

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-M-42170-2023
Date of Decision: 01.08.2024

SULTAN SHAH @ MOHAMMAD SULTAN AND OTHERS
.....PETITIONERS

VERSUS

THE STATE OF PUNJAB AND ANOTHERRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Arshpreet Khadial, Advocate
for the petitioners.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 482 Cr.P.C. for seeking quashing of FIR No.0098 dated 14.06.2022 under Section 306, 34 of the Indian Penal Code, 1860, (for short-‘IPC’) registered at Police Staton Bhikhi, District Mansa,(Annexure P-1).
2. It is contended by learned counsel for the petitioners that the petitioners are innocent and colour of suicide has been given to the natural death which is supported by the fact that the post mortem report,(Annexure P-2), does not suggest any injury, signs of force or any external factors suggesting unnatural death. Moreover, Chemical Examiner report (Annexure P-3), also does not talk of detection of any poison in the body of the deceased, therefore, no case of unnatural death to constitute offence under Section 306 IPC is made out in the present case.



3. Per contra, it is contended by the learned State counsel that FIR has been registered on the statement of Jainab Bukhari, who is the wife of the deceased and complainant in the present case, and according to her version, her husband had categorically told her that few persons namely, Sultan Shah; Firoz Khan; Khushi Khan; Baru Khan and Mithu Khan used to quarrel with the deceased and also used insult him in the community and threatened to kill him.

4. Further, the complainant had also alleged that her husband died due to remaining upset from Sultan Shah; Firoz Khan; Baru Khan and Mithu Khan coupled with the fact that a handwritten note of deceased has also been found in which he has mentioned the above named four persons as responsible for his death. As such, the role of the petitioners is very specific in nature and the names of the petitioners are duly mentioned in the handwritten note left behind by the deceased. The present petition, therefore, is liable to be dismissed.

5. Heard and case file perused.

6. 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.

7. 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 a case of abetment of suicide is made out as provided for under Section 107 IPC.”

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.

7. 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.

8. 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.”



9. 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.

10. 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.

11. In the instant petition, the allegations against the petitioners are specific and grave in nature supported with a suicide note which clearly makes the prosecution version strong wherein the suicide note categorically states that the deceased was in distress owing to the humiliation attributed to the petitioners. Further, as per the FSL report dated 24.09.2022(Annexure R-5) regarding comparison of the handwriting of the deceased in respect to

suicide note written by him with his standard writing, the authorship of both was found to be same.

12. Consequently, the allegations against the petitioners are very specific and, therefore, this Court does not find any ground and reason to grant any relief of the kind prayed for. Therefore, this petition being sans merit is ordered to be dismissed.

01.08.2024
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(SANDEEP MOUDGIL)
JUDGE

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