



Crl.A.No.201 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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Nagammal

... Appellant

Vs.

1. Perumal
2. The State represented by
The Inspector of Police,
Balluchetty Chatram Police Station,
Kancheepuram District.

... Respondent

PRAYER: Criminal Appeal filed under Section 372 of the Code of Criminal Procedure, to set said the judgment dated 03.08.2012 made in S.C.No.306 of 2009 on the file of the learned Assistant Session Judge, Kancheepuram and allow the above Criminal Appeal.

For Appellant	: Mr.C.Prabakran
For Respondents	
For R1	: Ms.C.S.Rajalakshmi Legal Aid Counsel.
For R2	: Mr.A.Gopinath Government Advocate (Crl. Side)

JUDGMENT

This Criminal Appeal has been filed against the order dated 03.08.2012 made in S.C.No.306 of 2009 on the file of the learned



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Sessions Judge, Kancheepuram, thereby acquitting the first respondent/
accused from the offence punishable under Section 306 of IPC.

2. The case of the prosecution is that on 10.03.2008 at about 6.00 am., when the deceased was having his tea, he asked his remaining wages from the accused, for which the accused scolded him with filthy languages, since the deceased has spent all the money for drinking. Further the accused had also beaten the deceased by hand. The deceased informed the same to his mother and thereafter he committed suicide by hanging himself. Hence the complaint.

3. On receipt of the complaint, the respondent registered the FIR in Crime No.102 of 2008 for the offence under Section 174 of Cr.P.C. After completion of investigation the second respondent altered the offence under Section 306 of IPC and filed charge sheet and the same has been taken cognizance by the trial Court in S.C.No.306 of 2009. In order to bring the charges to home, the prosecution examined P.W.1 to P.W.13 and marked documents as Ex.P.1 to Ex.P.10. On the side of the accused no one was examined and no documents were marked. On a perusal of oral and documentary evidences, the trial Court found that the first



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respondent not guilty and acquitted him. Aggrieved by the same, the defacto complainant filed this present appeal.

4. The learned counsel appearing for the appellant submitted that though P.W.1 and P.W.2 categorically deposed that the accused scolded the deceased with filthy languages and also beaten him with hands and refused to give the remaining wages, as such the deceased was humiliated and informed the same to P.W.1. Though P.W.1 consoled him, due to mental agony and humiliation, the deceased committed suicide in tamarind tree, which was situated backside of the traveler guest house.

4.1. He further submitted that though P.W.1 lodged complaint at 11.30 am., on the same day viz., on 10.03.2008, the trial Court acquitted the accused on the ground that there is a delay in lodgment of complaint. From all the evidences, it is clear case of abetment of suicide, since P.W.1 and P.W.2 evidences were corroborated each other. He further submitted that though P.W.3 turned hostile, the part of his evidence clear that the deceased went to the tea shop and the accused scolded him. Therefore, the deceased committed suicide. There was absolutely no delay in lodgment of complaint since, the deceased committed suicide at about



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7.00 a.m., and about 10.30 am., the complaint was lodged and the same was registered in Crime No.102 of 2008 under Section 174 of Cr.P.C.

4.2. He further submitted that two witnesses viz., P.W.1 and P.W.2 categorically deposed about the overt-act of the accused and it doesn't require any corroboration. Further there is no proposition in law that relatives are to be treated as untruthful witnesses. P.W.1 is the mother of the deceased and P.W.2 is the brother of the deceased. They categorically deposed that only on the instigation and abetment, the deceased committed suicide. Only on the inducement of the accused the deceased committed suicide. If any person committed suicide and the person who abets the commission of such suicide is liable to be prosecuted and punished under Section 306 of IPC. The abetment may be instigation, conspiracy or intentional aid as defined under Section 107 of IPC. The word instigation is to goad, urge forward, prove, incite or encourage to do an act. To satisfy the requirement of instigation, though it is not necessary that actual words must be used necessarily and specifically be suggestive of the consequence.



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4.3. In support of his contention, the learned counsel appearing

for the appellant relied upon the following judgments :-

(i) Criminal appeal No.316 of 2011 dated 09.10.2020 – Karulal and ors Vs. The State of Madhya Pradesh

(ii) Crl.A.(MD)No.137 of 2015 dated 29.11.2021 – Nagarajan Vs. the State.

(iii) (1997) 4 SCC 161 – Rattan Singh Vs. State of H.P.

5. Heard Mr.C.Prabakaran, learned counsel appearing for the appellant, Ms.C.S.Rajalakshmi, learned legal aid counsel appearing for the first respondent and Mr.A.Gopinath, learned counsel appearing for the second respondent.

6. On perusal of records revealed that P.W.1 lodged complaint and the same was marked as Ex.P.1. P.W.1 alleged that on 10.03.2008 at about 6.30 am., when the deceased went to Velu tea shop and asked his remaining wages from the accused. The accused scolded and abused him with filthy languages and also beaten him by his hand in front of the general public. Therefore, he sustained humiliation and mental agony. When it was informed to her, she consoled him. However, the deceased committed suicide in the tamarind tree which was situated behind the travelers guest house.



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7. The brother of the deceased was examined as P.W.2 and he also deposited corroborating the evidence of P.W.1. The other eye witnesses P.W.3 to P.W.5 turned hostile and they did not support the case of the prosecution. P.W.7 is also close relative of P.W.1 and he deposited corroborating the evidence of P.W.1 and P.W.2.

8. Admittedly, the police station was situated within 100 feet from the place of occurrence and all the occurrence must be taken place near the defacto complainant house. However, the complaint was lodged by her at about 10.30 am. On a perusal of Ex.P.1 revealed that when the deceased asked the accused for remaining wages, the accused scolded him and also beaten him. Therefore, the deceased got humiliation and mental agony and thereafter he committed suicide.

9. It is seen that the deceased was drunker and he used to drink alcohol every day even in the early morning itself. On the date of occurrence, he had drunk the alcohol and he was under the influence of alcohol. That apart, he used to threat his family members that he will commit suicide for grabbing money to drink alcohol. It was admitted by P.W.1, P.W.2 and P.W.7. In fact, on the date of occurrence, it was



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published in the news papers that when the deceased demanded money from his mother viz., P.W.1, she refused to give money and therefore, he committed suicide by hanging himself. Therefore, only after thought, P.W.1 lodged the complaint at about 10.30 a.m.

10. Further there was absolutely no evidence to show that the accused instigated or abetted the deceased to commit suicide. The doctor who conducted autopsy on the deceased was examined as P.W.10 and he issued post mortem report which was marked as Ex.P.5. The post mortem report reveled that the deceased was under the influence of alcohol.

11. In this regard, it is relevant to cite the judgment reported in **1995 SCC (Crl.) 943** in the case of **Swami Prahalddas Vs. State of M.P.**, in which the Hon'ble Supreme Court of India held that mere remark made by the accused to the deceased “to go and die” will not constitute the real abetment to commit suicide as enshrined under Section 306 of IPC. Therefore, to constitute the abetment, it should be established by means of acceptable evidence by the prosecution that the accused had an animus to drive the person to commit suicide. Mere uttering of words 'go and die' itself will not constitute such abetment. Applying the above principles, to



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assess as to whether the accused really had the animus and had driven the person to commit suicide, the Court has to take into account the credibility of the circumstances.

12. In the case on hand, at the time of occurrence, the deceased was under the influence of alcohol. In the early morning, he was drunk and asked further money from his mother viz., P.W.1., and it was refused as such under the influence of alcohol, he committed suicide by hanging himself. Therefore, P.W.1 lodged complaint only after thought and the trial Court rightly acquitted the first respondent. In view of the above, the judgments cited by the learned counsel appearing for the appellant are not helpful to the case on hand. This Court finds no infirmity or illegality in the order passed by the Courts below.

13. Accordingly, the Criminal Appeal stands dismissed.

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Index : Yes/No
Internet : Yes
Speaking /Non Speaking order
rts



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WEB COPY To

- 1.The Assistant Session Judge,
Kancheepuram
- 2.The Inspector of Police,
Balluchetty Chatram Police Station,
Kancheepuram District.
- 3.The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



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G.K.ILANTHIRAIYAN, J.

rts

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