



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION [APL] No. 718/2021.

Aruna Ajaykumar Kapkar,
Aged about 46 years, Occupation -
Service, Resident of Bardi Armori,
Tahsil Armori, District Gadchiroli. ... **APPLICANT.**

VERSUS

1.State of Maharashtra,
through its Police Station
Officer, Police Station Armori,
Tahsil Armori, District Gadchiroli.

2.Tikaram Paikaji Pradhan,
Aged about 36 years, Occupatio
Agriculturist, resident of Saigaon,
Tahsil Armori, District Gadchiroli. ... **NON-APPLICANTS.**

Mr. S.K. Patil, Advocate for the Applicant.
Mr. S.S. Doifode, Addl.P.P. for Non-applicant No.1.
Shri A.Y. Sharma, Advocate for Non-applicant No.2.

CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.

DATE : AUGUST 18, 2023.

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ORAL JUDGMENT (PER VINAY JOSHI, J) :

Heard. **Admit.**

By consent of the learned Counsel appearing for the parties, the matter is taken by for final disposal.

2. By this application the applicant had sought quashing of the first information report bearing Crime No.165/2021 registered with Armori Police Station, District Gadchiroli for the offence punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code.

3. On 17.05.2021, in the late evening, one Navnath Pradhan committed suicide by hanging at his residence, which caused his uncle to lodge a report on 25.05.2021 alleging that the applicant and co-accused abetted him to commit suicide. It is informants case that the deceased Navnath was his nephew. He was residing adjacent to the informants house with his wife. On 16.05.2021, there was a quarrel in between the deceased Navnath and co-accused Ajay. The

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later alleges that Navnath has stolen Rs.10000/- from his house. On the following day, in the afternoon Ajay along with his wife Aruna [applicant] and one co-accused Shankar Makde went to the house of Navnath. They quarreled with Navnath by alleging that the deceased Navnath, has again stolen mobile handset of Ajay. In the said occurrence the applicant Aruna also threatened Navnath for taking deterrent action, if mobile is not returned. After some time Navnath returned to his house and committed suicide.

4. Quashing of the first information report is sought on account of adequacy of material to constitute the offence claimed. It is argued that the police report itself suggests that till evening of 17.05.2021, Navnath was not under any mental pressure. It is argued that, even if the prosecution case is accepted that on the date of occurrence, in the evening, the applicant along with her husband Shankar abused and threatened the deceased on account of theft of mobile, still it does not amount to abetting Navnath to commit suicide.

5. The learned Counsel appearing for the applicant would submit that even if the contents of the first information report and suicidal note is taken into consideration, ingredients to constitute an offence under Section 306 of the Indian Penal Code are not made out. It is submitted that essential requirement of abetment as defined under Section 107 of the Indian Penal Code are prominently absent. On the other hand, the learned Addl.P.P. as well as the learned Counsel appearing for non-applicant no.2 resisted the application. It is submitted that the statement of one Vitthal Pradhan specifies that the applicant Aruna also participated in the quarrel by giving abuses and threat. According to the informant, there are specific allegations about participation of the applicant. Moreover, it is submitted that within few hours from the quarrel, Navnath committed suicide, and therefore, it is a matter of trial.

6. In order to impress non-applicability of the provisions of Section 306 of the Indian Penal Code, the learned Counsel for the applicant initially relied on the decision in case of **Geo Varghese Vs. State of Rajasthan and another, 2021 SCC Online SC 873**, wherein

the Supreme Court held as under :-

“23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

He has further relied on the decision in case of **Ramesh Kumar V/s.**

State of Chhattisgarh – [2001] 9 SCC 618, wherein the Supreme Court has observed in para as under :-

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation through it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

He has also relied on the case of **Chitresh Kumar Chopra v. State (Govt.of NCT of Delhi) – [2009] 16 SCC 605** wherein the Supreme Court has an occasion to delve upon the mental state of the person committing suicide. Endeavor was made to unfold the mental trauma

of such person. It is apt to note the relevant observations made in that regard, which reads as below.

“20. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual’s suicidability pattern depends on his inner subjective 10 experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual’s vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self.”

7. The next reliance is on the decision of Supreme Court in case of **Ude Singh and others .vrs. State of Haryana - 2019 SCC Online SC 924**, wherein the Supreme Court has extensively surveyed the law in the field and summarized the principles in cases of alleged

abetment of suicide. The relevant observations contained in paragraph nos. 16.1 and 16.2 reads as below :-

“16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of

abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific

theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set ups, education etc. Even the response to the ill-action of eve-teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.”

8. In order to consider whether Section 306 would apply to the facts in case, one would have to consider whether the essential ingredients of Section 107 of the Indian Penal Code are disclosed. Hence, it would be apposite to reproduce Sections 306 and 107 of the Indian Penal Code. The same read as under :-

“306. Abetment of suicide – If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

107. Abetment of a thing — A person abets the doing

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of a thing, who — First — Instigates any person to do that thing; or Secondly — Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly — Intentionally aids, by any act or illegal omission, the doing of that thing.”

9. The term “Abetment’ involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306 of the Indian Penal Code. To proceed against any person for the offence under Section 306 of the Indian Penal Code, it requires an active act or direct act which led the deceased to commit suicide, seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide. There is nothing on record to show that the applicant was instigating and harassing the deceased and further there is absolutely no material to allege that the applicant abetted for

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suicide of the deceased within the meaning of Section 306 of the Indian Penal Code.

10. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

11. In the light of aforesaid pronouncements of the Supreme

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Court, we have examined the entire material. It reveals that there was no prior dispute or any act on the part of the applicant connecting to the deceased. The entire allegations are about the specific quarrel occurred few hours prior to the commission of the suicide. It is alleged that on 17.05.2021, initially the applicant's husband started to quarrel with the deceased alleging about theft of mobile. Co-accused Shankar also insisted to return the mobile handset. So far as the applicant Aruna is concerned, she is wife of co-accused Ajay. Her role is restricted only to joining her husband in abusing and threatening for return of mobile. Pertinent to note that there was no consistent act of the applicant so as to instigate the deceased to take such a drastic step.

12. It is a usual phenomena that the applicant and others scolded and threatened the deceased to return the mobile, failing which he has to face the stern consequences. By any stretch of imagination mere applicants' presence and joining her husband in the quarrel cannot constitute an offence of abetment within the meaning of Section 107 of the Indian Penal Code. The statement of

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Vitthal makes specific allegations against rest of the co-accused including Shankar, but, the role assigned to the applicant is only of giving abuses. The act of Applicant even accepted of abusing and threatening the deceased for returning of mobile is natural reaction from which adequate mens rea cannot be constructed. She may be harsh, but, that cannot be stretched to hold an abetment to commit suicide.

13. Applying the position of law, as set out in various decisions of Supreme Court to the facts of the present case, we are of the considered opinion that a case is made out for interdicting the criminal proceedings by quashing the first information report, for the reason that the material available on record does not indicate that the applicant deserves to face trial for alleged offence punishable under Section 306 of the Indian Penal Code. In view of above, we proceed to pass the following order.

ORDER

[i] Criminal Application is allowed and disposed of.

Rgd.

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- [ii] The first information report bearing Crime No.165/2021 registered with Armori Police Station, District Gadchiroli for the offence punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code is hereby quashed and set aside, so far as it relates to the present Applicant – Aruna Ajaykumar Kapkar only.

JUDGE

JUDGE