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CRR-13-2023

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 19<sup>th</sup> OF JANUARY, 2026CRIMINAL REVISION No. 13 of 2023*RINKU LODHA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Manvardhan Singh Tomar - Advocate for the petitioner.

Shri Vikram Pippal - PP appearing on behalf of State.

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ORDER

The present criminal revision has been filed under Section 397 and 401 of Cr.P.C against the order dated 08.12.2022 passed by learned Sessions Judge, Guna in ST No.241/2022, whereby charge under Section 306 of IPC was framed against the petitioner.

2. In nutshell, case of the prosecution is that on 13.09.2022 around 9 PM, one Bhagwan Singh committed suicide by hanging himself at cement pillar situated in Mata Temple, Guna. On 14.09.2022 at 1:53 AM "merg intimation no.96/2022" regarding un-natural death of Bhagwan Singh was recorded at P.S., Guna by Devendra Singh Lodha (brother of the deceased) inter-alia stating that reason for suicide is unknown to him. No suicide note was recovered from the spot.

3. During investigation, the police recorded the statements of five relatives of the deceased and two other persons. The relatives of the deceased in their statements levelled allegations against the petitioner that deceased Bhagwan Singh borrowed Rs.1 lakh from the petitioner and he harassed the deceased for



demanding repayment of the loan amount. On the date of incident i.e. on 13.09.2022 the petitioner kept the motorcycle of the deceased and due to the said harassment he committed suicide. After investigation charge-sheet (annexure P/2) was filed. The charge under Section 306 of IPC was framed by the Court below vide order dated 08.12.2022 which is under challenge in the present revision.

4. Learned counsel for the petitioner submits that learned Court below framed the charges under Section 306 of IPC without considering the fact that the essential ingredients for constituting an offence under Section 306 of IPC of abetment by the accused person are missing. In the present case there is no such abetment on the part of petitioner to instigate the deceased to commit suicide. Learned counsel for the petitioner further submits that the demand of repayment of loan amount or the alleged threatening in connection with the demand of money cannot be said to be a provocation for committing suicide under Section 107 of IPC. In support of his submissions, learned counsel for the petitioner relied upon order of this Court passed in CRR No.3155/2019 dated 09.07.2019 (**Rajesh s/o Mathuradas Advani vs. State of M.P.**). Learned counsel for the petitioner further submits that on the spot no suicide note was recovered and the charges have been framed only on the basis of statements of relatives. If statements of all the relatives of deceased, taken in toto, even then they do not constitute offence of abetment to commit suicide.

5. Per contra, prosecution has opposed the prayer and submitted that the wife of deceased disclosed before the police the reason of suicide and other witnesses have supported her statement, therefore, prima facie sufficient evidence is available on record for framing charges. From the statements it has come on record that on account of harassment by the petitioner for demand of money, the



deceased has committed suicide, thus, it cannot be said that necessary factors for invoking Section 306 of IPC are absent and prayed for dismissal of the present revision.

6. I have heard the parties at length and perused the record.

7. The moot question in the present case is that even if the entire allegations are accepted as they are, then whether it can be said that the petitioner has committed an offence of abetment of suicide.

Before dealing with the matter, it would be apt to consider relevant provisions and judgments on the point.

8. For ready reference Section 306 of IPC is quoted herein below:-

*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.*

9. "Abetment" defined under Section 107 of IPC reads as under:-

*107. Abetment of a thing.—A person abets the doing of a thing, who.*

*(i)-Instigates any person to do that thing; or*

*(ii)- 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*

*(iii) Intentionally aids, by any act or illegal omission, the doing of that thing.*

10. Section 107 of IPC makes it obligatory for the prosecution to show and establish the elements of instigation. The Hon'ble Supreme Court in the case of **Sanju @ Sanjay Singh Sengar vs State of M.P** reported in AIR 2002 SC 1998 in para 13 of its judgment opined as under:-

*"13..... 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 unadvisable 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 in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional."*

*(Emphasis Supplied)*

11. The Hon'ble Supreme Court in the case of **Gangula Mohan Reddy vs State Of A.P** reported in 2010 (1) SCC 750 in para 17 has held as under:-

*"17. Abetment involves a mental process of instigating a person 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 means 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."*

*(Emphasis Supplied)*

12. The principle following from the judgment cited above is that the overt act of the accused person must be of the nature which lead the victim/deceased with no option, but to commit suicide. If the facts of the present case are considered, the only allegation against the petitioner that he was demanding the money back from the deceased and he kept the motor cycle with him. Whether such an act can be said as an overt act of the petitioner is in the nature which led the victim/deceased with no option, but to commit suicide.

13. This Court in the case of **Rajesh s/o Mathruadas Advani (supra)** in para 15 has held as under:-

*"15. On considering the above submissions, I find that there is no other evidence on record to indicate that the accused in any way abetted suicide. Besides documentary evidence has been produced*



*by the police; clearly indicated that the deceased Shailendra @ Sonu Sharma used to borrow money then under the circumstances, it cannot be said that the demanding money back was an act of harassment to the deceased. In the matter of Devendra Singh vs. State of M.P. 2007 (III) MPWN 95 suicide note contains the name of the accused petitioner undoubtedly, however the Court held that it cannot be demand of money or loan amount or the alleged threatening in connection with the demand of money cannot be said to be a provocation for committing suicide under Section 107 of the IPC, which defines abetment of thing and involvement of instigating or intentionally aided by any act of illegal omission and, therefore, there must willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures for a thing to be done."*

*(Emphasis Supplied)*

14. In the instant case, if story of prosecution is read and believed as such that petitioner was demanding the money back, even then also there was no element of incitement or instigation on behalf of petitioner so as to compel the deceased to take some drastic or unadvisable action.

15. The Hon'ble Supreme Court in the case of **Praveen Pradhan vs State Of Uttranchal & Anr** reported in 2012 (9) SCC 734 in para 17 has held as under:-

*"17. The offence of abetment by instigation depends upon the intention of the person who abets and not upon the act which is done by the person who has abetted. The abetment may be by instigation, conspiracy or intentional aid as provided under Section 107 IPC. However, the words uttered in a fit of anger or omission without any intention cannot be termed as instigation."*

*(Emphasis Supplied)*

16. In the light of said judgment, it is clear that the offence of abetment by instigation depends upon the intention of the person who abets. A demand for return of money cannot by itself be construed as an act to be done with intention to instigate or provoke the commission of suicide, as a mere demand of money does



not ordinarily drive a person to take such an extreme step. On the contrary, if a person commit suicide, the very purpose of seeking refund of money would stand frustrated, since in such an event the money cannot be recovered at all. Therefore, act of the petitioner i.e. demanding the money back or keeping the motorcycle of the deceased with him cannot be said as an overt act in the nature which led the victim/deceased with no option, but to commit suicide.

17. As a result, I do pursue merit in the present petition. The act of the petitioner doesn't attract Section 306 of IPC and he cannot be compelled to face the trial unnecessarily.

18. In view of the above analysis, the learned Court below has committed an error in framing charge under Section 306 of IPC against the petitioner vide impugned order dated 08.12.2022. As a consequence, the revision petition is **allowed** and the impugned order dated 08.12.2022 is hereby set aside.

(PUSHPENDRA YADAV)  
JUDGE

Chandni