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CRR 1496 of 2015

**Nawal Kishore Bandhyopadhaya & Anr.
Vs.
The State of West Bengal & Anr.**

Mr. Debapratim Guha,
Mr. Rajiv Lochan Chakraborty,
Mr. Priyanjit Kundu,
Ms. Anchita Sarkar

.. for the petitioners.

Mr. Saryati Datta. ... for the State.

1. Challenge is the proceeding in connection with G.R. No. 1075 of 2012 pending before the learned Additional Chief Judicial Magistrate, Kalna, Burdwan arising out of Kalna Police Station Case No. 480 of 2012 dated 03.11.2012 under Sections 306/34 of the Indian Penal Code.
2. The instant application under Section 482 of the Code of Criminal Procedure has been filed with a prayer for quashment of the aforementioned proceeding.
3. Mr. Debapratim Guha, learned counsel appearing on behalf of the petitioners has submitted that there is no allegation of abetment within the meaning of Section 306 of the Indian Penal Code as appearing either from the FIR or from the evidence collected during investigation.
4. Mr. Saryati Datta, learned counsel appearing on behalf of the State, in his usual fairness, has submitted that he could not find any allegation of

abetment against the petitioners in the Case Diary.

5. On careful scrutiny of the written complaint which was lodged by one Dulal Chakraborty i.e. father of the deceased, I find that there was love affair between the daughter of the petitioners and his son for a considerable period. But the petitioners, i.e. parents of the girl namely Sweta Bandhyopadhyay, did not like his son and gradually the said girl started avoiding his son and ultimately on 28.10.2012 the complainant and his wife left the house on the occasion of Bijaya Pronam in the locality at about 5.45 P.M and in the meantime his son committed suicide by hanging.

6. To attract the provision of Section 306 of the Indian Penal Code, there must be an allegation of abetment to commit suicide. The provision of Section 306 runs as follows:

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. As it appears from the complaint, I find even hardly any prima facie allegation of abetment. There is nothing in the written complaint addressed to Officer-in-Charge, Kalna Police Station regarding any kind of role played

by either of the petitioners in commission of offence of abatement consequence of which son of the complainant committed suicide.

8. From perusal of the Case Diary, particularly the statement recorded in course of investigation, I also do not find any specific role played by either of the petitioners committing any offence under Section 306 of the Indian Penal Code.
9. In the aforesaid view of the matter, I am of the view that the case involved in this revisional application falls within the parameter Nos. 1 and 3 laid down by the Hon'ble Apex Court in *State of Haryana and others Vs Bhajanlal* reported in **State of Haryana and others Vs Bhajanlal** reported in **AIR 1992 SC 604**. The parameters are quoted below:-

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but

constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. However, I find that the allegation made in the First Information Report, even if they are taken at their face value and accepted in their entirety did not prima facie constitute any offence under Section 306 or make out a case against the accused/petitioners even the uncontroverted allegations made in the FIR and the evidence collected in support the same did not disclose the commission of any offence of abatement against the petitioners.

11. Thus, I find that proceeding in connection with G.R. No. 1075 of 2012 is liable to quashed.

12. With the aforesaid observation, the revisional application stands disposed of.
13. Connected application, if any, stands disposed of.
14. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.
15. Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Bibhas Ranjan De, J.)