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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA**

ON THE 12th OF JULY, 2023

CRIMINAL REVISION No. 729 of 2020

BETWEEN:-

**PRADEEP SEN S/O BHAGIRATH SEN, AGED ABOUT 48
YEARS, OCCUPATION: BUSINESS, R/O- LIG 99, DONGRE
NAGAR RATLAM (MADHYA PRADESH)**

.....APPLICANT

(SHRI SHADAB KHAN, LEARNED COUNSEL FOR THE APPLICANT.)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE
OFFICER THR.PS. INDUSTRIAL AREA RATLAM
(MADHYA PRADESH)**

.....RESPONDENTS

(SHRI V.S.PANWAR, LEARNED P.L. FOR THE RESPONDENT/STATE.)

*This revision coming on for admission this day, the court passed the
following:*

ORDER

This revision petition is filed by the applicant/ accused u/s 397 r/w S.401 of Cr.P.C. being aggrieved and dissatisfied of the impugned order dated 17/12/2019 passed by VIth Additional Sessions Judge, Ratlam in S.T. No.280/2013 whereby the learned trial court has framed charges u/s 306, 506 Part-II of I.P.C. and S.4 of The Madhya Pradesh Protection of Debtors Act, 1937 against the applicant.

2 . Prosecution story in brief is that, the deceased Rajendra Swarup Bhatnagar was posted as a teacher in Government Maharani Lakshmi Bai Girls

Higher Secondary School, Ratlam. The deceased had taken loan of Rs.25,000/- for construction of house from co-accused Dr. Vijay Saxena. Thereafter he repaid loan with interest Rs.65,000/-. Apart from that he also took loan of Rs. 40,000/- from co-accused Pradeep Sen, Rs. 25,000/- from co-accused Jagdish Sharma, Rs.2,00,000/- from co-accused Abdul Jabbar, and Rs.30,000/- from his mother-in-law co-accused Kanta Devi. The deceased had already repaid the entire loan amount which was taken by him from all the creditors alongwith interest of 10% P.A. But after paying the loan amount, the present applicant/accused and co-accused person Jagdish Sharma, Vijay Saxena, Abdul Jabbar and Kanta Devi were demanding Rs.1,00,000; Rs.1,50,000/-, Rs.65,000/-, Rs.10,00,000/- and Rs.1,00,000/- respectively. Co-accused Jayant alias Laddu and Arjun are recovery agent of co-accused Vijay Saxena. The accused persons used to bother, physically and mentally torture the deceased and kept on demanding additional amount of money even after being paid their loan and interest amount. Also the accused persons took cheques, agreements, promissory notes and other documents as collateral security and did not return them. Thereby, the accused persons abated the deceased to commit suicide resultantly on 01/07/2013 the deceased committed suicide by putting himself in front of train. During search of dead body, 2 letters dated 04/04/2013 and 04/06/2013 were found from pocket of shirt of deceased wherein it has been mentioned that the deceased was mentally and physically disturbed because of debt recovery by the accused persons even after payment of loan. An FIR was lodged against the applicant and co-accused persons.

3. After hearing both the parties on 17/12/2019 the learned trial court had framed charges against the applicant as mentioned above.

4. It is submitted by the learned counsel for the applicant that it is the

settled position of law that demanding back the loan amount provided to the deceased does not amount to harassment and no offence is made out u/s 306 of IPC. There is no abetment from the applicant as provided u/s 107 of IPC. There is no evidence that the applicant has given any loan amount to the deceased and he was demanding it. It is not clear that the deceased died under unnatural circumstances. Charge framed against the applicant is bad in law and liable to be set aside. He placed reliance in the case of *Sanju alias Sanjay Singh Sengar Vs. State Of M.P. [2002 (2) J.L.J. 275 SC]*; *Surendra Jain Vs. State Of M.P. [2007 (1) M.P.W.N. 85]*; *Munnalal Jain Vs. State Of M.P. [2009 (III) M.P.W.N. 79]* and *Arvind Kashiv And Ors. Vs. State Of M.P. [Criminal Revision no. 105/2014 order dated 27/01/2015]*.

5. On other hand learned panel lawyer appearing on behalf of respondent/ state has opposed the submissions and supported the impugned order and has prayed for rejection of the petition.

6. Heard learned counsel for the parties and perused the records.

7. In the case of *Sanju alias Sanjay Singh Sengar (Supra)* Hon'ble the Apex Court in paragraph 13 has held as under:-

"13. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25th July, 1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased 'to go and die'. For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 Cr.P.C. when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Cr.P.C. is annexed as annexure P-3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him 'to go and die'. 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. Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 drove the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly pointed out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below."

8. In the case of ***Surendra Jain (Supra)*** the coordinate bench of this court in paragraph 7 has opined as under:-

"7. Section 306 of the Indian Penal Code makes abetment of the commission of suicide punishable, therefore, for making liable for an offence punishable under section 306 of the Indian Penal Code, it is a duty of the prosecution to establish that such person has abetted the commission of suicide and for the purpose of determining the act of accused it is necessary to see that his act must fall in any of the three categories as enumerated under section 107 of the Indian Penal Code. It is necessary to prove that the said accused instigated the person to commit suicide or engaged himself with one or more other persons in any conspiracy for seeing that the deceased commits suicide."

9. In the case of ***Munnalal Jain (Supra)*** the coordinate bench of this court in paragraph 7 has held as under:-

"7. On perusal of the suicidal note alleged to be written by deceased Kalicharan it is apparent that he had taken a loan of Rs.1,00,000/- from a person belonging to village Banskhedhi on the surety of the applicant/accused Munna Chowdhary and also agreed to pay the amount with interest @ 3% per annum and out of which he had returned a sum of Rs.1,40,000/-. Thereafter it is alleged that the

applicant, accused is further demanding remaining amount of Rs.1,55,000/- and on the date of incident he also demanded the aforesaid due amount of Rs.1,55,000/- positively till the next morning. Thus, in the aforesaid suicidal note there is nothing written that the applicant/accused had stated anything to the deceased Kalicharan for commission of suicide and the only allegation against him is for demanding of remaining amount of Rs.1,55,000/- forcefully. Admittedly the aforesaid amount is loan amount and in view of that the demand of any loan amount itself does not prove the instigation for commission of suicide.

10. The coordinate bench of this court in case of *Arvind Kashiv (Supra)* has observed in paragraph 13 has held as under:-

"13. There is also no evidence on record suggesting that the deceased had been subjected to physical violence or threatened by the applicants/accused at any time earlier as no report to that effect was ever lodged by the deceased. On perusal of the statements of the wife and daughter of the deceased it can be said that the deceased had been in depression owing to his being in debt. However, on the basis of the statements it cannot be inferred that the deceased had been abated to commit suicide by the applicants/accused."

11. Apart from that, in the case of *Chitresh Kumar Chopra V State (Government OF NCT Delhi) [(2009) 16 SCC 605]* in para 25 and 27 has held as under:-

"25. It is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for "presuming" that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction. (See: *Niranjan Singh Karam Singh Punjabi & Ors. Vs. Jitendra Bhimraj Bijjaya*⁵).

27. In view of the settled legal position, noted above, we are convinced that the trial court was correct in law in coming to the conclusion that a case for framing charge against the appellant had

been made out. Similarly, the scope of revisional powers of the High Court under Section 401 of the Code being limited, the High Court was justified in dismissing the Revision Petition, preferred by the appellant."

12. In the instant case brother of the deceased Anil, wife Sadhna neighbour Vedpal Singh, accountant of Govt. Maharani Lakshmibai girls higher secondary school Ratlam- Manish Goyal, have supported the case of prosecution in the statement u/s 161 Cr.P.C. Letters seized from pocket of the shirt of deceased also supported the case. Wife of the deceased, Smt. Sadhna has stated that her husband had already repaid all the loan amount taken by him from the accused persons. Despite of that he was physically and mentally tortured by their recovery tactics. The recovery agents and the accused persons who used to intimidate the deceased to repay the loan amount. 2-3 days before the incident, the accused persons Jayant Tiwari alias Laddu and Arjun came to the school of the deceased and troubled him there by abusing and intimidating him by knife, being aggrieved of which the principal of the school called the police, but Jayant Tiwari and Arjun had fled before the police arrived.

13. From the foregoing analysis it appears that there are sufficient documentary as well as oral evidence available on record against the applicant which constitutes the alleged offence prima-facie to frame charge against him. Therefore, the learned trial court has rightly framed charge against the applicant. The learned trial court has not committed any error, legal or factual in passing the impugned order and framing of the charge.

14. Resultantly, this court does not find any merit in this revision. Therefore, impugned order is hereby affirmed and revision petition filed by the applicant is **dismissed**.

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