

MADHYA PRADESH HIGH COURT**Bench: Madhya Pradesh High Court (Indore Bench), Single Bench****Judge: Pranay Verma, J.****Date of Decision: 06-10-2023**

Misc. Criminal Case No. 6244 of 2023

RAMCHANDRA @ RAMDEEPAK GOYAN — Appellant**Vs.****THE STATE OF MADHYA PRADESH AND OTHERS — Respondent****Sections, Acts, Rules and Articles Mentioned:**

- Section 482 of the Code of Criminal Procedure (CrPC)
- Section 306 of the Indian Penal Code (IPC)
- Section 420 of the IPC
- Section 34 of the IPC
- Section 107 of the IPC

Subject: Quashing of FIR and chargesheet specifically for the offence under Section 306 of the IPC in connection with abetment to suicide.**Headnotes:**

Quashing of FIR – Section 482 CrPC – Petitioner sought the quashing of FIR and chargesheet against him specifically for the offence under Section 306 of the IPC. [Para 1]

Allegations and Prosecution Case – Deceased committed suicide purportedly due to non-payment for his crops by petitioner; however, prosecution fails to establish instigation or abetment by the petitioner. [Para 2-3]

Contentions of Parties – While petitioner argues that the necessary elements of Section 306 IPC are not fulfilled, the State maintains that there is enough material to proceed against him. [Para 4-5]

Element of Instigation – Discussion on Section 107 IPC and Apex Court's dictum in Sanju @ Sanjay Singh Senger V/s. State of M.P. on what constitutes "instigation" and the need for mens rea. [Para 6-7]

Legal Principles Clarified – Relying on Gangula Mohan Reddi V/s. State of Andhra Pradesh, the Court underscores that abetment requires a mental process and a clear mens rea to commit the offence. [Para 8]

Local Precedents – The Court's own judgment in Hukum Singh Yadav V/s. State of M.P. cited to elaborate on what amounts to knowledge or intent in the context of abetment to suicide. [Para 10]

Decision – FIR and chargesheet quashed to the extent of Section 306 IPC; proceedings to continue under other sections. [Para 12]

Referred Cases:

- Sanju @ Sanjay Singh Senger V/s. State of M.P., AIR 2002 SC 1998**
- Gangula Mohan Reddi V/s. State of Andhra Pradesh, 2010 (1) SCC 750**
- Hukum Singh Yadav V/s. State of M.P., ILR (2011) MP 1089**

Representing Advocates:

- Learned counsel for the petitioner (Not specified)**
- Learned counsel for the respondent/State (Not specified)**

ORDER

1. This petition under Section 482 of the Code of Criminal Procedure has been preferred by the petitioner/accused for quashing the FIR registered vide Crime No.110/20221 at Police Station Nalkheda, District Agar Malwa on 17.04.2022, the final chargesheet dated 22.07.2022 against him for alleged offences punishable under Sections 420, 306 and 34 of the IPC and all consequential proceedings. Learned counsel for the petitioner submits that he is pressing this petition only in so far as the offence punishable under Section 306 of the IPC is concerned.

2. As per the prosecution, a written complaint was lodged by certain persons against Dinesh, Rajesh and Padmadevi to the effect that they have taken the crops of the farmers and have kept it in their godown and are not making payment of the same. The deceased Laxminarayan was one of the complainant. Upon the complaint the persons who had allegedly kept the crops in the godown were called and during conversation it appeared to Laxminarayan that he is not going to get back his money and he got highly disturbed due to the same and went home and committed suicide on 27.04.2022 by consuming a poisonous substance. He was taken to the hospital but was declared dead. On the death upon furnishing of the intimation, merger was registered and investigation was commenced, upon completion of which the applicant has been implicated and arrested for the present offence.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the case. The entire allegations as leveled against the petitioner even if taken to be true at their face value do not amount to an offence punishable under Section 306 of the IPC. There is no allegation against the petitioner of either instigating or abetting the deceased in any manner to commit suicide and it cannot be said that due to act of the petitioner, the deceased had no other option but to commit suicide. He had various other legal remedies available to him. The act alleged against the petitioner is only to the effect that he was one of the accused who had taken the crops of the deceased and had kept it in his godown and was not making payment of the same. The same cannot in any manner be said to be abetment

or instigation or even a remote cause for the deceased to commit suicide. It is hence submitted that the FIR registered against the petitioner be quashed.

4. Per contra learned counsel for the respondent/State has submitted that there is sufficient material available on record to proceed against the petitioner and it cannot be said that no offence whatsoever is made out in view of which the petition deserves to be dismissed.

5. I have heard learned counsel for the parties at length and have perused the record.

6. Section 107 of the IPC makes it obligatory for the prosecution to show and establish the elements of instigation. The Apex Court in the case of Sanju @ Sanjay Singh Senger V/s. State of M.P., AIR 2002 SC 1998 has opined as under :-

"Even if we accept the prosecution story that the appellant did tell the deceased "to go and die", that itself does not constitute the ingredient of "instigation" the word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or on the spur of the moment cannot be taken to be uttered with mens rea it is in a fit of anger and emotion."

7. In the case of Sanju @ Sanjay (supra) the accused allegedly told the deceased "to go and die". Yet Apex Court opined that it does not constitute the ingredient of "instigation". In the instant case if story of the prosecution is read and believed as such it would be clear that the petitioner did not in any manner instigate the deceased to commit suicide. There is no element of "incitement" or "instigation" on his behalf. Thus Section 306 of the IPC is not attracted against the petitioner.

8. The ancillary question is whether his acts fall within the ambit of Section 306 of the IPC. In Gangula Mohan Reddi V/s. State of Andhra Pradesh 2010 (1) SCC 750 the Apex Court opined as under :-

17. 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 this Court is clear that in order to convict a person under Section 306 IPC 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 this act must have been intended to push the deceased into such a position that he committed suicide.

9. The principle flowing from this judgment is that the overt act of accused person must be of a nature where the victim had no option but to commit suicide. Even assuming that the petitioner did not pay the amount which was due from him to the deceased, this does not fall within the ambit of "incitement" or "instigation".

10. This Court in Hukum Singh Yadav V/s. State of M.P. reported in ILR (2011) MP 1089 considered the judgment of Supreme Court in Sanju @ Sanjay Singh Senger and held as under :-

10. Considering these legal aspect this is to be observed that whether applicants have had same knowledge that deceased would commit suicide. As per the prosecution case when deceased was going with his father. Applicants restrained deceased and his father Jagdish and abused and

threatened both of them, hence it cannot be assumed that applicants had knowledge that one of them particularly deceased will commit suicide. When act of abusing and threatening was alleged to be done with deceased as well as his father, so it cannot be said that applicants had knowledge or intention that deceased should commit suicide. There is no evidence that they provoked, incited or encouraged deceased to commit suicide. It is also not alleged that when applicants threatened to kill deceased and his father Jagdish they were armed with some weapons. So it cannot be presumed that deceased was so frightened that he had no option left except committing suicide and was compelled to do so.

11. The act of the petitioner, in the opinion of this Court does not attract Section 306 of IPC. In absence of establishing necessary ingredients for attracting Section 306 of the IPC, the petitioner cannot be compelled to face the trial unnecessarily.

12. In view of the foregoing analysis no offence under Section 306 of the IPC is made out against the petitioner even if the allegations levelled against him are assumed to be true. As a consequence, the petition is allowed and FIR registered vide Crime No.110/20221 at Police Station Nalkheda, District Agar Malwa on 17.04.2022 and the final chargesheet dated 22.07.2022 is hereby quashed against the petitioner only so far as Section 306 of the IPC is concerned. The same shall proceed against him under other Sections.

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