparting education is a serious business and the Principal and the teachers cannot overlook the mistakes or lapses committed by any student and they have to be straight forward and show strictness so that the students takes care to remain in discipline and obey the command of the Principal and teacher. I am of this view that the applicants have not done anything otherwise than what was required to be done.

15. As held in ***Madan Mohan Singh*** (Supra), the ingredients to Section 107 of I.P.C. are essential to be found for holding a charge under Section 306 of I.P.C. that is there must be direct instigation, or conspiracy for aiding the commission of suicide. In the case of **Gangula Mohan Reddy Vs. State of Andhra Pradesh** reported in ***(2010) 1 SCC 750***, it has been held that abetment involves a 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. To convict for offence under Section 306 of I.P.C., there has to be a clear mens-rea to commit the offence.

16. In case of **Chitresh Kumar Chopra** (Supra), it was held in paragraph 17, 18 and 19:-

17. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by "goading" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action; provoke to action or reaction" (See: Concise Oxford English Dictionary); "to keep irritating or annoying somebody until he reacts" (See: Oxford Advanced Learner's Dictionary - 7th Edition).

18. Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter.

19. As observed in Ramesh Kumar's case (supra), where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

- (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or

conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above.

Undoubtedly, presence of mens rea is the necessary concomitant of instigation.”

17. As described in the ratio laid down above, I do not find such circumstances present in this case. Similarly, in the case of **Praveen Pradhan** (Supra), it has been held that no straight jacket formula can be laid down to find out where in a particular case, there had been instigation which forces the deceased to commit suicide.

18. In this particular case, this applicant have acted when they had reasons to do so. The deceased used to become upset because of these incidents, there is nothing to suggest that the applicants had intended that the deceased would go and commit suicide, hence, it cannot be said that there had been any mens-rea on their part, neither it can be said that the applicants had created any circumstance from which the deceased could not come out and she was compelled to commit suicide.

19. Apart from that, the other things that are present in the evidence of this case are these, that the date written on the suicide note is 10.02.2018 and the suicide has been committed by the deceased on 20.02.2018. The acts alleged against the applicants are of previous dates and the

last date mentioned is of 16.01.2018, which is about one month prior to the date of incident. Therefore, there appears to be difficulty in connecting all the incidents that have taken place between the applicants and the deceased with the incident of commission of suicide. Hence, I am of this view that in this case, the allegations are though against the applicants but there is nothing to suggest that these applicants have given any kind of abetment to the deceased to commit suicide. Hence, the framing of charge against these applicants under Section 306 read with Section 34 of I.P.C. is erroneous which is liable to be set aside. Hence, the revision petition is allowed and the impugned order framing charge against the applicant is set aside. The applicants are discharged.

20. Accordingly, this petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge