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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9276-2017 (O & M)
Date of decision: 15.12.2023

Ram Chander

..... Petitioner

V/s

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sanjiv Gupta, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

CRM-52993-2023

The application for placing on record brief synopsis alongwith Annexures P-4 to P-6 is allowed as prayed for. The aforesaid documents are taken on record.

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The prayer in the present petition under Section 482 Cr.P.C. is for quashing of case FIR No.35 dated 29.05.2016 under Sections 306, 34, 120-B IPC and 420 IPC (added later on) registered at Police Station Government Railway Police, Patiala (Annexure P-1) alongwith report under Section 173 Cr.P.C. (Annexure P-3) and all subsequent proceedings arising therefrom qua the petitioner.

2. The brief facts of the case as emanating from the pleadings are that an FIR No.35 dated 29.05.2016 under Sections 306, 34, 120-B IPC and 420 IPC (added later on), Police Station Government Railway Police,

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Patiala (Annexure P-1) came to be registered at the instance of Taran Kumar son of deceased-Rajnish Kumar and reads as under:-

“Statement of Taran Kumar son of Rajnish Kumar Caste Balmiki R/o E-22, Punjabi University campus, Police Station Urban Estate Phase II Patiala, District Patiala aged about 23 years mobile No. 90413293320. Stated that 7 am resident of aforesaid address and doing ITI course at Mayor Polytechnical College, Jalandhar, Today morning i.e. 29.05.2016 I received a call from my mother Neelam saying that yesterday on 28.05.2016 your father had given a call saying that he will be back home within an hour but he has not come home till now but you please come home now. Then I reached home from Jalandhar. There after, I and my uncle Rajan went out in order to look out my father. While searching my father, we reached at Railway station Rajpura, where we saw a great rust of public gathered at platform No.1, where a dead body of a person was lying with face towards the floor and on turning that dead body upside, I found the same was of my father Rajnish Kumar. My father always used to say that he is being tortured and harassed_by Jaskirat Singh and his brother Sharanjit Singh sons of Narinder Pal resident of 90/8, Namdhar Khann Road, Patiala. They have obtained from my father 30 Blank cheques of him, on the pretext of getting him a loan but no loan was arranged by them. They in connivance with Surinder Pal Sharma, Advocate filed the said cheques in the courts at Patiala. For that reason there was always a gossip at our home that a big fraud has been played with us and my father always used to tell that the aforesaid two have compelled him to commit suicide. But we always gave moral support to my father by saying that God will definitely do justice with us. Jaskirat Singh and Sharanjit Singh have made a gang in connivance with other persons who used to play fraud with the people. Today you have searched the dad body of my father in my presence. During search, you have found a suicide note written in Hindi in the purse of my father which

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was found from the pocket of his pant, where in the details of the persons and their names who compelled my father to commit suicide, has been given and my father has signed the suicide note at its end and I identify the same. A legal action may kindly be taken against the persons named in the suicide note and they have compelled my father to commit suicide. I have recorded my statement to you in the presence of my uncle Rajan Singh. After recording my statement same has been read over to me your which is admitted to be correct. Action may be taken against the persons named in the suicide note. Time is about 14:00 Taran Kumar Rajan Singh attested Satwinder Singh 657 GRP police post Railway Police Rajpura dated 29.05.2016.”

Police Proceedings: *Today at about 11/40 AM one memo from SS Railway Station Rajpura Police Post in which Station Master has written that one unknown person's dead body is lying on PF NO. 1 near Exist gate towards Ambala side, for action IO send the IO upon which I ASI with along ASI Parminder Singh, 410 HC Jasvir Singh 880 Sct Avtar Singh 745 and Ct. Sidarth Singh 572 for doing the action reached on PF No.1 Ambala side at the spot, where the public has gathered and one person's dead body was lying on the cement slab of the platform, whose mouth was towards earth, which was turned in the presence of Taran Kumar and other persons, then Taran Kumar told that this dead body is of his father Rajnish Kumar and in whose presence the search of the dead body was conducted, then from his wearing pant from backside pocket, purse/valet was other recovered, from which along with othe documents, one suicide note written in Hindi was recovered, which was taken in police possession through Farad and on Farad witness was given by Taran Kumar and ASI Parminder Singh 410 GRP and Taran Kumar got recorded his statement to me and below the statement Taran Kumar put his signatures in English which were verified by Ranjan Singh, which was verified by me. As per suicide note Rajnish Kumar*

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has been compelled to die. As per his suicide note, the names are like this that Jaskirat Singh, Sranjit Singh sons of Narinder Pal Singh, House No. 90/8, Namdhar Khan Road, Patiala, Surinder Pal Sharma Advocate, Kuldeep Singh Samir Kumar, Murli Sharma, Ram Chander University Wala, Gupreet Singh, Sanjiv Kumar, Manjit Singh Doctor Maninder Singh Pandit Sohan Lal, his son Bunty Inspector Karan Singh Police Station Tripri Wala, Sohal Tripri Wala, Lalaji Patiala Wala, Aarti (Commission Agent) Pappu Patiala Wala, aforesaid persons have compelled Rajnish Kumar to die and as such against these persons the offence under Sections 306, 34, 420 IPC is made out and as such the statement by hand is being sent through HC Jasvir Singh 880 GRP for registration of case. After registration of case the number file may be intimated. Special reports may be issued. Officers are being intimated through mobile phone I ASI along with companions officials are busy for investigation at the spot at Platform No.1 Railway Station Rajpura. Time 15/30 0' Clock Sd/- Satinderjit Singh ASI 657 Police Post Railway Police Rajpura dated 29.05.2016. Proceedings at Police Station as per Rapat Roznamcha No. 25 Roznamcha Police Station Railway Police, Patiala on the statement of Punjab of Taran Kumar son of Rajnish Kumar caste Balmike resident of House No. E-22 Punjabi University Campus Police Station Urban Estate Phase No.02 Patiala District Patiala aged 23 years Mobile No. 9041393320, verified from ASI Satvinder Singh 657 Police Post Railway Rajpura dated 29.05.2016, regarding compelling to die of deceased Rajnish Kumar caste Balmiki resident of House No.E22 Punjabi University Campus Police Station Urban Estate Phase Number 02, Patiala District Patiala against Jaskirat Singh Saranjit Singh sons of Narinder Pal Singh House No. 90/08 Namdhar Khan Road, Patiala, Surinder Pal Sharma Advocate Kuldeep Singh Samir Kumar, Murli Sharma, Ram Chander University Wala, Gurpreet Singhy Sanjiv Kumar, Manjit Singh, Doctor Maninder Singh, Panit Mohan Lal, his

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son Bunty, Inspector Karan Singh Police Station Trripri Wala, Sohal Tripri Wala, Lalaji Patiala Wala, Aarti (Commission Agent) Pappu Patiala wala, on receiving of statement through HC Jasvir Singh 880 in the Police Station and verified by ASI Satvinder Singh 657 Police Post Railway Station Rajpura, Sections 306, 34, 120-B IPC under was registered and the case file is being sent through HC Jasvir Singh 880 to ASI Satwinder Singh 657 Police Post Railway Station Rajpura who is present at the spot, who is busy for inquiry at the spot. Original Tahrir/detail attached with the file. The first information report may be treated as special report, Bandi Rapat No. 26 dated 29.05.2016 18/29 O'clock”.

3. During the course of investigation, a suicide note (Annexure P-5) was recovered and the translated version of the same is as under:-

“I Rajnish Kumar son of Darshan Lal do hereby state that in case anything happens to me then Jaskirat Singh and his brother Sharanjit Singh son of Lata Sardar Narinderpal Singh H.No.90/80 Namdhar Road Patiala along with Surinder Pal Sharma advocate shall be responsible for the same. In this the friends of these brothers are also involved namely Kuldip Singh, Sameer Kumar, Murli Sharma, Ram Chander University wala, Gurpreet Singh, Sanjiv Kumar, Manjit Singh, Dr. Maninder Singh, Pandit Sohan Lal, his son Bunty. Inspector Karan Singh and Baba tripuri wale, Sohan Tripuri Wala, Lala Ji Patiala wala, Commission Agent Pappu Patiala wala who all are involved. Jaskirat Singh had fraudulently taken chques from me for getting a loan worth Rs.3 lacs sanctioned from a company in Delhi. Thereafter he had also given me sanctioned letter and asked for 30 cheques saying that the same shall be sent to the company who shall verify the cheques and after preparing the required documents shall give a DD worth Rs.3 lacs and that thereafter no one from the company shall come in

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court. Thereafter when I demanded my chques then Jaskirat Singh told me that they have been sent to the company and further told whatever information gets from there he shall informed me. He did not guide me properly and thereafter Jaskirat Singh along with her brother and friend presented the chques in the Bank and harassed me mantelly and also issued threats that he shall ruin me. Sarabjit also threatened me in court that he shall kill me and no one can do anything against him. Regarding this I also given the complaint along with my wife to PS Division No 4 but the police officials did not accept my application and told that they shall see to it. It is due to the same that I have taken this step. If you people do not punish them then in future they shall trap another person like me in their conspiracy and shall die. Pandit Sohan Lal and son Buntty started telling me to give Rs. 60000 and that after getting the amount from me on 10.07.2015 they will get the cases withdrawn pertaining to Kuldeep Singh and Sanjiv Kumar. But after receiving the money they did not get the cased withdrawn. Jaskirat Singh and Sarabjit Singh have connived and taken me to a point where I am committing suicide for the second time Surinder Pal Sharma advocate is also involved with them because they have shown this dream to the advocate that the gold worth rupees crores pertaining to the Maharajs Raja's time is present in our house, which we will dig it out, out of which you have to give us some share. And the remaining cases filed by us, he will contest those cases free of cost. Kindly consider this letter and take action. In this suicide note neither my parents, brother, sisters nor my in-laws, my wife, son and daughter are responsible for my death. The persons whose names are written in this suicide note are responsible for my death”.

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4. During the course of investigation, the statement (Annexure R-1/T) of Neelam Rani wife of the deceased-Rajnish Kumar was recorded and the translated version of the same is as under:-

“Made the statement that I am resident of above noted address and am domestic lady. My husband Rajneesh Kumar was an Government Servant in Punjabi University. He was having salary account in State Bank of Patiala Branch, Punjabi University, Patiala and State Bank of Patiala has issued cheque book to my husband. My husband was having bank Account No. MSB 55081483664. My husband had given me 30 cheques after signing it. So that I could withdraw the money from the bank for domestic need and pay fee of children. I usually kept these cheques in lady purse. One day, I went to Patiala in a Tempo and my purse was lost, which was being searched by us. After lapse of time, cheques could not be found. We lodged the complaint with Suvidha Centre regarding loss of cheques but after some time, Jaskirat Singh presented a cheque of Rs. 1,70,000/- in State Bank of Patiala. Since amount of Rs. 1,70,000/- was not in our account, so this cheque was bounced. When we went to State Bank of Patiala, Branch University, Patiala then we learnt that cheques are with Jaskirat Singh son of Narinder Pal Singh r/o H.No. 2090/8, Namdarkhan Road, Patiala. Then myself and my husband Rajneesh Kumar went at the residence of Jaskirat Singh, where Jaskirat Singh and his brother Sharanjit Singh and his mother was present. We asked Jaskirat Singh to return our lost cheques. At this, Jaskirat Singh said that he has got sanctioned loan of Rs.3 Lakhs from a company. We will give these cheques to the company as security presented your cheques in the bank as a person namely Rajneesh has signed on the cheques. There was no address of any person. Jaskirat Singh started alluring us, we came under his influence, then Jaskirat Singh by sending us to his brother Sharanjit Singh got prepared documents for getting sanctioned loan from Krishna

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Group Private Limited Company After passing many days, no loan was sanctioned in our favour. Then we went to Jaskirat Singh but every time, he was telling that you will be sanctioned. Then he got signatures on blank cheques of my husband for sending cheques to the company at Delhi. When the loan was not sanctioned, then we filed a complaint against him at Urban Estate, Patiala. At this, Jaskirat Singh annoyed with us and started threatening us and told that you are blank cheques duly signed are with him. I have filed the case against you after getting bouncing the cheques. We became fearful and Jaskirat Singh started taking undue advantage of our innocence and he in connivance with his friends and brother Sharanjit Singh, Kuldeep Singh son of Karam Singh r/o # B 35/213, Jatta Wala Chotran, Patiala, Shamir Kumar son of Suresh Kumar r/o H.No.56 B, Hem Bagh Colony, Patiala, Murli Manohar Sharma son of Pushap Sharma, r/o # 40 Near Jain Petrol Pump, Patiala Gurpreet Singh son of Paramjit Singh r/o # 1054/3, Near Lal Maszid Seran Wala Gate, Patiala, Sanjeev Kumar son of Ram Kewal r/o #16 - F. Partap Nagar, Patiala, Manjit Singh son of Ram Singh r/o # 261/2 Mohalla Takia Rahim near Dharampur Bazar, Patiala, Dr. Maninder Singh son of Jaswant Singh r/o # 816, Gall No.1, Anand Nagar A, Patiala, Harpreet Singh, Suresh Kumar, Vijay Kumar, Rajinder Jaiswal, Jaskirat Singh has got presented our cheques taken from us fraudulently. After handing over to the above noted persons, they filed number of cases against us and also got stopped our salary by them. At this, my husband Rajneesh Kumar started staying under depression We have fixed by the gang prepared by Jaskirat Singh. This gang also include Satinder Pal Sharma, Advocate. Inspector Karan Singh Babia Tripuri Wala, Sholak Tripuri Wala and Lal Ji of Patiala Wala and Pappu Commission of Patiala Wala, who have threatened us after coming to our house. Some time Ram Chand of University also visited our house and threatened my husband. We came under threat and my husband Rajneesh

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Kumar came under tension but to take undue advantage of our innocence, Pandit Sohan Lal and his son Bunty, who is residing in Sarai of Mandir in Books Market, Near Sadhu Ram Kichori Wala came to our house and disclosed that Jaskirat Singh is my man and he is under my influence, will get compromise effected with him but I will take Rs.1 Lakh, then myself and my husband went to the house of Pandit Sohan Lal after three days after making arrangement of Rs.60,000/- and after taking Rs.60,000/- from my husband, Pandit Sohan Lal after writing date 10/07/15 in a dairy told us that in case compromise could not be effected then will return your amount on Friday, but he did not got effected our compromise with Jaskirat Singh and nor returned of our Rs. 60,000/-.

We came in more problem as we are already in problem. My husband Rajneesh Kumar was under tension. He has filed application with State Bank of Patiala regarding loss of cheques. At the end, my husband Rajneesh Kumar committed suicide on 29/5/2016 due to harassment by above noted persons. He has sent a suicide note to your house through courier. The above noted persons have played a fraud upon us. Whereas, we were leading happy life before loss of cheques. Jaskirat Singh and his gang has also played fraud upon Hon'ble Court, because no money was taken by us. Even Jaskirat Singh and his brother Sharanjit Singh was not known to my husband. On all the bounced cheques cases have been filed by Jaskirat Singh through Advocate Satinder Pal Sharma. By pleading before the persons, who filed cases against us went to the houses including Sameer Kumar, Murli Manohar Sharma, Kuldeep Singh, Dr. Maninder Singh, Sanjiv Kumar, Manjit Singh, but these peoples were telling to us that it is correct they do not know us and nor paid any money to you but our friend is Jaskirat Singh, who has given these cheques to us. You entered into compromise with Jaskirat Singh. We will withdraw the cases. I told these persons that due to filing cases by them, my husband is under depression. If some thing goes

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wrong with him, then you will be responsible. The above noted persons have compelled my husband to commit suicide. These people have played fraud upon Honble Court and with me. I got recorded statement with you, heard, is correct”.

5. Though, as many as 18 persons had been named in the FIR. The report under Section 173(2) Cr.P.C. was prepared on 27.07.2016 whereas the supplementary challan was prepared on 18.01.2017 against Jaskirat Singh, Sharanjit Singh, Gurpreet Singh, Ram Chander (petitioner), Kuldeep Singh, Sanjeev Kumar and Samir Kumar.

6. Thereafter, the instant petition came to be filed.

7. The learned counsel for the petitioner contends that the petitioner was not named in the FIR. However, as he was named in the suicide note allegedly written by the deceased, the name of the petitioner finds mention in the police proceedings. He contends that a reading of the FIR alongwith the police proceedings, the suicide note and the statement under Section 161 Cr.P.C. of Neelam does not, in any manner, suggest that the petitioner had committed the offence for which he had been charge-sheeted. In fact, a bare perusal of the suicide note and the statement under Section 161 Cr.P.C. would only go to show that the petitioner had been named therein with sketchy allegations of him threatening the deceased. He further contends that the proceedings qua co-accused, namely, Sharanjit Singh, Jaskirat Singh, Kuldeep Singh and Gurpreet Singh already stand quashed by this Court. The case of the petitioner was on a better footing and therefore, the proceedings qua the petitioner was also liable to be quashed.

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8. The learned counsel for the State while referring to the reply dated 12.03.2019 contends that the offence had been established beyond reasonable doubt. As per the report of the FSL, the suicide note had been found to have been in the writing of the deceased. The allegations against the petitioner were also specific inasmuch as he in connivance with the other accused had got initiated proceedings under the N.I. Act against the deceased and also went to the house of the deceased and threatened him. The allegations were borne out from the suicide note as also the statement under Section 161 Cr.P.C. of his (deceased-Rajnish Kumar's) wife-Neelam. He, therefore, contends that no case for quashing of the FIR (Annexure P-1) and the report under Section 173 Cr.P.C. (Annexure P-3) was made out. He, however, concedes that the proceedings qua the co-accused/ Sharanjit Singh, Jaskirat Singh, Kuldeep Singh and Gurpreet Singh have been quashed by this Court.

9. I have heard both the parties at length and have perused the record.

10. Before proceeding further in the matter, it would be useful to refer to the relevant provisions of law for the proper adjudication of the present case.

Section 306 of the IPC reads 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."

Section 107 of the IPC reads as under:-

"107. Abetment of a thing.-A person abets the doing 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."

11. As to what constitutes abetment has been a matter of considerable debate.

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]

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]

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

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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]

Further the Hon'ble Supreme Court in '**Gurcharan Singh v. State of Punjab, 2017 (1) RCR (Criminal) 118**', has held as under:-

"22. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of this constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 I.P.C. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 I.P.C., thus criminalises the sustained incitement for suicide.

29. Significantly, this Court underlined by referring to its earlier pronouncement in Orilal Jaiswal (supra) that

courts have to be extremely careful in assessing the facts and circumstances of each case to ascertain as to whether cruelty had been meted out to the victim and that the same had induced the person to end his/her life by committing suicide, with the caveat that if the victim committing suicide appears to be hypersensitive to ordinary petulance, discord and differences in domestic life, quite common to the society to which he or she belonged and such factors were not expected to induce a similarly circumstanced individual to resort to such step, the accused charged with abetment could not be held guilty. The above view was reiterated in Amalendu Pal @ Jhantu v. State of West Bengal 2010 (1) RCR (Criminal) 643 : 2010 (1) Recent Apex Judgments (R.A.J.) 184 : (2010) 1 SCC 707.

30. That the intention of the legislature is that in order to convict a person under Section 306 I.P.C., there has to be a clear mens rea to commit an offence and that there ought to be an active or direct act leading the deceased to commit suicide, being left with no option, had been propounded by this Court in S.S. Chheena v. Vijay Kumar Mahajan 2010 (4) RCR (Criminal) 66 : 2010 (4) Recent Apex Judgments (R.A.J.) 629 : (2010) 12 SCC 190 ."

This Court in '**Surender Kumar v. State of Haryana, 1999 (1)**

RCR (Criminal) 558', has held as under:-

"4. There is no dispute with the proposition of law as propounded by the learned trial Court that a charge can be framed on strong suspicion and that the merits of the case at that stage are not supposed to be inquired into, but this Court is of the considered opinion that the trial Court has not rightly appreciated the allegations so as to bring the case of the State under Section 306 Indian Penal Code. As per Section 306 whoever abets the

commission of suicide, in that eventuality only he will be attracted with the ingredients of that section. Abetment can be express, direct, indirect or implied but there must be a close proximity between the alleged abetment and the effect. The petitioner was the employer. If his gold had been stolen or had not been accounted for by his employees or apprentice he had the right to take the search and interrogate. In that eventuality if one or two slaps are given by the employer to his servant in order to get a confession even that is not barred. There is not an iota of evidence on the record prima facie to suggest that the petitioner ever goaded, urged or excited the deceased to jump before a running train. Moreover, the alleged incident has taken place after a lapse of 20 days. The jumping in front of the running train was the independent act of the deceased, it cannot be connected with the petitioner. In these circumstances, the learned trial Court was not justified in framing a charge against the petitioner under Section 306 Indian Penal Code. In this regard, reliance can also be placed on Gurdeep Singh v. State of Haryana, 1998(3) RCR (Criminal) 266."

[Emphasis supplied]

This Court in '*Kashmiri Lal v. State of Haryana, 2008(4) RCR (Criminal) 497*', has held as under:-

"15. Needless to say, there was clear-cut interval of 3 days in between 26th April, 1993 and the date of occurrence i.e. 30.4.1993. If the deceased had taken decision to commit suicide, her passions for this act might have cooled down during this interregnum. Now it is to be noticed as to what has to be established by the prosecution to earn conviction under Section 306 of Indian Penal Code. The accused will be guilty of abetment in case of suicide if the cruelty meted out to the deceased had the effect of inducing her to end her life by

committing suicide. He will not be guilty of the same if the victim was hypersensitive to ordinary discord and differences in domestic life. It is not enough that the husband treated the deceased with cruelty. There must be proof of direct or indirect acts of incitement to the commission of suicide. The abetment involves mental process of instigating a person or intentionally aiding that person in doing of a thing. Section 107 of Indian Penal Code defines abetment of a thing. The offence of abetment is a separate and distinct offence. A person abets the doing of thing when (i) he instigates any person to do that thing; or (ii) engages with one or more other persons in any conspiracy for the doing of that thing; (iii) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word, 'instigate' literally means to provoke, incite, urge or bring about by persuasion to do any thing. Abetment may be by instigation, conspiracy or intentional aid, as provided in the 3 clauses of Section 107 ibid. Section 109 of Indian Penal Code provides if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment for the original offence. The offence for the abetment of which a person is charged with, the abetment is normally linked with proved offence. [See Sohan Raj Sharma v. State of Haryana, [2008 (2) RCR (Criminal) 810 : 2008 (2) RAJ 272]."

[Emphasis supplied]

12. As to whether being named in a suicide note, proves the guilt of the accused, this Court in ***'Harbhajan Sandhu versus State of Punjab and another 2022(2) RCR (Criminal) 317'*** has held as under:-

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“16. Even, otherwise, merely being named in a suicide note would not by itself establish the guilt of an accused until the ingredients of an offence are made out. In the present case, taking the suicide note to be absolutely correct, the allegations therein do not constitute an offence for which the petitioner can be prosecuted”.

13. In the instant case, firstly, the petitioner is not named in the FIR. Even in the suicide note and the statement recorded under Section 161 Cr.P.C., no specific role whatsoever has been attributed to him. Proceedings qua the co-accused, namely, Sharanjit Singh, Jaskirat Singh, Kuldeep Singh and Gurpreet Singh already stand quashed. Therefore, no useful purpose would be served by allowing the proceedings to continue against the present petitioner as well.

14. In view of the aforementioned discussion, FIR No.35 dated 29.05.2016 under Sections 306, 34, 120-B IPC and 420 IPC (added later on) registered at Police Station Government Railway Police, Patiala (Annexure P-1) alongwith report under Section 173 Cr.P.C. (Annexure P-3) and all subsequent proceedings arising therefrom stand quashed qua the petitioner.

15. The present petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

December 15, 2023
sukhpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No