



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-40292-2018
Date of Decision: 24.04.2024

RAMBIR SINGH
.....APPELLANT

VERSUS

THE STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikas P Singh, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Punjab.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 482 Cr.P.C. for quashing of case FIR No. 36 dated 17.03.2017 registered under sections 306/406/34 of IPC at Police Station GRP, Faridabad (Annexure P-1) and chargesheet dated 17.08.2017(Annexure P-2) framed under sections 306/406/34 IPC and all other subsequent proceedings arising therefrom.
2. Factual matrix of the case unfolds that the complainant has alleged that her son(deceased) committed suicide after being run over by the train on being harassed by the petitioner and other co-accused wherein they owe about one crore rupees of the deceased and on asking by the deceased for the return of money, all accused started extending threats to kill the deceased. A suicide note was also found on the table in which it has been alleged that the accused persons are responsible for his death.

3. Counsel for the petitioner contends at the very outset that the present complaint does not disclose the commission of an offence under section 306 IPC and also, FIR does not produce any iota of evidence to state that the petitioner had intentionally aided or engaged with any person in any conspiracy to attract section 107 IPC.

4. He further contends that except for the suicide note, nothing incriminating has been found against the petitioner wherein it can be proved that he was involved in instigating the deceased-Virender Nath Sharma in committing the act of suicide.

5. Counsel for the petitioner vehemently contends that the petitioner was behind the bars from 26.12.2016 uptill his bail on 17.04.2018 in another case which makes it abundantly clear that the petitioner had no contact with the deceased to directly incite or instigate him while relying on '***S.S.Chheena vs Vijay Kumar Mahajan and Another,[2010] 12 SCC 190,***' wherein it has been held by the Apex court that:-

“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”

6. He further contends that the deceased was undergoing depression and his father also committed suicide due to depression in the same manner and the same has been admitted by the complainant in her statement under section 161 Cr.P.C.

7. On the other hand, learned state counsel while relying upon a reply filed by Mr. Ramesh Kumar, HPS, Deputy Superintendent of Police,

Palwal on behalf of the State of Haryana contends that during investigation, the petitioner suffered his disclosure statement and admitted his involvement in the commission of the crime. He further contends that the petitioner is named in the FIR as well as in the suicide note which is suffice to attract section 306 IPC.

8. He further contends that the petitioner along with the other co accused owed some money to the deceased which they refused to return on the asking of the deceased and further threatened him to kill in case he demanded the money again.

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

10. 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.

11. 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.”

12. 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.

13. 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.”

14. 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.

15. From the perusal of the suicide note in the instant case, it is crystal evident that the deceased had only mentioned names of the petitioner and other co accused without stating any reason as to why these persons are responsible for his death added with the fact that the deceased committed suicide on 17.03.2017 whereas the petitioner was behind the bars in some other case from 26.12.2016 to 17.04.2018 thereby, by no stretch of imagination it can be culled out that the petitioner has directly or indirectly instigated the deceased to commit suicide.

16. 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.

17. 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 petitioner in any manner has abetted the deceased to commit suicide. Merely existence of a dispute regarding re-payment of money, would not signify that the petitioner has instigated the deceased to commit suicide.

18. 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. 36 dated 17.03.2017 registered under sections 306/406/34 of IPC at Police Station GRP, Faridabad (Annexure P-1) and chargesheet dated 17.08.2017 (Annexure P-2) framed under sections 306/406/34 IPC and all other subsequent proceedings arising therefrom qua the petitioner.

19. Ordered accordingly.

24.04.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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