

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13875-2019
Decided on 02.05.2024

Suman & Ors.

... Petitioners

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. PBS Goraya, Advocate for the petitioners

Mr. Chetan Sharma, DAG Haryana

Mr. Karan Pathak, Advocate for respondent No.2

Sandeep Moudgil, J.

(1). The petitioner has filed the instant petition under Section 482 CrPC for quashing of the FIR No.09 dated 06.01.2018 (Annexure P1) under Section 306/34 IPC registered at Police Station Safidon, District Jind as well as the subsequent proceedings including challan dated 15.02.2019 (Annexure P2).

(2). Learned counsel for the petitioner submits that the alleged suicide note has been created by the family members of the deceased only in order to save themselves from prosecution and in order to falsely implicate the petitioners. It is averred that from the ingredients of the alleged suicide note (Annexure P-2), no offence under Section 306 IPC can be said to have been committed inasmuch as, there is no positive act of instigation or abetting has been attributed to the petitioners and as per the settled law, mere mentioning of someone's name in the suicide note does not make him or her an 'abettor' or 'instigator' to hold him or her guilty for the offence punishable under Section 306 IPC.

(3). It is argued that there has to be a positive act on the part of the accused to instigate or aid in committing suicide and such an act must have been intended to push the deceased in such a position that he commits suicide, however, keeping in view the allegations made in the FIR (Annexure P-1) , the alleged act attributed to the petitioners cannot be held to be a positive act on the part of the petitioners, which can be held to be an act of instigating or abetting the deceased to commit suicide. Reliance has been made to **Ramesh Kumar vs. State of Chattisgarh (2001 (4) RCR (Criminal) 537.**

(4). On the other hand, as per the reply/affidavit dated 24.04.2019 filed by Mr.Sunil Kumar, HPS, DSP, Safidon, District Jind, on 06.01.2018, proceedings under Section 174 CPC was carried out and the suicide note was taken in police custody and sent to FSL, Madhuban for comparison of handwriting and during investigation, numerous persons of both sides were joined and on verification, ample evidence came on file against the petitioners on the basis of which they could be prosecuted under Sections 306/34 IPC for having common intention for abetting deceased Inderjit, by misbehaving, harassing physically and mentally which lead him to commit suicide whereas no incriminatory evidence against co-accused namely Dr. Gulab Singh.

(5). Respondent No.2 has filed reply on 22.01.2020 wherein it has been averred that suicide note was found after the personal search of deceased Inderjeet, who happens to be the husband of petitioner no.1 and the language and length of the said suicide note, in no manner, suggests that the same is a fabricated one rather both these facts clearly establish that the facts mentioned therein are the very basis of taking a decision by the deceased to

finish his life and as such, the petitioners are very much responsible for driving the mind of the deceased to take this extreme step.

(6). Learned counsel for respondent No.2 exhorted the fact that the FIR, in the present case, stands registered on the complaint of father of deceased Inderjeet itself establishes that petitioner No.1 Suman @ Sania was not in the house of deceased at Khera Khemawati and this fact corroborates the story in suicide note and in FIR that the petitioners were not happy from the dairy business of deceased Inderjeet and used to humiliate and insult him and his family on this account.

(7). Heard learned counsel for the parties and gone through the record.

(8). It should also be noted that in cases of alleged suicide abetment, there needs to be evidence of either direct or indirect acts of incitement to the commission of suicide. Conviction under Section 306 of the IPC is not viable based solely on the accusation of harassment without any positive action on the part of the accused close to the time of the occurrence that led or forced the individual to commit suicide. Abetment is the mental evolution of purposefully inciting or assisting someone to perform an act. For convicting an individual under Section 306 of the IPC, there needs to be a clear motive to commit the offence of abetment.

(9). The Supreme Court in **M.Mohan v. State Tr.Dy.Suptd.of Police, 2011 (3) SCC 626** ruled that there must be a close connection between the alleged person's act and the deceased person's choice to commit suicide. In the absence of a connection, it will be difficult to prove that the accused person stimulated the deceased person to commit suicide. As a result,

abetment by a person occurs when the accused instigates or generates situations that force the deceased to commit suicide.

(10). As per the allegation, the marriage of petitioner No.1 with the deceased Inderjit was performed on 16.01.2017 and they started residing happily at Dharuhera, District Gurugram. He started doing dairy business and was under constant pressure to earn money and to repay the loan which his parents had taken. On 28.12.2017, petitioner No. 1 accompanied by her husband Inderjit had gone back to Dharuhera i.e. the place where Inderjit had been working. There had been matrimonial discord between the petitioner No.1 Suman with her husband Inderjit and family members. It is also the allegation that when Inderjit went to the house of the petitioners to take his wife (petitioner No.1), Inderjit was pushed out of their house and even petitioner No.3 threatened Inderjit to spoil his life due to which he remained mentally disturbed all the time. Astonishingly, in the reply filed by the official respondent, it has cropped up that one Gulab Singh took the deceased Inderjit in his car to Panipat, made him drink alcohol, tortured him and is also alleged to have done some 'illegal act' with Inderjit due to which he remained more tensed. However, the said Gulab Singh has been found to be innocent.

(11). A reading of the above allegation would suggest that there was no immediate and direct instigation or abetment by the petitioners which instigated him to commit suicide. The entire circumstances addressed in this case, particularly the suicide note left by the deceased himself, fall for the evaluation under the expression "*all the other circumstances of the case*" mentioned in Section 113A of the Indian Evidence Act, 1872 and do not allow the assumption thereunder to be brought up against the petitioners.

(12). In *State of West Bengal v. Orilal Jaiswal, (1994) 1 SCC 73*, the Supreme 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 the one to end his/her 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.

(13). In case of *Amalendu Pal @ Jhantu vs. State of West Bengal, 2010 AIR(SC) 512*, after considering various earlier judgments the Supreme Court observed 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 his 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 suicide. Merely on the 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.

(14). It is apparent that in a case under Section 306 IPC, there should be clear *mens rea* to commit the offence under this Section and there should be direct or active act by the accused, which led the deceased to commit suicide, that is to say that there must be some evidence of "instigation", "cooperation" or "initial assistance" by the accused to commit suicide by the victim/deceased.

(15). In the present case, the allegation leveled by the father of the deceased is that the deceased was under constant threat by the petitioners. The alleged threat or mental cruelty was not of such a nature, which could ordinarily drive a man to commit suicide. Here, it cannot be established that there was a strong *mens rea* on the part of the petitioners which forced the deceased to commit suicide and in absence of any positive act on the part of the petitioners to instigate and aid in the commission of suicide, the penal provisions under Section 306 IPC cannot be invoked inasmuch as the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with *mens rea* in order to constitute instigation to commit suicide. In this view of the matter, I am of the opinion that there is absolutely no material on record, sufficient for continuing the criminal prosecution against the petitioners.

(16). Accordingly, this petition is allowed and the FIR No.9 dated 06.01.2018 (Annexure P1) as well as all the subsequent proceedings arising therefrom, stand quashed *qua* the petitioners.

02.05.2024
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No