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C.R.R. 3045 of 2024
With
IA No. CRAN 2 of 2025

Aniket Banerjee
Vs.
The State of West Bengal & Anr.

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Sagnik Bose
Md. Dilwar Khan
Mr. Karan Dudhewala
Mr. Soupayan Sinha Roy ...for the Petitioner

Mr. Joydeep Roy
Mr. Subhasish Datta ... for the State.

Affidavit of service filed by the petitioner is taken on record. In spite of service, the private opposite party/complainant is not represented.

Heard learned counsel for the petitioner and the State.

This is an application wherein the petitioner has prayed for quashing of the proceeding being G.R. case no. 5920 of 2023, presently pending before the learned Additional Chief Judicial Magistrate, Barrackpore.

It is stated in the written complaint that the daughter of defacto-complainant who was an Air hostess was found missing since 10.7.2023. She was allegedly engaged in a relationship with the petitioner, which was known to all of her friend circle. Few days before her death, she was found very much depressed and on being asked, she disclosed that the petitioner herein had blocked her from every mode of communications without any proper reason and petitioner deliberately denied to make contact with her, in spite of her

best efforts to make communication with him. On the next day, complainant was informed that victim has committed suicide at a guest house and before that she told her friend, Sayani that she would be committing suicide. Therefore, it is alleged that the petitioner's intentional termination of relationship and communication with the victim had somehow caused the death of victim and therefore petitioner is responsible for abatement to commit suicide by the victim. On the basis of the written complaint filed by the defacto-complainant, aforesaid criminal proceeding being Dam Dam Police Station case no. 369 of 2023 dated 11.7.2023 under Section 306 of the IPC was started.

Being aggrieved by the aforesaid proceeding, Mr. Ganguly, learned senior counsel for the petitioner submits that the act of instigation falls within the category of goading, provoking etc. Abatement involves a mental process or intentionally aiding a person in doing a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction under Section 306 IPC cannot be sustained. There is nothing to show that the petitioner has instigated the deceased to commit suicide.

He further submits that mens rea to commit the offence of abatement is sine qua non to convict a person under Section 306 IPC. The allegation of discontinuation of communication cannot be held as mens rea. There is nothing to show that any act of the petitioner had led the deceased to commit suicide being left with no option. Prosecution failed to

show any acts or omissions of the petitioner to satisfy any condition set forth in Section 107 of the IPC for abatement.

In fact some bald and vague allegations have been made in the complaint on the basis whereof no case can be said to have been made out against the petitioner and as such, continuance of instant proceeding any further would be mere abuse of the process of the court, in spite of the fact that the police has submitted charge-sheet under Section 306 of the IPC after making perfunctory investigation.

Learned counsel for the State placed the case diary and has pointed out the statements of the defacto-complainant and one of the friends of the victim recorded under Section 164 of the Code of Criminal Procedure and screenshot of some chats in between the petitioner and the victim communicated through facebook. He further submits that the materials collected during investigation and the seizure list go to show that as the petitioner refused to maintain relationship with the victim, so she became sentimental and ultimately committed suicide. Therefore, the petitioner should go for trial to unearth the truth and it would not be appropriate to quash the proceeding at this stage.

I have considered the submissions made by both the parties. After going through the materials on record, it appears that admittedly there is no suicide note left behind by the deceased and the materials relied by the State is in the form of assertions made by the parents and friend of the deceased before the police and also statement made by

witness before Magistrate under Section 164 of the Code of Criminal Procedure, though it is apparent on plain reading of the subsequent statements of parents made during investigation that they improved their version as narrated in the FIR regarding alleged mental exploitation as allegedly inflicted upon their deceased daughter.

Needless to say that while Section 306 of the IPC deals with punishment for the offence of abatement of suicide, Section 107 of the IPC stipulates essential ingredients as to when a person can be said to be abetting commission of offence. Before going further, let me reproduce Section 306 and 107 of IPC.

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.

IPC Section 107 - Abetment of a Thing

According to Section 107 IPC, A person is said to abet the doing of a thing, who

- *First: Instigates any person to do that thing*
- *Secondly: Engages with one or more other 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 an 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.*
- *Illustration.- A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z,*

and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

- *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.*

Therefore, the issue that arises for consideration is whether any of the aforesaid clauses under Section 107 of the IPC, namely “Firstly” along with explanation I or more particularly, “Thirdly” with explanation 2 to Section 107 is attracted in the facts and circumstances of the present case so as to bring the present case within the purview of Section 306 of the IPC. Prosecution relied mainly upon clause “Thirdly” of Section 107 of the IPC because according to the prosecution, the petitioner by way of disconnecting communication and blocking her intentionally, aided the commission of suicide by the deceased. In support of aforesaid contention, prosecution relied upon statement of the witnesses that victim became morosed, which facilitated the commission of suicide by the deceased.

In **State of West Bengal Vs. Orilal Jaiswal, (1994) 1 SCC 73**, Supreme Court observed that in such cases, the court should be extremely careful in assessing the facts and circumstances of the case. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord or differences in domestic life quite common to the society to which the victim belonged and such petulance, discord or 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.

Therefore to satisfy the requirement of instigation, the accused/petitioner by his act or omission or by continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. In the instant case, it appears from materials on record that the petitioner herein and the deceased had intimacy for each other since the end of 2021 and might have desirous to get married more particularly the deceased was concerned who allegedly stated, that it would be impossible for her to survive without the petitioner. the materials pinpointed that as the petitioner was reluctant to keep relationship, she took the extreme step for committing suicide. Even if it is taken to be true that the petitioner intentionally disconnected all sort of communication or even declined to marry her after keeping relationship for a considerable period, it cannot be said that he led to a situation by which the deceased was left with no other option but to commit suicide. There is nothing to show that the petitioner intended the consequence of the act namely suicide.

It is undoubtedly very sad to note that a young girl of 24 years took the extreme step of ending her life. I can understand the feeling and sentiments of the parents of the deceased and apparently I do not find any fault on their part, if they decide to lodge an FIR with the police. However, it is

ultimately for the police and the Courts to see that the person against whom allegations have been levelled are not unnecessarily harassed or he is not put to trial just for the sake of prosecuting him.

The deceased was having sentimental tie with the petitioner and therefore it is probable that a normal quarrel or the hot exchange of words or for that matter disconnection of communication may result into immediate psychological imbalance, which resulted a situation of depression, loss of charm in life and thereby was unable to control sentiments of expectations which might have gave temptations to the victim to commit suicide but the test the court should adopt in such type of cases is to make an endeavour to ascertain on the basis of materials on record, whether there is anything to indicate, even prima facie, that the accused/petitioner intended the consequence of the act i.e. suicide, for which it may not be required to go for a full fledged trial but can be gathered from nature of allegations itself. Mere refusal to keep relationship or refusal to marry, even if true by itself would not amount to instigation as explained under Section 107 of the IPC.

After carefully assessing the materials on record, I find that there is no direct evidence to show that the petitioner has done any act which could be said to have proximate cause that facilitated the commission of suicide by the deceased. The allegations in the FIR and materials collected during

investigation are completely inadequate and do not satisfy the requirements under Section 306 of the IPC.

Therefore, in view of the aforesaid facts and circumstances of the case, I find that the chance of conviction of the petitioner at the end of trial is bleak and continuance of the proceeding any further, will be mere abuse of the process of the court.

CRR 3045 of 2024 thus stands allowed. Connected application being CRAN 2 of 2025 is also disposed of.

The impugned proceeding being G.R. case no. 5920 of 2023, presently pending before learned Additional Chief Judicial Magistrate, Barrackpore, arising out of Dam Dam Police Station case no. 369 of 2023 dated 11.7.2023 under Section 306 of the IPC, stands quashed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)