



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 03.04.2024
Pronounced on : 09.04.2024

+ **CRL.M.C. 1411/2023**

ASHA RANI

..... Petitioner

Through: Mr. Pradeep Kumar Kaushik and
Dr.Sunil Kumar, Advocates.

Versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr.Laksh Khanna, APP for State with
SI Johny Kumar
Mr.Aditya Vikram and
Mr.Ayushman, Advocates for
respondent Nos.2 to 4.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks setting aside of the impugned judgment/order dated 10.12.2019 passed by learned ASJ/Special Judge (NDPS), New Delhi in Criminal Revision No.135/2018 arising out of FIR No.0548/2014 registered at PS Uttam Nagar, Delhi.

2. Vide the impugned judgement/order, the learned ASJ dismissed petitioner's challenge to the order dated 07.02.2018 passed by the learned ACMM(SW), Dwarka Courts, New Delhi, whereby her protest petition filed against the closure report came to be dismissed.

3. The factual matrix as apparent from the record is that the marriage of petitioner's son *Himanshu* was solemnized with respondent No.4/*Parul Saroya* on 25.11.2013. On 09.03.2014, respondent No.4 left her matrimonial



home and went to reside with her parents. On 23.03.2014, a complaint was filed by petitioner's son at P.S. Uttam Nagar, New Delhi to the effect that his wife had left the matrimonial home with all her belongings including jewellery items. On 31.05.2014, the petitioner's husband, who was the father of Himanshu and father-in-law of respondent No.4, committed suicide. The present FIR came to be registered on the complaint of petitioner that her husband committed suicide on account of harassment suffered at the hands of his daughter-in-law i.e. respondent No.4 and her parents i.e., respondent Nos. 2 and 3 herein (accused persons in the FIR).

4. After investigation, a final report came to be filed on 06.11.2016 concluding that no concrete evidence except the suicide note came on record linking the accused persons with the commission of offence. The petitioner preferred a protest petition against the final report. However, the said protest petition came to be dismissed by the learned MM, which decision also came to be upheld by the learned ASJ vide the impugned order. Consequently, the present petition came to be filed.

5. Learned counsel for the petitioner contended that the impugned order failed to appreciate that an undated suicide note was recovered from under the mattress of the deceased, in which he has blamed his daughter-in-law and her parents for harassment caused to him and his family. In the suicide note, the deceased had alleged that his daughter-in-law and her parents wanted to usurp his property. It was also stated that the Investigating Officer had failed to collect CDR, which might have provided the cause for the deceased to take such extreme step. It was further submitted that the suicide note was in fact a dying declaration and its evidentiary value ought to have been appreciated in the trial.



6. Learned APP for the State as well as learned counsel for the respondent Nos. 2 to 4 have contested the petition and defended the impugned order. It is submitted that the trial court has rightly accepted the final report and dismissed the protest petition. The impugned order has also appropriately appreciated the facts of the case to reach its conclusion.

7. I have heard learned counsel for the parties and have also gone through the entire material placed on record.

8. As noted above, the marriage between the petitioner's son and respondent No.4 took place on 25.11.2013. A perusal of the FIR would show that as per the case of the complainant herself, respondent No.4 left the company of petitioner's son on 09.03.2014 i.e. within four months of marriage and had started living with her parents in Panipat, Haryana. The deceased committed suicide on 31.05.2014 i.e. after more than two and a half months of respondent No.4 leaving the matrimonial home.

9. The issue in the present case is whether there was any abetment at the hands of the respondent Nos. 2 to 4, which resulted in the deceased committing suicide, an act which is punishable under Section 306 IPC. To appreciate the controversy, it is deemed apposite to extract Section 306 IPC which reads as under:

“306. Abetment of 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.”

10. A person can abet the doing of a thing by three ways: firstly, if he instigates any person to do that thing; secondly, if he 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, if he intentionally aids, by any act or illegal omission, the doing of that thing. The same is provided for in Section 107 IPC which defines “abetment” and reads as under:-

“Section 107- Abetment of a thing - A person abets the doing of a thing, who—

First.- Instigates 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.

Explanation 2.- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

11. The alleged suicide note forming the basis of the case reads as under:-



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मैं एक एस.एफ.ओ. लड़ाई वाली पत्नी हूँ

मेरी नीत का मतलब

मेरी नीत का मतलब

उपस्थित

पानी पत्र के मेरे बेटे की सुसल्लोचन

आप मुझसे और उनकी पहली नीत

आप उनकी बेटी पलन हैं

जीनो ने मुझे और मेरे परिवार को

आपरी के बाद से तब मरना शुरू कर दिया

मेरी जयजय पर नजर थी मैं उपस्थित हूँ

उपस्थित

इसके सजा देना

उपस्थित

मेरे बेटे दिगम्बर और मेरी पत्नी

साई की संसूत नहीं है

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उपस्थित

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ब्रीफिंग १०-११-२०२३ के सम्बन्ध में उत्तराधिकार के विषय में

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नौकर और दुकान के बेटी बेटी पकड़ जाते हैं
नी छुजे और मेरा मेरे जाने बाद की शादी के
बाद ही ही तब परेशान करना शुरू कर
दिया इसकी नीयत मेरी छपकी पर थी

दुप-चन्द

मेरी पत्नी और मेरे बेटे का कोई मसूर
नहीं है

मेरी ~~पत्नी~~ ~~पत्नी~~ ~~पत्नी~~ दुप-चन्द



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मेरी मोह मा महन

मेरी मोह मा महन मेरी ज्यादा उपक्रम नाले
 पलन उत्तम पापा और उमाशजी और उता मेरी मोह
 मेरी मोह मा महन (पलन) उत्तम पापा (उमाशजी)
 और उता मेरी मोह मा महन है।

पलन सब मेरी मोह मा महन मेरी मोह मा महन
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12. At this juncture, I deem it necessary to recapitulate the law on the subject. In M. Mohan v. State (Represented by the Deputy Superintendent of Police)¹, which related to an incident where the deceased was denied use of the family car for coming to Theme Park on the occasion of Pongal. While the entire family travelled in the family car belonging to the brother-in-law, the deceased and her husband were told to reach the destination by public bus and the deceased was told that if she wants to travel by car, she has to bring a car from her family. Hurt by the taunting statement regarding denial of use of family car, the deceased demanded a car from her father and committed suicide after four days. The Supreme Court came to the conclusion that there was no proximate link between the incident dated 14.01.2005 (when the deceased was denied use of the family car) and the suicide which had taken place on 18.01.2005. It was noted that the deceased was hyper-sensitive to ordinary petulance, discord and differences which happen in day-to-day life, especially in a joint family. After masquerading through the entire law, the criminal proceedings were quashed.

13. In Sanju @ Sanjay Singh Sengar v. State of M.P.², the deceased had committed suicide after a quarrel took place between him and his wife's brother. He had gone to the house of the parents of his wife, where he was statedly humiliated during a quarrel. Upon coming back, the deceased had informed his family members that his brother-in-law threatened and abused him by using filthy language. On the next day, he committed suicide and left behind a suicide note, wherein it was stated that his brother-in-law had

¹ (2011) 3 SCC 626

² (2002) 5 SCC 371



threatened to make a report of dowry demand against his family members. He blamed his brother-in-law for his death. During the investigation, it came on record that the deceased was without any work and used to consume liquor. It was observed that the suicide note could not be said to be a handiwork of a man with sound mind and sense. Thus, the criminal proceedings came to be quashed.

14. In Rohit v. State of Maharashtra & Anr.³, the deceased had taken a loan from a financial institution, which was partially repaid but the accused starting harassing him for the remaining amount. Eventually, the deceased committed suicide and left behind a suicide note stating therein the factum of harassment by the accused. The Division Bench of the Bombay High Court came to the conclusion that demand of pending loan by the accused was part of his duty being an employee of the finance company and by no stretch of imagination it could constitute intention to aid or instigate or abet the deceased to commit suicide.

15. In Gulab v. State of Maharashtra & Anr.⁴, the deceased had entered into a partnership with the accused and started a hotel business on his ancestral agricultural land. However, the same was shut down after six months of opening due to losses and subsequently, the deceased committed suicide leaving behind a suicide note wherein the accused was blamed. Allegations against the accused were that he had threatened the deceased to transfer his agricultural land in exchange for the expenses incurred by him towards construction of the hotel. Further, he had instituted proceedings against the deceased before the Court. It was held that it was not a case of

³ MANU/MH/2330/2020; Judgement dated 17.12.2020 passed in Criminal Application (APL) No. 1052/2018

⁴ 2019 SCC OnLine Bom 147



persistent torture and harassment of the deceased and it could not be said that the accused had tortured the deceased with an intention to drive him to commit suicide.

16. In Gurcharan Singh v. State of Punjab⁵, the Supreme Court observed as under:

“xxx

21. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicating existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of these constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 IPC. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 IPC, thus criminalizes the sustained incitement for suicide.

xxx”

17. To attribute the acts of accused as abetment, there has to be some causal link and proximity of the acts with the deceased committing suicide. It has to be shown that the accused did an active act or direct act which led the deceased to commit suicide, seeing no other option. Also, it has to be shown that accused's act must have been intended to push the deceased into such a position that they committed suicide. Further, the prosecution has to show that the accused had the mens rea to commit the offence.

⁵ (2017) 1 SCC 433



18. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. The Supreme Court's observation in Ramesh Kumar v. State of Chhattisgarh⁶ informs the law on this issue, wherein it was explicated that:-

“xxx

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.

xxx”

19. In Ude Singh & Ors. v. State of Haryana⁷, the Supreme Court while taking account of the different ways in which different people react to similar actions, observed as under:-

“xxx

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly

⁶ (2001) 9 SCC 618

⁷ (2019) 17 SCC 301



circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

xxx”

20. Again, in M. Arjunan v. State (Represented by its Inspector of Police)⁸, the Supreme Court elucidated the essential ingredients of the offence under Section 306 IPC in the following manner:-

“xxx

7. The essential ingredients of the offence under Section 306 IPC are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide.

⁸ (2019) 3 SCC 315



Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC.

xxx”

21. Later, the Supreme Court in Gurcharan Singh v. State of Punjab⁹ reiterated the exposition of law relating to the offence of abetment with the following observations:-

“xxx

15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Section 107 IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous...

xxx”

22. More recently, in Prabhu v. State (Represented by Inspector of Police) & Anr.¹⁰, the Supreme Court while observing that broken relationships and heart breaks are part of everyday life, iterated the following principles w.r.t Section 306 IPC:-

“xxx

16. On a perusal of the above, and relying upon this Court's previous judgments discussing the elements of Section 306 IPC, the following principles emerge:

17. Where the words uttered are casual in nature and which are often employed in the heat of the moment between quarrelling people, and nothing serious is expected to follow from the same,

⁹ (2020) 10 SCC 200

¹⁰ 2024 SCC OnLine SC 137



the same would not amount to abetment of suicide. [Swami Prahaladdas v. State of M.P., 1995 Supp (3) SCC 438, Paragraph 3; Sanju v. State of M.P., (2002) 5 SCC 371, Paragraph 12]

18. In order to constitute 'instigation', it must be shown that 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. The words uttered by the accused must be suggestive of the consequence [Ramesh Kumar v. State of Chhatisgarh, (2001) 9 SCC 618, Paragraph 20]

19. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. [Chitresh Kumar Chopra v. State (Government of NCT of Delhi), (2009) 16 SCC 605, Paragraph 20]

20. There must be direct or indirect acts of incitement to the commission of suicide. The accused must be shown to have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide [Amalendu Pal v. State of West Bengal, (2010) 1 SCC 707, Paragraph 12-14]

21. The accused must have intended or known that the deceased would commit suicide because of his actions or omissions [Madan Mohan Singh v. State of Gujarat, (2010) 8 SCC 628]

xxx”

23. In the present case, as noted in the order passed by the learned MM, the investigating agency has filed the final report wherein it found no case against the respondents and the said conclusion was based upon the following grounds:-

“xxx

(i) the recovery of suicide note was mentioned in the FIR but the said suicide note was not recovered from the pant of the accused as alleged by the complainant in his complaint. Rather, it was handed over by Brij Mohan to the police as being recovered from



below the mattress of the deceased.

(ii) secondly, the suicide note was written three times with several signatures and it is highly improbable that a person would write such a suicide note without any specific allegations, but merely naming his daughter-in-law and her parents and without naming any incident as to how they were harassing him or how they were responsible for his suicide.

(iii) the son of the deceased and the elder brother of the deceased have given a clean-chit to the family of the daughter-in-law of the deceased saying that they had no suspicion on any person including Parul and her family.

(iv) a civil case was pending before the Ghaziabad Court and the date of the civil matter had been four days prior to the death of Prem Chand, where he had been directed to file reply and he was under extreme tension because of same.

(v) he was undergoing treatment of depression as stated by his brother.

(vi) no complaint was ever filed against the deceased or his family or by the daughter-in-law Parul despite the fact that she had stated to the police that she was maltreated and harassed by the family of the deceased.

xxx”

24. Although, learned counsel for the petitioner contended that the investigating agency failed to collect the CDR of the deceased to rule out any proximate cause, the said contention is found to be misplaced as in the final report, it was noted that the deceased had mobile number 9213453999 (Vodafone) and CDR of the said number were analyzed. On the date of his death, he had received a call at 06:16 a.m. from his wife i.e. the petitioner, which was followed by three commercial messages. Finally, at 12:44 p.m., the deceased made a call to one *Brij Mohan* which lasted for 44 seconds. The CDR collected show no other call received or made by the deceased.



25. A perusal of final report would show that during investigation, statement of one *Smt. Rajni* was recorded, with whom the deceased had a civil dispute pending before the court at Ghaziabad. In her statement, *Smt. Rajni* stated that niece of the deceased was married to her son and that there were certain matrimonial disputes between them. She alleged that on account of the matrimonial disputes, her son was not keeping mentally well and taking advantage of the same, the house which she had transferred in the name of her son, was illegally transferred in the name of the deceased. The said case bearing number 2287/2011 was listed on 27.05.2014, on which date, *Smt. Rajni* had filed an application stating therein that during pendency of the case, the deceased had transferred the house to one *Narayan Singh*. The concerned Court had reprimanded the deceased and directed him to file reply within 15 days. She further stated that the deceased was very tense and when he came out of the court, he was seen talking to himself.

26. From the above facts, it is apparent that no material has come on record, which would show that there was any connect between respondent Nos. 2 to 4 and the deceased from 09.03.2014 onwards. The respondent No.4 had not filed any complaint against her husband or his family members. There is no allegation that respondent No.4 or her family members had ever visited the house of the deceased. The incident had taken place at the house of the brother of the deceased, when he had jumped from the second floor.

27. A perusal of the undated suicide note would also show that neither any details have been given nor any specific incident has been mentioned, which might have abetted the deceased to commit suicide. The CDR analysis of the deceased also does not indicate any act on behalf of the respondent



Nos. 2 to 4 which can be said to have abetted the deceased to commit suicide. On the other hand, the statement of an independent witness namely *Smt. Rajni* would show that the deceased was under stress, on account of his own conduct of transferring possession of the house to a stranger, during the pendency of the proceedings between the said witness and him. The date of hearing in the said case was four days before the date of the incident. The witness has stated that the deceased was reprimanded by the court for his conduct and also directed him to file reply. The deceased was stated to be visibly tense inasmuch as he was stated to be mumbling to himself outside the court.

28. The legal position qua Section 306 IPC as expounded above, requires a causal link or proximity to be established between the acts of the accused and the deceased committing suicide. Mere mention of the name of certain individual(s) in the suicide note, stating therein that they are responsible for his death cannot ipso facto be the sole basis for putting the accused to face trial or for conviction under Section 306 IPC. As observed above, the specific act of the accused has to be seen in light of the surrounding/attending circumstances of each case to determine if the same could be attributed as the cause of suicide in the case. In the facts of the present case, apart from their name coming in the suicide note of the deceased, no other fact has been placed on record as to show what act was committed by the respondent Nos.2 to 4 leading to the deceased committing suicide. Even no fact has been placed on record to show the connect between the deceased and respondent Nos.2 to 4 from 09.03.2014 i.e. the day when respondent No.4 left the matrimonial home. Instead, during the course of investigation, the testimony of the independent witness came to be recorded,



which shows that the deceased was tense and statedly mumbling after the proceedings before the Ghaziabad court.

29. In view of the factual matrix and the precedents discussed above, I am of the considered opinion that the order passed by the learned ASJ as well as the learned MM do not merit interference inasmuch as the same have been passed after due consideration of the facts and legal position. The petitioner has failed to put forth any evidence which shows that the said orders are incorrect or inconsistent with the legal principles. Consequently, the petition is dismissed.

MANOJ KUMAR OHRI
(JUDGE)

APRIL 9, 2024/rd