

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM M-46364 of 2023  
Date of Decision: 18.10.2023

Jarnail Singh

...Petitioners

Vs.

State of Punjab and another

...Respondent

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Hitesh Chopra, Advocate, for the petitioner.

**N.S.SHEKHAWAT, J. (Oral)**

1. The petitioner has filed the present petition under Section 439(2) Cr.P.C. with a prayer to set-aside the order dated 24.08.2023 (Annexure P-2) passed by the Court of Additional Sessions Judge, Pathankot, whereby, the benefit of regular bail had been granted to respondent No. 2 in a case FIR No. 85 dated 17.07.2023 under Section 306 IPC, Police Station Sujampur.

2. The FIR in the present case was got registered by Jarnail Singh son of Jagir Singh by alleging that they were three brothers and three sisters. His elder brother Amar Singh was married and his younger brother Satnam Singh aged about 22 years was a bachelor. All the three brothers were agriculturists. At about 03.00 p.m. at about 14.07.2023, Mannu daughter of Subhash Chander, Shobha wife of

Subhash Chander and Suraj son of Subhash Chander came to his house and stated that they should save their son, as he had consumed some medicine. The complainant contacted his brother and got him hospitalized in Amandeep Hospital, Pathankot. However, his brother breathed his last during the treatment. The complainant further alleged that he had found some videos and audio recordings from which it was clear that his brother Satnam Singh was having love affair with Mannu daughter of Subhash Chander and Mannu was already married. She was compelling his brother to get himself married with her and it was apparent from the video and audio recordings, which had been found. Even the friend of the deceased disclosed certain facts to him. He further alleged that his brother Satnam Singh was fed up with Mannu daughter of Subhash Chander accused/petitioner and had ended his life by consuming some poisonous medicine and prayed action against Mannu daughter of Subhash Chander.

3. After the registration of the FIR, the investigation progressed and the respondent No. 2 was arrested on 18.07.2023 and was sent to police custody for two days. Thereafter, the respondent No. 2 was ordered to be released on regular bail vide order dated 24.08.2023 (Annexure P-2) passed by the Court of Additional Sessions Judge, Pathankot.

4. Learned counsel for the complainant contends that as per the postmortem report, Satnam Singh, since deceased, had died because taking of some poisonous substance. In fact, the respondent No. 2 was habitual of extracting money from several persons, who initially would have love affair with the person and, thereafter, used to extract money by blackmailing him. Still further, the Additional Sessions Judge granted regular bail to the respondent No. 2 without considering the background/history of respondent No. 2, who was a divorced lady and was pressurizing Satnam Singh, since deceased, to get married to her. Apart from that, it was also stated that the accused was powerful and resourceful person and was threatening the petitioner and their relatives. Still further, the family members of the petitioner were being threatened by the respondent No. 2. Thus, the impugned order dated 24.08.2023 passed by Additional Sessions Judge, Pathankot, whereby, respondent No. 2 was ordered to be released on regular bail, is liable to be set aside.

5. I have heard the learned counsel for the petitioner and perused the record.

6. In the present case, the respondent No. 2 was being prosecuted under Section 306 IPC, which has been reproduced below:

**"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."*

7. The Hon'ble Supreme Court in 'Sanju @ Sanjay Singh Sengar v. State of Madhya Pradesh, 2002(2) RCR (Criminal) 687', has discussed, as to what constitutes abetment and the relevant extract of the said judgment reads as under;-

*"13. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25th July, 1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased 'to go and die'. For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 Criminal Procedure Code, 1973 when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Criminal Procedure Code, 1973 is annexed as annexure P -3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him*

*'to go and die'. Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 derived the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly point out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged*

*that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below."*

[Emphasis supplied]

8. The Hon'ble Supreme Court in '**Netai Dutta v. State of West Bengal, AIR 2005 (SC) 1775**', has held as under:-

*"5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16.2.2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of the "abetment" have been stated in Section 107 of the Indian Penal Code. Section 107 says that a person abets the*

doing of a thing, who instigates any person to do that thing; or 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, or the person should have intentionally aided any act or illegal omission. The explanation to Section 107 says that any willful misrepresentation or willful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.

7. Apart from the suicide note, there is no allegation made by the complainant that the appellant herein in any way harassing his brother, Pranab Kumar Nag. The case

*registered against the appellant is without any factual foundation. The contents of the alleged suicide note do not in any way make out the offence against the appellant. The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the First Information Report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein. We find that is a fit case where the extraordinary power under section 482 of the Code of Criminal Procedure, 1973 is to be invoked. We quash the criminal proceedings initiated against the appellant and accordingly allow the appeal."*

*[Emphasis supplied]*

9. The Hon'ble Supreme Court in '**S.S. Chheena v. Vijay Kumar Mahajan and Another, 2010(4) RCR (Criminal) 66**', has held as under:-

*"26. In State of West Bengal v. Orilal Jaiswal, 1994 (3) RCR (Criminal) 186 : (1994) 1 SCC 73, this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of*

*finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.*

*27. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) 2009 (4) RCR (Criminal) 196 : 2009 (5) R.A.J. 278 : (2009) 16 SCC 605, had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.*

*28. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that*

in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also 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.

29. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

30. When we carefully scrutinize and critically examine the facts of this case in the light of the settled legal position the conclusion becomes obvious that no conviction can be legally sustained without any credible evidence or material on record against the appellant. The order of framing a charge under section 306 Indian Penal Code against the appellant is palpably erroneous and unsustainable. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under section 306 Indian Penal Code against the appellant is quashed and all proceedings pending against him are also set aside."

*[Emphasis supplied]*

10. In the present case also, it has been alleged that the respondent no. 2 was having a love affair/illicit relations with Satnam Singh, since deceased, and she was allegedly compelling the deceased to marry her. It has been further alleged that due to said compulsion,

Satnam Singh, since deceased, had committed the suicide. However, even if, the allegations levelled by the complainant are taken as true on its face value, it would be debatable issue as to whether the offence under Section 306 IPC is made out or not. Apart from that, in the present case, respondent No. 2 was arrested on 18.07.2023 and was sent to police custody for two days. Ultimately, vide impugned order dated 24.08.2023, she was granted the concession of regular bail. The petitioner has failed to bring on record any evidence to show that the respondent No. 2 had ever hampered the investigation in the present case. Only a vague averment has been made that the respondent No. 2 was a powerful and resourceful lady and had influenced the investigation. However, no evidence had been placed on record to substantiate the same. Apart from that, it has been alleged that the respondent No. 2 was in the habit of extorting money from multiple men, but again no material has been placed on record to substantiate the said allegation. Even, the petitioner could not bring on record any material to show that there was likelihood of respondent No. 2 fleeing from the justice or repeating the offence or there was any possibility of tampering with the prosecution witnesses. Consequently, it is apparent that the trial Court had correctly extended the benefit of concession of bail to respondent No. 2. Apart from that, the law is well settled that the order of cancellation is a very harsh order as it interferes with the liberty of the individual and such orders cannot be passed in routine. The respondent No. 2 was granted the concession of

bail vide impugned order dated 24.08.2023 (Annexure P-2) but she has not misused the concession of bail.

11. Consequently, no purpose would be achieved by sending the respondent No. 2 behind the bars at this stage.

12. Finding no merit, the present petition is ordered to be dismissed.

18.10.2023

( N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No