

**HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**

**BEFORE HON. SHRI JUSTICE ALOK VERMA,J**

**Cr.R. No.1162/2015**

**Surjeet Singh Thakkar**

**Vs.**

**State of Madhya Pradesh**

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Shri Vijay Sharma, learned counsel for the applicant.

Shri Romesh Dave, learned counsel for respondent/State.

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**ORDER**

**(Passed on 02/11/2015)**

This criminal revision under section 397 r/w section 401 of Cr.P.C. is directed against the order passed by the learned Third Additional Sessions Judge, Indore in Session Trial No.352/2015 dated 07.08.2015 whereby the learned trial Judge framed charges against the present applicant under section 306 of IPC.

2. Brief facts which are relevant for disposal of this revision are that the deceased- Pradeep Tiwari committed suicide on 05.10.2014. The deceased left a suicide note in

which it was alleged that the present applicant who is running a transport company and with whom the deceased attached two trucks bearing registration Nos.MP09-HG-3846 and MP20-HB-0863 and the present applicant was under an obligation to pay rent for trucks. However, he was not paying the rent to him regularly and was also not returning the trucks to him and driven by this fact and also under severe frustration, he committed suicide.

3. The case of the present applicant is that the trucks do not belong to the deceased though they were purchased in name of the deceased. The money was actually paid by the present applicant immediately after purchase of trucks. The trucks were under the control and supervision of the present applicant and for this purpose on 31.03.2012 the deceased executed a consent letter, copy of which is filed by the present applicant.

4. Learned counsel for the applicant placed reliance on judgment of Hon'ble Apex Court in case of Sanju @ Sanjay Singh vs. State of M.P.; AIR 2002 SC 1998 in which it was held that when the deceased committed suicide after two days of quarrel with the accused in which it was

alleged that the deceased uttered the words “go and die”. The Hon'ble Apex Court observed that the fact that the deceased died after two days of such incident show that uttering of such words that suicide was not the direct result of the quarrel and no case of under section 307 r/w section 107 of IPC was made out. The counsel also placed reliance on judgment of Hon'ble Apex Court in case of **M. Mohan State; AIR 2011 SC 1238** in which it was held that there has to be a clear mens rea to commit offence, conviction cannot be sustained without positive act on part of accused to instigate or aid in committing suicide. It was further observe that 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 in order to convict a person under section 306 of 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.

5. As per definition given in Section 107 of the Indian Penal Code, abetment is constituted by:

- (i) Instigating a person to commit an offence; or
- (ii) Engaging in a conspiracy to commit it; or
- (iii) Intentionally aiding a person to commit it.

6. However, in the present case, the facts are different here. As per the allegations in the suicide note the trucks belong to the deceased which were only attached to the transport company. He failed to pay him rent of the trucks due to which the deceased faced severe financial crises. The facts of the case is similar to those of the case before the Hon'ble Apex Court in case of **Amit Kapoor vs. Ramesh Chander and Anr.; (2012) 9 SCC 460**. In this case, the accused persons forcibly occupied the property of the widow lady. He misappropriated the property and was not returning the property to the deceased and, therefore, due to severe depression, the widow committed suicide. It was observed by the Hon'ble Apex Court in para 19 of the judgment that at the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has

to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.

7. Further, the Court observed in para 31 of the judgment as under:-

“31. This present case is not a case where the allegations were so predominately of a civil nature that it would have eliminated criminal intent and liability. On the contrary, it is a fact and, in fact, is not even disputed that the deceased committed suicide and left a suicide note. May be, the accused are able to prove their non-involvement in inducing or creating circumstances which compelled the deceased to commit suicide but that again is a matter of trial. The ingredients of Section 306 are that a person commits suicide and somebody alone abets commission of such suicide which renders him liable for punishment. Both these ingredients appear to exist in the present case in terms of the language of Section 228 of the Code, subject to trial. The deceased committed suicide and as per the suicide note left by her and the statement of her son, the abetment by the accused cannot be ruled out at this stage, but is obviously subject to the final view that the court may take upon trial. One very serious averment that was made in the suicide note was that the deceased was totally frustrated when the accused persons took possessions of the ground floor of her property, C-224, Tagore Garden, Delhi and refused to vacate the same. It is possible and if the Court believes the version given by the prosecution and finds that there was actual sale of

property in favour of the accused, as alleged by him, in that event, the Court may acquit them of not only the offence under Section 306 IPC but under Section 107 IPC also. There appears to be some contradiction in the judgment of the High Court primarily for the reason that if charge under Section 306 is to be quashed and the accused is not to be put to trial for this offence, then where would be the question of trying them for an offence of criminal trespass in terms of Section 448 IPC based on some facts, which has been permitted by the High Court.”

**8.** Further more, the Court observed in para 35 of the judgment as under:-

“**35.** The learned counsel appearing for the appellant has relied upon the judgment of this Court in *Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi)* to contend that the offence under Section 306 read with Section 107 IPC is completely made out against the accused. It is not the stage for us to consider or evaluate or marshal the records for the purposes of determining whether the offence under these provisions has been committed or not. It is a tentative view that the Court forms on the basis of record and documents annexed therewith. No doubt that the word “instigate” used in Section 107 IPC has been explained by this Court in *Ramesh Kumar v. State of Chhattisgarh* to say that where the accused had, by his acts or omissions or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, an instigation may have to be inferred. In other words, instigation has to be gathered from the circumstances of the case. All

cases may not be of direct evidence in regard to instigation having a direct nexus to the suicide. There could be cases where the circumstances created by the accused are such that a person feels totally frustrated and finds it difficult to continue existence. The husband of the deceased was a paralysed person. They were in financial crises. They had sold their property. They had great faith in the accused and were heavily relying on him as their property transactions were transacted through the accused itself. Grabbing of the property, as alleged in the suicide note and the statement made by the son of the deceased as well as getting blank papers signed and not giving monies due to them are the circumstances stated to have led to the suicide of the deceased. The Court is not expected to form even a firm opinion at this stage but a tentative view that would evoke the presumption referred to under Section 228 of the Code.”

**9.** And finally on aforementioned observations, the Hon'ble Apex Court set aside the order of framing charges and directed the trial Court to proceed against the accused under section 306 of IPC.

**10.** Applying the above principle, it is apparent that in the present case also as per the allegations in the suicide note the property belonging to the deceased was misappropriated or taken possession of by the present applicant/accused and this was the result of severe financial crises for the deceased and accordingly, when a person is driven to such condition by

accused, this amount to abetment of suicide. In this view of the matter, in my considered opinion of this Court, no case is made out for interfering in using the revisional power granted on this Court, the order passed by the learned lower court do not suffer for any irregularity or illegality and accordingly confirmed. This revision is accordingly dismissed.

**11.** With that observation and direction, this revision stands disposed of.

**( ALOK VERMA )  
JUDGE**