

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 18.01.2021

Order Passed on : 04/02/2021

CR.R. No. 486 of 2020

Topan Das Bhagyadev, S/o. Late Pohuram Bhagyadev, aged about 65 years, R/o. Vishal Nagar, Greenvelley House No. A/2, Police Station Telibandha, Raipur, District Raipur Chhattisgarh.

---- Applicant

Versus

The State of Chhattisgarh, Through : The Station House Officer, Police Station Mandir Hasaud, District Raipur Chhattisgarh.

-----Respondent

For Applicant : Mr. Rajat Agrawal, Advocate

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

04/02/2021

1. This criminal revision has been brought being aggrieved by the order of framing charge dated 06.02.2020, passed in S.T. No. 107 of 2019, by the Second Additional Judge to the Court of 1st Additional Sessions Judge, Raipur, District – Raipur (C.G.) under Section 306 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the impugned order is erroneous and perverse. The applicant has played no role in the commission of suicide by the deceased Vinay Nebhani. The applicant has not instigated, neither conspired nor aided in that commission of suicide by the

deceased. The deceased committed suicide on 20.03.2015. The FIR has been lodged after huge delay on 05.08.2018. The deceased was indebted and making demand of debt is not an act of abetment. Only for the reason that name of the applicant is mentioned in the suicide note of the deceased by itself is not an evidence to show that this applicant has abetted the deceased for commission of suicide. Whole material in the charge-sheet does not make out a case of abetment as defined under Section 107 of I.P.C..

3. Reliance has been placed on the judgment of Supreme Court in case of State of **West Bengal Vs. Orilal jaiswal & another**, reported in **(1994) 1 SCC 73**, **Gangula Mohan Reddy Vs. State of A.P.**, reported in **(2010) 1 SCC (Cri) 917**, in case of **Netai Dutta Vs. State of West Bengal**, reported in **(2005) 2 SCC 659**, in **V. Venkataraman Vs. State**, reported in **2015 SCC OnLine Mad. 13892**. It is further submitted that co-accused persons namely Manoj Rajput and Jasbir Singh Bedi have been discharged by this Court by order dated 12.03.2020, passed in Cr.R. No.330 of 2020 and Cr.R. No. 384 of 2020. The case of the applicant is also similar. Hence, it is prayed that this revision petition be allowed.
4. State counsel opposes the revision petition and the submission made in this respect. It is submitted that there is evidence that this applicant conspired with the co-accused persons and obtained signature of the deceased Vinay Nebhani on blank

stamp papers and forced him to execute other agreements and on that basis huge amount was received from the deceased after threatening him on the strength of the documents executed by him because of which, the deceased felt compelled and was left with no other option but to commit suicide. The suicide note left by the deceased mentions the name of this applicant also regarding his participation in the conspiracy and that because of this dispute of accounts, the deceased felt frustrated and then he committed suicide. Hence, the learned trial Court has not committed any error. The revision petition is without any merits, which may be dismissed.

5. Considered on the submissions. The facts of the case are this that Vinay Nebhani committed suicide on 23.02.2015 by consuming poisonous substance. In the inquest proceeding, the suicide note left by the deceased was seized. Handwriting on the suicide note has been confirmed to be that of the deceased by the handwriting expert. The suicide note mentioned about some land transactions and money transactions with the applicant and that the deceased felt cheated by this applicant and others, because of which he has become heavily indebted. There is mention of the dispute regarding the accounts with the applicant because of which, the deceased felt frustrated and about the decision taken by the deceased for commission of suicide.
6. Witness Ravi Nebhani, the brother of the deceased had made statement under Section 161 of Cr.P.C. that soon before the

death, the deceased discussed with him, that the applicant and others have cheated him, because of which, he has suffered huge loss. Witness Suraj Nebhani, Poonam Nebhani, Vijay Ahuja have also made similar statements.

7. Taking into consideration this evidence and the submission that have been made from the applicant and the respondent side, it is found that there had been no evidence to show about any conduct of this applicant, which may be regarded as instigation. The transaction between this applicant and others may have caused loss to the deceased but the same can not be regarded as any conspiracy. Further there is nothing to suggest about presence of any evidence regarding any aid given to the deceased for commission of suicide. Hence, the ingredients of abetment as defined under Section 107 of I.P.C. are totally absent.
8. It has been held by the Supreme Court in case of **Madan Mohan Singh Vs. State of Gujrat**, reported in **(2010) 8 SCC 628**, in **State of Kerla Vs. Unnikrishnan Nair & Ors.**, reported in **2015 AIR SCW 4814** and in many other cases, that ingredients under Section 107 of I.P.C. must be present to make out a case under Section 306 of I.P.C., only then charge under Section 306 can be framed against the accused.
9. After examination of the material present in the charge-sheet against this applicant and also taking into consideration that co-accused persons namely Manoj Rajput and Jasbir Singh Bedi

have been discharged on similar grounds. Hence for this reason, this Court is of the view that the order framing of charge against the applicant can not be regarded as sustainable.

10. In the result, the revision petition is allowed. The charge framed against the applicant under Section 306 of the Indian Penal Code vide impugned order dated 06.02.2020, in S.T. No. 107 of 2019, by the Second Additional Judge to the Court of 1st Additional Sessions Judge, Raipur, District – Raipur (C.G.) is set-aside and the applicant is discharged.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram