

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side

Present:

Justice Bibhas Ranjan De

C.R.R. 2342 of 2016

Manabendra Sengupta @ Manab

Vs.

The State of West Bengal & Anr.

For the Petitioners :Mr. Rabi Sankar Chattopadhyay, Adv.
Mr. Santanu Maji, Adv.
Mr. A. Maji

For the opposite party :Mr. Imran Ali, Adv,
Mr. Anand Keshari, Adv.

Heard on : 06.05.2024,

Judgment on : 10.05.2024

Bibhas Ranjan De, J.

1. The instant criminal revision application has been preferred
with a prayer for quashment of the proceedings in connection

with G.R. Case No. 852 of 2012 as well as the Charge Sheet being no. 464 of 2014 arising out of Kotwali Police Station Case no. 849 of 2012 dated 12.12.2012 under Sections 306/34 of the Indian Penal Code (for short IPC) presently pending before the Ld. Chief Judicial Magistrate (for short CJM), Coochbehar.

- 2.** The impugned proceeding was put into motion by a written complaint made by the opposite party no. 2 herein before the officer in-charge of Kotwali Police Station to the effect that his elder son had a love marriage with his wife in the year 2006 and out of this marriage a son was also born. The deceased son of the opposite party no. 2 because of his occupation had to stay away from home for various work reasons. It was alleged that the son of opposite party no. 2 along with his wife and son used to reside at a rental accommodation for a brief period of time prior to his demise. Soon after marriage, the daughter in law of the opposite party no. 2 herein started getting involved in illicit affairs and when the son of the opposite party no. 2 protested, his daughter in-law started torturing her husband/son of the opposite party no. 2 both mentally and physically which resulted in their family life

getting spoiled. The opposite party no. 2 and his family repeatedly asked his daughter in-law to refrain from such activities but she did not pay any heed to such requests and even threatened the opposite party no. 2 herein with dire consequences. On 01.12.2012 at night, daughter in-law of the opposite party no. 2 informed him that his son has died by hanging. It has also been alleged that the daughter in-law of opposite party no. 2 was involved in various immoral acts and supporting documents to that effect was also submitted by the opposite party no. 2 alleging that the daughter in-law continuously used to harass the son of opposite party no. 2 both mentally and physically by saying that she will continue to act on her own will and he has to bear with such immoral acts or else she will make sure that the family of the opposite party no. 2 lands up in jail. As the son of the opposite party no. 2/ defacto complainant could not bear any more and in order to save his own self respect he finally committed suicide.

- 3.** On the basis of the said written complaint a specific case was registered as Kotwali Police Station Case no. 849 of 2012 dated 12.12.2012 under Section 306 of the IPC against the daughter in-law of the opposite party no. 2 herein. Upon

completion of investigation, police submitted charge sheet against two accused persons including the petitioner. On the basis of the charge sheet filed by the investigating agency the Ld. CJM, Coochbehar on 23.09.2015 took cognizance.

Arguments advanced:-

4. Ld. Counsel, Mr. Rabi Sankar Chattopadhyay, appearing on behalf of the petitioner has contended that the petitioner is not related with the death of the deceased in any manner and naturally his name did not appear in the First Information Report.
5. Mr. Chattopadhyay has submitted that charge sheet has been submitted against the petitioner only on suspicion without any specific allegation. In support of his contention, he relied on a case of ***Netai Dutta Vs. State of W.B. reported in (2005) 2 Supreme Court Cases 659*** wherein the Hon'ble Apex Court held that if there is no allegation made by the complainant that the accused in any way harassed the deceased then the case is without any factual foundation. The contents of the alleged suicide note do not make out the offence against the accused and as a sequel no proceeding should be allowed to carry on against the accused.

6. In opposition to that, Ld. Counsel, Mr. Imran Ali, appearing on behalf of the State has submitted that there are sufficient evidence collected during investigation against the petitioner. Mr. Ali has further submitted that at this nascent stage of proceeding this Court cannot exercise jurisdiction under Section 482 of the Code of Criminal Procedure (for short Cr.P.C).

Analysis:-

7. It would be appropriate to reproduce the provision of Section 306 of the IPC before delving into the merit.

8. Provision of the Section 306 of the IPC runs as follows:-

“306.Abatement of suicide - If any person commits suicide, whoever abates the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.”

9. Components of offence of abatement under section 107 of the IPC is as below:-

- An abatement is required.
- Abatement must be an act under taken by a person who is legally competent to commit the offence with same intent or knowledge of the abator.

- Mens rea should be present which is seen as a pre-requisite for the liability of the offence of abatement.

10. Mr. Chattopadhyay has tried to make this Court understand that the petitioner cannot be held liable for committing any offence under Section 306 of the IPC as his name did not appear in the first information report and petitioner is no way related with the deceased who alleged to have committed suicide.

11. The word 'abatement' in Section 306 of IPC does not necessarily attract any act of the offender causing harm directly to the person who commits suicide. Even if any act of a person creates a situation which compels a person to commit suicide is sufficient to constitute an offence under Section 306 of IPC.

12. Though the petitioner is not named in the FIR but evidence collected during investigation clearly suggests prima facie that the petitioner participated in an act with the wife of the deceased who was rather compelled to commit suicide. The evidence collected, particularly the statement recorded under Section 161 of Cr.P.C. along with seizure of the Memory Chip

of the mobile phone of the deceased can be said to be a compelling situation leading to commission of suicide.

13. Now coming to the case relied on behalf of the petitioner, the referred case dealt with an employee who committed suicide after being frustrated with the stagnancy of salary and other unfortunate circumstances. In that case, the employee who committed suicide left a suicide note indicating the appellant responsible for the commission of the same without making any specific allegation to that effect unlike the case at our hand. It is trite law that the Court while exercising its jurisdiction under Section 482 of the Cr.P.C or article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account overall circumstances leading to the initiation or registration of the case as well as the materials collected during the course of investigation.

14. After giving a thoughtful consideration, I am unable to hold that petitioner of this case did not participate in any act of abatement within the meaning of Section 306 of IPC at this prima facie stage without ascertaining the same after recording evidence during trial.

15. In the aforesaid view of the matter, the instant application being no. CRR 2342 of 2016 stands dismissed.
16. Interim order, if there be any, stands vacated.
17. Connected applications, if there be any, stand disposed of accordingly.
18. Case diary be returned.
19. All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
20. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]