

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH
ON THE 30th OF JUNE, 2023
CRIMINAL REVISION No. 795 of 2023**

BETWEEN:-

DEEPAK S/O MADANLAL JAGAWAT,
AGED ABOUT 30 YEARS, OCCUPATION:
LABOUR GRAM LALPURA
DISTRICT MANDSAUR (MADHYA PRADESH)

.....APPLICANT

(Shri Saransh Jain, learned counsel for the applicant)

AND

THE STATE OF MADHYA PRADESH
THROUGH POLICE STATION SHAMGARH
DISTT. MANDSAUR (MADHYA PRADESH)

.....RESPONDENT

(Shri Rajesh Joshi, learned Govt. Advocate for the respondent/State)

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

ORDER

1. Heard on the question of admission.
- 2.The appeal is admitted for final hearing.

3. With the consent of both the parties, the matter heard finally.

4. The applicant has preferred this revision petition under Section 397/401 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') against order dated 07.07.2021, passed by Second Additional Sessions Judge, Garoth, Mandsour, in S.T. No.94/2021, whereby charge for commission of offence punishable under Section 306 of the IPC has been framed against the applicant.

5. Briefly stated facts of the case are that on 20.10.2020, Tulsibai (hereinafter referred as 'deceased') committed suicide. After receiving the information, regarding the unnatural death of the deceased, police registered Merg intimation under Section 174 of the Cr.P.C. and the dead body of the deceased was sent for postmortem. During the merg enquiry, it was found that applicant (husband of the deceased) was having illicit relationship with other female and he tortured the deceased for not giving birth of the male child due to which she committed suicide. After completion of investigation, the charge-sheet was filed. Trial Court after appreciating the material available on record, vide order dated 07.07.2021 framed the charge for commission of offence punishable under Section 306 of the IPC against the applicant.

6. Learned counsel for the applicant submits that as per the suicide note furnished by the prosecution, no specific allegation has been made by deceased against the applicant. The statements of father and brother of the deceased were recorded after four days of the incident and nothing has been stated regarding abetment but only apprehension regarding murder has been expressed by them. Statements of some other independent witnesses namely Madan Lal, Gopi Singh, Ishwarsingh have also been recorded who have not supported the case of prosecution. Learned counsel for the applicant further submitted that there is no material available in the charge-sheet as well as in the suicide note regarding

abetment of the suicide by the present applicant and since the ingredients of Section 107 of the IPC are not fulfilled, therefore, the trial Court has committed error in framing the charge for commission of offence punishable under Section 306 of the IPC against the applicant. In support of his contention, learned counsel for the applicant has placed reliance over the order passed by Coordinate Bench of this Court in *Cr.R. No.5220/2018 (Ku. Ekta @ Eki Jain and Anr.Vs. State of MP) and M.Cr.C. No.140/2022 (Ankit Vs. The state of M.P. and others)*. Under these circumstances, he prayed for setting aside of the impugned order.

7. On the other hand, learned Govt. Advocate on the basis of statements of father and brother of the deceased, has opposed the contents of revision but he has fairly admitted that there is nothing regarding abetment, in such a situation, charges cannot be framed.

8. I have considered the facts of the case and rival contentions of the parties and perused the record.

9. Having gone through the record, it appears that even if all the allegations made against the applicant in the charge-sheet, be accepted in their entirety, they do not constitute the case punishable under Section 306 of IPC. It is well established that in order to constitute abetment within the meaning of Section 107 r/w Section 306 of IPC there should be instigation, provocation, incitement, insinuation or goading to commit suicide and that accused must have intended that the deceased commits suicide.

10. The parameters of 'abetment' have been stated in Section 107 of the IPC, which defines abetment of a thing as follows :

“107. Abetment of a thing – A person abets the doing of a thing, who - First – Instigates any person to do that thing; or Secondly, - 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 Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing.”

11. In view of the aforesaid provision, nothing has been elicited by the prosecution which fulfills the ingredients of abetment. Even, in the suicide note, nothing has been mentioned regarding said abetment.

12. In this case, the suicide note has been annexed with the record but in that note, nothing is mentioned against the applicant. The words written in the suicide note are pertinent to be reproduced below:-

“मैं तुलसी पुरी होशो हवास में अपनी खुशी से अपनी जान दे रही हूँ ।
इसमें मेरे घर और ससुराल वालों की कोई गलती नहीं है ।
इनसे कोई सवाल जवाब मत करना, मेरी एक बेटी है जो ये पिहर रहेगी और
मेरे पति का भी कोई दोष नहीं, उनसे भी कोई सवाल जवाब मत करना ।”

That apart, the statements of the Puralal-father of the deceased and Ghanshyam-brother of the deceased, recorded under Section 161 of Cr.P.C. are also relevant. In those statements nothing emanated regarding abetment. Three independent witnesses namely Gopi Singh, Ishwar Singh and Madanlal, in their statements recorded under Section 161 of CrPC, have also not supported the prosecution case. In the statement of Madanlal, it is stated that Tulsibai was happily residing in her house and there was no scuffle or dispute. Gopi Singh and Ishwar Singh have also stated that they have not seen anything regarding scuffle between the deceased and the deceased family. In these circumstances, even if the whole prosecution case is accepted in its entirety, the offence punishable under Section 306 of IPC will not be made out.

13. In view of above and mainly looking to the fact that nothing has been stated in suicide note by the deceased against the applicant, the present revision

petition is allowed. The impugned order dated 07.07.2021, passed by 2nd Additional Sessions Judge, Garoth, Mandsour in S.T. No. 94/2021 whereby charges under Section 306 of IPC, framed by Trial Court, is hereby set aside and the applicant is discharged from the commission of offence under Section 306 of the IPC .

14. Let a copy of this order be sent to the concerned trial Court for information and compliance.

Certified copy as per rules.

(PREM NARAYAN SINGH)
JUDGE

VD/-

