

07.09.2021

Item No.149
Ct.No.34
dc.

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

C.R.R. 969 of 2020
(Via Video Conference)

Sunny Bharat Kothari & Ors.
versus
The State of West Bengal & Anr.

In Re: An Application under Section 482 of the Code of Criminal Procedure, 1973.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji,
Ms. Snigdha Saha,
Mr. Pronoy Basak ... For the Petitioners.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick ... For the State.

Mr. Chattopadhyay, learned advocate appearing for the petitioners has challenged the charge-sheet which has been filed by the investigating agency in connection with Durgapur Police Station Case No. 311 of 2018 dated 10.07.2018 under Sections 306/34 of the Indian Penal Code. According to the learned advocate, the deceased was a drunkard and as such, committed suicide for which neither the daughter nor the alleged son-in-law or the wife could be held responsible. According to him, the prosecution evidence does not transpire any material so far the present petitioners are concerned so as to ask them to face the ordeal of trial. The learned advocate draws the attention of this Court to the suicide note and submits that the same also fails to implicate the present petitioners. The learned advocate for the petitioners relies

upon two judgments of the Hon'ble Supreme Court - (i) ***Sanju alias Sanjay Singh Sengar Vs. State of M.P.*** reported in ***(2002) 5 Supreme Court Cases 371*** and (ii) ***Subha Narayan Vs. State of West Bengal & Ors.*** reported in ***(2006) 3 CHN 651***. By relying upon ***Sanju alias Sanjay Singh Sengar*** (supra), learned advocate draws the attention to paragraphs 12 and 13 of the said judgment and by referring to the contents of the suicide note submits that the present suicide note also does not implicate the petitioners and the interpretation so made by the Hon'ble Apex Court is squarely applicable to this case.

The learned advocate for the petitioners by referring to ***Subha Narayan*** (supra) draws the attention of this Court to paragraphs 13 and 14 and submits that it is not enough that the victim was subjected to some harassment or used to be criticised which would be sufficient to attract the provision of Section 306 of the Indian Penal Code.

Mr. Sur, learned advocate appearing for the State, on the other hand, has referred to the suicide note as also the statement recorded under Section 164 of the other daughter of the deceased.

I have perused the case diary, the statement of the witnesses and other materials so collected by the investigating agency in order to arrive at a conclusion for alleged commission of offence under Sections 306/34 of the Indian Penal Code. In the instant case, the brother of the

deceased made a complaint wherein he has narrated regarding the apprehension expressed by the deceased just few days prior to commission of suicide. The same is corroborated by the contents of the suicidal note as stated therein as also the statement made by one Nemisha Merry James recorded under Section 164 of the Code of Criminal Procedure i.e. the torture being inflicted by the other sister. The statement recorded under Section 161 of the Code of Criminal Procedure relied upon by the prosecution also reflects complicity of the present petitioners. The fact that the petitioner no.1 has been shown to be an outsider cannot be of any use in view of the fact that his name is also appearing in some of the statements recorded under Section 161 of the Code of Criminal Procedure.

I am of the *prima facie* view that the prosecution has been able to make out a case for proceeding with the trial. There may be a good case after the trial is over, but at this stage when the court has to decide between some suspicion and grave suspicion, I am of the view that no interference is called for. Accordingly, CRR 969 of 2020 is dismissed.

Interim order, if any, is hereby vacated.

All pending connected applications, if any, are consequently disposed of.

The learned trial court would from the next specified date so fixed complete the trial within a year by fixing at least three dates each and every month.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)