

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.541 of 2020

1. Bise Singh Chouhan S/o Late Shri Ratan Singh, Aged About 63 Years
R/o Village - Pirda, Police Station - Mandirhasoud, District Raipur
Chhattisgarh
2. Amrit Singh S/o Late Shri Hari Singh, Aged About 49 Years R/o Shyam
Nagar Taru Chowk, Police Station - Telibandha, District Raipur
Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through The District Magistrate Raipur, District
- Raipur Chhattisgarh., District : Raipur, Chhattisgarh

-----Respondent

For Applicant : Mr. Sunil Sahu, Advocate.

For Respondent/State : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/03/2021

1. This Criminal Revision arising out of the order of framing charge dated 06.02.2020, passed in Sessions Trial No. 107 of 2019, by the learned Second Additional Judge to the Court of First Additional Sessions Judge, Raipur under Section 306/34 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicants that the impugned order is erroneous and perverse. It is further submitted

that on perusal of the whole material i.e. present in the charge-sheet, there appears to be no evidence, on the basis same, it can be said that the applicants had in any manner abetted the commission of suicide by the deceased. The only basis of the prosecution against the applicants, is the suicide note left by the deceased, which mentions about the transactions of the deceased with these applicants and others regarding, which he had some complaints regarding the excess interest calculated, that had been a different grievance and it can not be regarded as an act of abetment for commission of suicide by the deceased. The statement given by the witnesses also does not speak about any act of abetment by the applicants. The FIR has been lodged on 05.08.2018 after lapse of more than three years to implicate the applicants without any basis. Co-accused person namely- Manoj Rajput and Jasbir Singh Bedi have also been discharged by this Court vide order dated 12.03.2020, in Cr.R. Nos.330/2020 and 384/2020, therefore, these applicants deserve to be discharged. Hence, this Criminal Revision may be allowed.

3. State counsel opposes the petitions and the submissions made in this respect. It is submitted that the applicants and other co-accused persons had conspired and created the circumstances because of which, the deceased was left with no option but to commit suicide. The evidence present in the charge-sheet is sufficient for the purpose of framing charge against the applicants. Hence, there is no reason for any interference in the

impugned order.

4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. The deceased Vinay Nebhani committed suicide on 20.03.2015 by consuming poisonous substance. In the inquest procedure, the suicide note left by the deceased was seized. The suicide note has been examined by the handwriting expert and it has been confirmed that same was written by the deceased himself. The suicide note mentioned about some land transactions and money transactions with these applicants and with other co-accused persons, because of which, the deceased had become heavily indebted. Whatever dues he had to receive from the person concerned, he was not getting the same. The deceased was having dispute with respect of accounts with the applicants and others because of which, he was harassed and confused. Therefore, he held the applicants and others responsible and committed suicide.
6. Witness Ravi Nebhani, the brother of the deceased had stated under Section 161 of Cr.P.C. that he met the deceased after he had consumed poison and before his death, the deceased told him, that the applicants and others had cheated him and caused huge loss to him, therefore, because of the frustration, the deceased committed suicide. Suraj Nebhani has similarly stated and Poonam Nebhani, the wife of the deceased has also stated about the transaction with the applicants and others and similar is

the statement of Vijay Ahuja.

7. Considering upon the evidence, on which, the prosecution has relied, it is found that the deceased had a grievance with the applicants and others that the applicants and others had cheated the deceased by fraudulent transactions because of which the deceased had suffered huge loss and there is no other evidence present to show that the deceased was instigated by the applicants to commit suicide, or any conspiracy was hatched so that the deceased could be motivated to commit suicide, or that the applicants had in any manner expressly aided the deceased to commit suicide. These are the express ingredients for abetment as defined in the Section 107 of the Indian Penal Code. On perusal of the documents it appears that the investigation agency has not made any investigation on the actual grievance of the deceased, which has been supported by the witnesses that the applicants and others have cheated the deceased through fraudulent transactions and agreements, which should have been proper course to be adopted in this case for instigation.
8. In ***State of Kerala & Ors. Vs. Unnikrishnan Nair & Ors.*** Reported in ***2015 AIR SCW 4814***, the Supreme Court has held that the presence of ingredients under Section 107 of I.P.C. in the evidence are necessary for framing of charge under Section 306 of the Indian Penal Code. Therefore, no such evidence present in the case, the order framing of charge against these applicants can not be regarded as sustainable.

9. Resultantly, this Criminal Revision is allowed. The charge framed against the applicants under Section 306/34 of the Indian Penal Code vide impugned order dated 06.02.2020, in S.T. No. 107 of 2019, by the learned Second Additional Judge to the Court of First Additional Sessions Judge, Raipur is set-aside and the applicants are discharged.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika