

2024:PHHC:172429

IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH

CRM-M-8356-2021

Date of Decision: 24.09.2024

BOBBY @ SHYAM SUNDER AND ANOTHER

.....PETITIONERS

VERSUS

THE STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sanjiv Sheorana, Advocate with  
Mr. Vishva Nath Sharma, Advocate  
for the Petitioners.

Mr. Chetan Sharma, DAG, Haryana

Mr. G.C. Shahpuri, Advocate  
for the complainant.

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**SANDEEP MOUDGIL, J**

1. This is a petition filed under Section 482 Cr.P.C. to quash the impugned FIR No.26 dated 06.02.2021, Annexure P-1, under Section 306, 34 of the Indian Penal Code, registered at Police Station Farakpur, District Yamuna Nagar, and all its subsequent proceedings.

2. It is contended by the learned counsel for the petitioners that the petitioners have been falsely implicated in the present case as no offence is made out against them. It is further contended that the petitioners never instigated the deceased Ravinder nor is there attribution of any role to them.

The petitioners are the Directors of JaiMaa Ambay Nidhi Limited Company

which is registered under the Companies Act, 2013, and is advancing

financial loans on interest to the desirous persons and the loan amount is credited into the bank account of the loanee. The allegation in the FIR is that the petitioners were calling the deceased in their office and in this way, they were harassing the deceased due to which the deceased consume poison. However, there is no reason disclosed by the deceased or complainant for calling the petitioners to their office. Since there is no specific instigation alleged against them because calling a person in the office does not constitute an offence under Section 306 IPC.

3. Learned counsel for the petitioner has relied upon Annexure P-4 which is a judgment of Hon'ble Supreme Court being Criminal Appeal No.742 of 2020 (arising out of SLP (Crl.) No.5598 of 2020) titled as ***“Arnab Manoranajan Goswami Vs. The State of Maharashtra & Ors.” Reported as (2021) AIR (SC) 1***, to contend that in the present case the allegation against the accused was that he assigned more and more official work to the deceased due to which he committed suicide. The Hon'ble Court observed that assigning more and more work does not constitute a criminal guilt and accordingly, FIR was quashed. Therefore, the impugned FIR, Annexure P-1, is liable to be quashed alongwith all its subsequent proceedings.

4. On the other hand, learned counsel for the State, while referring the reply filed on behalf of the State, has submitted that FIR has been registered after recording the statement of deceased – Ravinder Kumar s/o Narinder, after he was declared as fit to make statement wherein he has stated that Bobby Financer and Vipin were harassing him after calling him in the office of Workship, so he took poison. On 06.02.2021, information was received that Ravinder Kumar has died and then FIR No.26 under Section 306/34 IPC came to be registered on 06.02.2021. As such, there are

specific allegations against the petitioners in the statement of the deceased. Moreover, during the course of investigation, after being arrested on 24.02.2021 and interrogated, the petitioners/accused admitted their offence and disclosed that they used to lend money on high rate of interest. They also admitted that they advanced loan of Rs.4 lacs on interest @ 15% and out of said amount, Ravinder returned some money but thereafter he started avoiding return of money and for that reason, he was used to be called in the office. Therefore, the present petition is liable to be dismissed.

5. Learned counsel for the complainant/respondent No.2, who has been impleaded as such, vide order dated 29.09.2021 passed in CRM-32400-2021, has contended on the basis of his reply that before death, deceased Ravinder had made a statement in Gaba Hospital, in the presence of Dr.Anshul Dhiman, to the effect that the petitioners were harassing him after calling him in their office and used to give beatings to him and due to causing harassment to him by the petitioners, he consumed poison. He further contends that deceased had taken loan of Rs.4.00 lacs from the petitioners on interest @ 15% and returned money of interest and thereafter, petitioners/accused started calling the deceased to their office due to which the deceased felt insulted and harassed and as such he committed suicide by consuming poison.

6. Heard learned counsel for the respective parties at length.

7. Before embarking upon the merits of the case, it deems appropriate to notice the law laid down in the statute which is reproduced herein below:-

*“Section 306- Abetment to 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 306 IPC directs that whoever abets the commission of suicide ,shall be punished with imprisonment for a term of not less than 10 years, Therefore, the soul of section 306 is abetment which is explained under section 107 IPC which reads as follows:-

*“Abetment of a thing- A person abets the doing of the thing, who-*

*First- Instigate 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.*

*Explanation 1-. A person who, by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be*

*done, is said to instigate the doing of that thing.”*

Section 107 IPC, clearly mandates that if the accused intentionally aids any act against the victim which leads to the ingredients of Section 306, then it would apply. Therefore, the crux of section 107 is intention of the accused should be to aid or instigate or abet the deceased to commit suicide.

8. The Apex court in plethora of judgments rendered from time to time has laid down principles for entertaining a petition under section 482 Cr.P.C, in cases where abetment to suicide is the offence alleged. The Apex court in **“Amalendu Pal vs State of West Bengal{2010} 1 SCC 707”**, has held as follows:-

*12. Thus, this court has consistently taken the view that before holding an accused guilty of an offence under section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of the suicide. Merely on allegation of*

*harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.*

*13.In order to bring the case within the purview of Section 306 IPC, there must be a case of suicide and in commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under section 306 IPC.*

*14.The expression “abetment” has been defined under section 107 IPC, which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause Firstly or to do that*

*thing as stated in clause Secondly or Thirdly of Section 107 IPC. Section 109 IPC provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence. Learned counsel for the respondent State, however, clearly stated before us that it would be a case where clause Thirdly of section 107 IPC would be attracted. According to him, a case of abetment of suicide is made out as provided for under Section 107 IPC.”*

9. To convict a person under [Section 306](#) IPC, there has to be clear mens rea to commit offence. It also requires an active act or direct act which leads deceased to commit suicide finding no other option and the act must be such reflecting intention of the accused to push deceased into such a position that he commits suicide. The prosecution has to establish beyond reasonable doubt that the deceased committed suicide and the petitioner abetted the commission of suicide of the deceased.

10. The word instigation has not been specifically defined by the statute but has been time and again interpreted by the Apex court in its various judgments. In, “**Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618]**” the Apex court has held that:-

*“20. Instigation is to goad, urge forward, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of instigation though 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.*

11. As Section 306 of IPC makes abetment of commission of suicide punishable, therefore, for making a person liable for an offence punishable under Section 306 IPC, it is a duty of the prosecution to establish that such person has abetted the commission of suicide and for the purpose of determining the act of the accused, it is necessary to see that his act must fall in any of the 3 categories as enumerated under Section 107 of the IPC and, therefore, it is necessary to prove that the said accused has instigated the person to commit suicide or must have engaged with one or more other

persons in any conspiracy for seeing that the deceased commits suicide or he must intentionally act by any act or illegal omission, of the commission of suicide by the deceased.

12. Human mind is an enigma. It is well nigh impossible to unravel the mystery of the human mind. There can be myriad reasons for a man or a woman to commit or attempt to commit suicide; it may be a case failure to achieve academic excellence, oppressive environment in college or hostel, particularly for students belonging to the marginalized sections, joblessness, financial difficulties, disappointment in love or marriage, acute or chronic ailments, depression, so on and so forth. Therefore, it may not always be the case that someone has to abet commission of suicide. Circumstances surrounding the deceased in which he finds himself are relevant.

13. Thus, considering the totality of the facts & circumstances of the case, this Court is of the considered opinion that prima facie there is no material to show that petitioners in any manner has abetted the deceased to commit suicide. Merely calling of the petitioners to the deceased at workplace regarding re-payment of money, would not signify that the petitioner has instigated the deceased to commit suicide.

14. In the light of above stated facts and after considering the spectrum of law over this issue, the court finds it appropriate to quash the case FIR No.26 dated 06.02.2021, Annexure P-1, under Section 306, 34 of the Indian Penal Code, registered at Police Station Farakpur, District Yamuna Nagar, with all its subsequent proceedings arising therefrom and

final report under Section 173 Cr.P.C., if any filed, are hereby quashed qua  
the petitioners.

15. Ordered accordingly.

24.09.2024

(SANDEEP MOUDGIL)  
JUDGE

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