



2024:DHC:10090



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

Date of Decision: 12th December 2024

+ CRL.REV.P. 1082/2024 & CRL.M.A. 26003/2024

CRL.M.A. 26004/2024

SANJEEV AGGARWAL

.....Petitioner

Through: Mr. Tanveer Ahmed Mir, Senior Advocate with Md. Imran Ahmad, Mr. Ravi Shankar Garg and Ms. Mamta Garg and Ms. Ananya Luthra Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for the State with Insp. Sharad Kumar and ASI Sanjay Nagar.
Mr. Prasoon Kumar and Mr. Dushyant Chaudhary, Advocates for R-2.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under sections 401/397 read with section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner impugns order dated 04.12.2023, whereby the learned Additional Sessions Judge, Central District, Tis Hazari Courts, Delhi has held that there is sufficient material on record to frame charge against the petitioner under section 306 of the Indian

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Signed By: ANJALI KAUSHIK

Signing Date: 22.12.2024
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Penal Code, 1860 ('IPC') in SC No. 864/2019, arising from case FIR No.16/2016 dated 23.12.2016 registered under section 306 of the IPC at P.S.: Subzi Mandi Railway Station, Delhi ('subject FIR'). The petitioner also impugns order dated 09.05.2024, whereby the learned Sessions Court has framed charge against the petitioner under section 306 of the IPC.

2. Notice on this petition was issued on 30.08.2024.
3. Status Report 17.09.2024 has been filed on behalf of the State.
4. The court has heard Mr. Tanveer Ahmed Mir, learned senior counsel appearing for the petitioner; Ms. Shubhi Gupta, learned APP for the State; as well as Mr. Prasoon Kumar, learned counsel appearing for the complainant at length.
5. The case concerns the death of one Man Mohan Singh, who committed suicide by laying himself on a railway track on 07.10.2016, and has implicated the petitioner in a suicide note left by him.
6. Mr. Mir, learned senior counsel appearing for the petitioner has drawn attention to the contents of the suicide note left by the deceased, an English translation of which has been extracted from the status report filed by the State, and reads as under :

"Sanjeev Agarwal is the only one responsible for mentally harassing me. He has left me with no option but to die. I am so fed up with Sanjeev Agarwal's excesses that I have no choice but to commit suicide. This man has hurt me so much not only financially but mentally that even if I want to recover from it, I will not be able to. Sanjeev Agarwal has a huge contribution to ruining me because he cheated me in the guise of my trust. Not only this, he misused all my cheques. He made 4 cheques of Rs. 100000/- to Rs. 2100000



lakhs and made a cheque of Rs. 100125 worth Rs. 400125, and took the entire payment for it. He filed false cases against me for all these false cheques and now he is pressurizing me with the connivance of the court so that I cover up his mistakes. He has made my life miserable. Today I have become bankrupt fighting his false cases. He has dragged me to court every day for his false cases. He always threatens to kill me outside the court. I have no option but to die. All the papers he files in the court are found to be fake. I am committing suicide as I am extremely unhappy with Sanjeev in my life.”

7. Mr. Mir submits, that apart from the suicide note which has been cited against the petitioner, the prosecution has also placed reliance on the statement of one Jasbir Singh, who is the brother of the deceased, recorded under section 161 of the Cr.P.C. on 25.12.2016.
8. Learned senior counsel points-out, that as would be seen from a perusal of the statement of the brother of the deceased, at the highest it can only be alleged that the petitioner did various things in relation to the business and financial transactions between him and the deceased, which may have caused distress to the deceased as narrated by him in the suicide note.
9. It is pointed-out that it be noted that by way of orders dated 04.12.2023 and 09.05.2024, the learned trial court has framed charge against the petitioner for the offence *only* under section 306 of the IPC and for no other offence.
10. In this backdrop, Mr. Mir submits, that even going by the material that has come on record in the chargesheet, the essential ingredients of the offence of abetment of suicide under section 306 of the IPC are not made-out against the petitioner; and that therefore, charge could not have been framed against the petitioner even for that offence.



11. In support of his submissions, learned senior counsel has drawn attention of this court to the following recent decisions of the Supreme Court, the relevant extracts whereof read as follows :

***Nipun Aneja and Others vs. State of Uttar Pradesh*¹**

“22. The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.”

¹ Order dated 03.10.2024 in Criminal Appeal No.654/2017



Jayedeeptsinh Pravinsinh Chavda and Ors. vs. State of Gujarat²

“18. For a conviction under Section 306 of the Indian Penal Code, it is a well-established legal principle that the presence of clear mens rea—the intention to abet the act—is essential. Mere harassment, by itself, is not sufficient to find an Accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the Accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide. The same position was laid down by this Court in *S.S. Chheena v. Vijay Kumar Mahajan* [(2010) 12 SCC 190], wherein it was observed that:

25. 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. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306 Indian Penal Code there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

“19. To bring a conviction under section 306, Indian Penal Code it is necessary to establish a clear mens rea to instigate or push the deceased to commit suicide. It requires certain such act, omission, creation of circumstances, or words which would incite or provoke another person to commit suicide. This Court in the case of *Ramesh Kumar v. State of Chhattisgarh* [(2001) 9 SCC 618], defined the word “instigate” as under:

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

² MANU/SC/1308/2024



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.

* * * * *

“24. Therefore, for a conviction Under Section 306 Indian Penal Code, there must be clear evidence of direct or indirect acts of incitement to commit suicide. The cause of suicide, especially in the context of abetment, involves complex attributes of human behavior and reactions, requiring the Court to rely on cogent and convincing proof of the Accused’s role in instigating the act. **Mere allegations of harassment are not enough unless the Accused’s actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide.** The Court examines whether the Accused’s conduct, including provoking, urging, or tarnishing the victim’s self-esteem, created an unbearable situation. **If the Accused’s actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation.** Each case demands a careful evaluation of facts, considering the Accused’s intent and its impact on the victim.

* * * * *

“26. On a careful and close consideration of the facts and the material on record in the present case and in light of the law laid down by this Court regarding Section 306, Indian Penal Code, there appears no proximate link between the alleged facts, instances of harassment and her subsequent death by hanging. The alleged incident of selling of gold ornaments and subsequent physical and mental harassment, as alleged, occurred almost a year before the FIR was registered at the instance of the father of the deceased. Even the statements of the deceased’s cousins only mention instances which occurred a year prior to the death of the deceased. Further, selling of gold ornaments and the same was followed by discord and harassment upon their demand, even if true, do not reflect any intention to instigate, incite or provoke the deceased to



commit suicide. Mere harassment and such issues between the wife and her husband along with the in-laws do not appear to create a scenario where she was left with no option other than to end her life. There is, therefore, absence of mens rea to instigate suicide of the deceased persons. Therefore, prima facie, it appears that the Appellants did not have the requisite mens rea and neither did they commit any positive or direct act or omission to instigate or aid in the commission of suicide by the deceased.”

(emphasis supplied)

12. Mr. Mir accordingly argues, that it is the settled position of law that on a combined reading of section 306 and section 107 of the IPC, which latter section deals generally with the concept of abetment, *mens rea* to abet the act of suicide cannot simply be inferred from circumstances; that *mens rea* must be clearly discernible from the facts of the case; and that the *mens rea* must be *to instigate or push the deceased to commit suicide*. It is argued that to form sufficient ground for instigating a person to commit suicide, the acts, omissions, circumstances or words must be such that would *incite or provoke* that person *to commit suicide* and mere causing of harassment is not sufficient to infer such instigation. Furthermore, it is argued that such actions must also be *proximate* to the time of the suicide; and if such proximate link is missing, conviction under section 306 of the IPC is not sustainable.
13. In the present case, Mr. Mir argues, that there is a long history of financial and business disputes between the petitioner and the deceased, starting sometime in the year 2010, which disputes led to the petitioner *inter-alia* filing about 12 cases under section 138 of the Negotiable Instruments Act, 1881 ('NI Act') for dishonor of cheques



apart from a civil suit for recovery of about Rs. 1.62 crores against the deceased and his brother.

14. On the other hand, it is submitted that the deceased and his brother had also got 02 FIRs registered against the petitioner during the period 2010 onwards; apart from filing 01 criminal complaint case and 01 civil suit seeking damages of about Rs. 7.97 lacs against the petitioner.
15. Learned senior counsel argues that despite the multiple litigations between the parties during the period 2010 to 2016, no complaint was ever filed by the deceased or his brother alleging that the petitioner had out any undue pressure or had extended any threat or had instigated the deceased to commit suicide. He submits, that there is nothing on record to even show that the petitioner ever personally met or called or interacted with the deceased at any time proximate to the date of the suicide.
16. Mr. Mir submits that it be noted that the postmortem report of the deceased shows the presence of alcohol in his body, and therefore, clearly, the deceased was under the influence of alcohol at the time he committed suicide. He submits that most importantly, it be noted that even after the deceased committed suicide, his brother and the other concerned parties, including the son of the deceased, have entered into a mediated settlement *vide* Settlement Deed dated 12.02.2020 under the aegis of Delhi High Court Mediation and Conciliation Centre, New Delhi resolving all the litigations that were pending between the parties, including in particular the 02 FIRs filed by the deceased against the petitioner bearing FIR No. 329/2011 dated



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07.12.2011 registered under sections 406/420/467/468/471 IPC at P.S.: Adarsh Nagar, Delhi and FIR No.236/2016 dated 16.05.2016 registered under sections 420/465/467/468/472/34 IPC at P.S.: Adarsh Nagar, Delhi.

17. Mr. Mir submits that in the mediated settlement, the brother of the deceased has also agreed that he would cooperate in the disposal of the FIR, that is the subject matter of the present petition.
18. In the circumstances, Mr. Mir argues that the impugned orders deserve to be quashed.
19. On the other hand, Ms. Shubhi Gupta, learned APP appearing for the State submits, that the circumstances of the case show that the deceased was driven to committing suicide by reason of the acts on the petitioner's part, as has been vividly described by the deceased in the suicide note.
20. Learned APP argues that in the translated copy of the suicide note, the deceased refers to certain financial transactions, including cheques which were manipulated and en-cashed by the petitioner and the deceased goes on to say that “..... *He filed false cases against me for all these false cheques and now he is pressurizing me with the connivance of the court so that I cover up his mistakes. He has made my life miserable. Today I have become bankrupt fighting his false cases.....*”
21. She submits that in the circumstances that were very similar to the present case, in its decision in ***Chitresh Kumar Chopra vs. State***



(*Govt. of NCT of Delhi*)³, the Supreme Court had upheld the framing of charges against the accused persons and had approved the action of the High Court in declining to quash the charges in exercise of its revisional jurisdictional powers under section 401 of the Cr.P.C.

22. Learned APP argues that in the *Chitresh Kumar Chopra* (supra), the Supreme Court has observed as follows :

*“14. As per clause firstly in the said Section, a person can be said to have abetted in doing of a thing, who “instigates” any person to do that thing. The word “instigate” is not defined in the IPC. The meaning of the said word was considered by this Court in **Ramesh Kumar v. State of Chhattisgarh** [(2001) 9 SCC 618]. Speaking for the three-Judge Bench, R.C. Lahoti, J. (as His Lordship then was) said that 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. **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 to be inferred.** A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.*

(bold in original)

* * * * *

“17. In the present case, the charge against the appellant is that he along with other two accused “in furtherance of common intention”, mentally tortured Jitendra Sharma (the deceased) and abetted him to commit suicide by the said act of mental torture. It is trite that words uttered on the spur of the moment or in a quarrel,

³ Judgment dated 10.08.2009 in Criminal Appeal No.1473/2009



without something more cannot be taken to have been uttered with mens rea. The onus is on the prosecution to show the circumstances which compelled the deceased to take an extreme step to bring an end to his life. In the present case, apart from the suicide note, extracted above, statements recorded by the police during the course of investigation, tend to show that on account of business transactions with the accused, including the appellant herein, the deceased was put under tremendous pressure to do something which he was perhaps not willing to do. Prima facie, it appears that the conduct of the appellant and his accomplices was such that the deceased was left with no other option except to end his life and, therefore, clause firstly of Section 107 of the IPC was attracted. Briefly dealing with the material available on record, in the order directing framing of charge against the appellant, the learned trial court has observed as under:

“In the present case the evidence shows threatening given to the deceased. One witness called Kartar Singh says that CK Chopra was heard saying to the deceased that the deceased had become dishonest because he was refusing to sign a paper in which the share in some joint property was shown to be 10%. On another occasion Chopra was heard by this witness to say that Chopra would ruin the deceased if he did not give up his claim for 25% and did not agree to accept 10%. Witness Padam Bahadur has stated inter alia that he overheard Jahoor and Mahavir telling the deceased that Chopra had asked them to say that this was the last opportunity to sign the document and that if he wanted to live in the society he should sign the agreement or should die by taking poison. Soon thereafter the deceased committed suicide.

Thus the evidence is not of a mere quarrel in which one person told the other go and die without actually suggesting that the opponent should commit suicide. In the present case the evidence collected by the investigation suggest that the deceased had been actually pushed to the wall and the escape by committing suicide was suggested by the accused persons.”

(emphasis supplied)

23. Ms. Gupta points-out, that the Supreme Court has accordingly held that where an accused has by his *continued course of conduct* created



such circumstances that the deceased is left with no other option except to commit suicide, the act of instigation to suicide can be inferred. She submits, that in the afore-noted case also suicide was a result of business transactions with the accused persons, which put such tremendous pressure upon the deceased that he did something which he was perhaps otherwise not willing to do. Learned APP argues that merely because instigation to suicide is a result of business or commercial dealings is no reason to hold that the framing of charge under section 306 of the IPC is not made out.

24. The State further argues, that in any event, at the stage of framing charge, the learned trial court is not under obligation to undertake a minute appreciation of the material on record; and the petitioner would have the opportunity to defend himself in the course of trial.
25. In the circumstances, learned APP submits that the impugned orders deserve to be upheld.
26. Mr. Prasoon Kumar, learned counsel appearing for the complainant adopts the submissions made by the learned APP; but fairly submits that the complainant (son of the deceased) is bound by the terms of the mediated settlement signed between the brother of the deceased and the petitioner, including their assurance that they would co-operate in the disposal of the proceedings arising from the subject FIR since the parties have settled their *inter-se* disputes.
27. Upon a conspectus of the facts and circumstances of the case, as viewed in light of the law enunciated by the Supreme Court as recently as by its verdicts in *Nipun Aneja* (supra) and *Jayedeeptsinh Pravinsinh Chavda* (supra), the following inferences arise :



- 27.1. Though there is no cavil with the proposition that at the stage of framing charge, the trial court is not required to undertake a minute evaluation of the evidence or material on record, it is nevertheless the obligation of the trial court to see if the *essential ingredients* of the offence alleged are made-out based on the material/evidence that has come on record by way of the charge-sheet;
- 27.2. In this behalf, as per the law articulated by the Supreme Court, the *act of abetment to suicide* is made-out *if instigation to commit the act of suicide is clearly discernible*; and the court cannot presume or infer *mens rea* in that regard unless it is evident and explicitly discernible. The following observations in *Jayedeeepsinh Pravinsinh Chavda* (supra) bear repetition :

“18. For a conviction under Section 306 of the Indian Penal Code, it is a well-established legal principle that the presence of clear *mens rea* — the intention to abet the act — is essential. Mere harassment, by itself, is not sufficient to find an Accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the Accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide. The same position was laid down by this Court in *S.S. Chheena v. Vijay Kumar Mahajan* [(2010) 12 SCC 190], wherein it was observed that:

25. 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. The



intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306 Indian Penal Code there has to be a clear mens rea to commit the offence. **It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.**

* * * * *

“24. **Mere allegations of harassment are not enough unless the Accused’s actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide.** The Court examines whether the Accused’s conduct, including provoking, urging, or tarnishing the victim’s self-esteem, created an unbearable situation. If the Accused’s actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation. Each case demands a careful evaluation of facts, considering the Accused’s intent and its impact on the victim.”

(emphasis supplied)

27.3. Insofar as the decision in *Chitresh Kumar Chopra* (supra) cited on behalf of the State is concerned, a closer reading of that decision would show that in the said case, on point of fact, threats had been extended to the deceased specifically instigating him to commit suicide and the deceased committed suicide soon thereafter. To that effect the trial court had *inter-alia* recorded the following :

“In the present case the **evidence shows threatening given to the deceased** that this was the last opportunity to sign the document and that if he wanted to live in the society he should sign the agreement **or should die by taking poison.** **Soon thereafter the deceased committed suicide.**

Thus, the evidence is not of a mere quarrel on which one person told the other to go and die without actually suggesting that the opponent should commit suicide. In the present case, the evidence collected by the investigation



suggest that the deceased had been actually pushed to the wall and the escape by committing suicide was suggested by the accused persons.”

(emphasis supplied)

28. In the opinion of this court therefore, the factual matrix obtaining in *Chitresh Kumar Chopra* (supra) was different from the one in the present case;

28.1. In the present case, it is the admitted position that the petitioner and the deceased had long-pending business disputes that were going-on *since 2010*, including some 23 cases and cross-cases filed by them against each-other, both in civil and criminal courts. *The deceased committed suicide on 07.10.2016*. There is nothing on record to suggest any interaction, whether oral or otherwise, between the petitioner and the deceased at a time which can be considered proximate to the time the deceased committed suicide;

28.2. It must also be noticed, that though in his suicide note the deceased has said that the petitioner had wronged him in many ways, including by committing cheating, forgery and fabrication, those acts were subject matter of criminal proceedings that had been initiated by the deceased himself; and

28.3. It must also be articulated that bitter disputes between parties are common place in society, as is the filing of multiple litigations, with concomitant pressure, stress, and even harassment caused to the disputing parties. However, if the filing of litigations is itself to be construed as an act of inciting



or abetting an opposing party to commit suicide, in the opinion of this court, that would amount to abuse of the process of law.

29. In the circumstances, this court is of the view that in the facts of the present case, the most essential ingredient of the offence under section 306 of the IPC namely, instigation to commit suicide is not discernible from the evidence and material that has come on record.
30. While not detracting from the fact that the death of Mr. Man Mohan Singh by suicide was a tragic loss to the family, which requires to be condoled, this court is of the view, that equally, to put the petitioner through a long and arduous trial when the essential ingredients of the offence under section 306 of the IPC are not made-out would not subserve justice.
31. As a sequitur, this court is persuaded to accept the present petition, thereby setting-aside orders dated 04.12.2023 and 09.05.2024 passed by the learned Additional Sessions Judge, Central District, Tis Hazari Courts, Delhi in case FIR No.16/2016 dated 23.12.2016 registered under section 306 of the IPC at P.S.: Subzi Mandi Railway Station, Delhi.
32. The present petition is allowed and the petitioner is discharged of the offence under section 306 of the IPC in the present case.
33. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 12, 2024/V.Rawat