

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE ACHAL KUMAR PALIWAL

MCRC No.9887 OF 2018

SMT. PREM BAI AND OTHERS

Versus

THE STATE OF M.P. AND OTHERS

Appearance:

Shri Amit Dubey - Advocate for the applicants.

Shri Yogendra Das Yadav - G.A. appearing on behalf of respondent/State.

None for respondent No.2, though duly served.

RESERVED ON : 08/10/2025

PRONOUNCED ON : 14/10/2025

This petition having heard and reserved for order, coming on for pronouncement on this day, the court passed the following:

ORDER

This M.Cr.C. has been filed under Section 482 of Cr.P.C. for quashment of proceedings pertaining to crime No.382/2017 for offence under Section 306 of IPC/ST No.6/2018 pending in the Court of Additional Sessions Judge Pipariya, District Hoshangabad.

2. Learned counsel for the petitioners submits that in the instant case, one Ramkunvar Bai aged 70 years committed suicide in the intervening night of 20-21/09/2017 and merg intimation was given by deceased's son Liladhar. Allegations against present petitioners are that one-two months prior to the suicide committed by deceased, present

petitioners circulated a rumor to the effect that deceased had killed one calf (Bachhda). With respect to aforesaid, learned counsel for the petitioners has referred to statements of Liladhar, Narmada, Laxminarayan and Seema. It is also urged that even if prosecution case is accepted in toto, no offence under Section 306 of IPC is made out as ingredients constituting offence under Section 306 of IPC are not *prima facie*, established from evidence on record. Hence, petition filed by the petitioners be allowed and proceedings pending in the Court of Additional Sessions Judge, Pipariya, Hoshangabad with respect to crime No.382/17 for offence under Section 306 of IPC/ST No.6/18 be quashed.

3. Learned counsel for the respondent No.1/State submits that from statements of Liladhar and other witnesses, *prima facie* offence under Section 306 of IPC is clearly made out against petitioners. Hence, no ground for quashment is made out. Therefore, petition filed by the petitioners be dismissed.

4. Heard. Perused record of the case.

5. Thus, in the instant case, sole issue involved in the case is as to whether from evidence on record, *prima facie* offence under Section 306 of IPC against petitioner is made out or not.

6. **LEGAL PRINCIPLES WITH RESPECT TO INGREDIENTS OF OFFENCE UNDER SECTION 306 OF IPC:**

7. Before proceedings further and discussing of the case on merits, it would be appropriate to discuss basic legal principles/legal parameters with respect to offence

under Section 306/107 of IPC and reproduce relevant pronouncements having bearing on the issue.

8. In Gurcharan Singh Vs. State of Punjab (2020) 10 SCC 200- (3-Judge Bench), Hon'ble apex has laid down as under:-

“13. Section 107 IPC defines “abetment” and in this case, the following part of the section will bear consideration: - “107. Abetment of a thing – A person abets the doing of a thing, who – First-Instigates any person to do that thing; or

* * *

Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing.”

14. The definition quoted above makes it clear that whenever a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted in doing that thing.

15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Sec 107 of the IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous.....”

16. The necessary ingredients for the offence under section 306 IPC was considered in the case SS Chheena Vs. Vijay Kumar Mahajan, (2010) 12 SCC 190 , where explaining the concept of abetment, Justice Dalveer Bhandari wrote as under:-

“25. 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 that act must have been intended to push the deceased into such a position that he committed suicide.”

9. In Chitresh Kumar Chopra Vs. State (Government of NCT of Delhi), (2009)

6 SCC 605, Hon’ble apex court has held as under:-

“13. As per the Section, a person can be said to have abetted in doing a thing, if he, firstly, 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. Explanation to Section 107 states that any willful misrepresentation or wilful concealment of material fact which he is bound to disclose, may also come within the contours of "abetment". It is manifest that under all the three situations, direct involvement of the person or persons concerned in the commission of offence of suicide is essential to bring home the offence under Section 306 of the IPC.”

“15. As per clause firstly in the said Section, a person can be said to have abetted in doing of a thing, who "instigates" any person to do that thing. The word "instigate" is not defined in the IPC. The meaning of the said word was considered by this Court in Ramesh Kumar Vs. State of Chhattisgarh, (2001) 9 SCC 618.”

“16. Speaking for the three-Judge Bench in Ramesh Kumar, R.C. Lahoti, J. (as His Lordship then was) said that instigation is to goad, urge forward, provoke, incite or 7 Cr.R. No. 360/2021 Cr.R. No. 604/2021 encourage to do "an act". To satisfy the requirement of "instigation", though it is not necessary that actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be (2001) 9 SCC 618 capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.”

“17. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action: provoke to action or reaction" (See: Concise Oxford English Dictionary); "to keep

irritating or annoying somebody until he reacts" (See: Oxford Advanced Learner's Dictionary - 7th Edition)."

"18. Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter."

"19. As observed in Ramesh Kumar's case (supra), where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction;

and (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in 8 Cr.R. No. 360/2021 Cr.R. No. 604/2021 sthe manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation."

10. In **Gurcharan Singh Vs. State of Punjab (2017) 1 SCC 433**, Hon'ble apex court held as under:-

"21. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of these constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 of IPC. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 IPC, thus criminalises the sustained incitement for suicide."

70. If we examine facts of the present case in the light of above legal parameters, we are of the considered opinion that it cannot be said by any stretch of imagination that appellant abated the prosecutrix to commit suicide by the said act of rape. The above act may be the reason to commit suicide by prosecutrix but that by itself cannot amount to abetment to commit suicide. Therefore, we are of the view that in the instant case, ingredients constituting offence under Section 306 of IPC are not made out/are clearly missing.”

11. Hon’ble Apex Court in **Shabbir Hussain Vs. State of MP and others (Appeal (crl.) No. 7284/2017, Dated 26.07.2021**, has held as under:-

“In order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide.

Mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC [**Amalendu Pal V. State of West Bengal (2010) 1 SCC 707**].

Abetment by a person is when a person instigates another to do something. Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no option except to commit suicide.[**Chitresh Kumar Chopra v. State (Government of NCT of Delhi)(2009) 16 SCC 605**].

In the instant case, the allegations against Respondent Nos. 2 and 4 is that they harassed the deceased. There is no other material on record which indicates abetment. The High court did not commit any error in allowing the Criminal Revision.”

12. **Factual analysis of the case :-**

13. Now facts/evidence of the case would be examined in the light of aforesaid legal principles.

14. For examining the facts/evidence of the case, it would be appropriate to reproduce contents of FIR, which are as under:

“मै थाना पिपरिया में निरीक्षक थाना प्रभारी के पद पर कार्यरत हूं दिनांक 21.09.17 को सूचनाकर्ता लीलाधर पिता खुमान सिंह रघुवंशी उम्र 47 साल निवासी ग्राम रामपुर द्वारा उसकी मां रामकुंवर बाई द्वारा फांसी लगाकर लटकी होना तथा आत्महत्या कर ली जाना बताया था रिपोर्ट मर्ग क्रमांक 47/17 धारा 174 जा.फौ. की कामय कर जांच में लिया गया था मर्ग की जांच उप निरीक्षक ब्रजेश उईके द्वारा की गई जांच के दौरान मृतिका रामकुंवर बाई की पोस्टमार्टम रिपोर्ट में डा. द्वारा फांसी लगाकर आत्महत्या किया जाना लेख किया है। दौरान जांच ग्राम रामपुर के लीलाधर रघुवंशी, नर्मदा प्रदसाद उर्फ पप्पू, सीमाबाई, लक्ष्मी नारायण रघुवंशी से पूछताछ की जाकर कथन लिपिबद्ध किये गये थे। दौरान जांच पाया गया कि गांव में एक गाय का बछड़ा मरा था उसी बात को लेकर रामकुंवर बाई के पड़ोसी प्रेमबाई, कलाबाई, दुलारी बाई, जमना बाई, प्रेमबाई द्वारा लगाताकर रामकुंवर बाई से कहा जाता रहा कि तुमने ही गाय का बछड़ा मारा है समाज में बंद कर देगें इसी बात को लेकर नवदुर्गा के बाद पंचायत बैठाने की बात भी की गई थी। इसी बात से परेशान होकर दिनांक 20.09.17 को रामकुंवर बाई द्वारा थाना पिपरिया पहुंचकर रिपोर्ट दर्ज कराई थी कि घर के सामने गाय का बछड़ा खत्म हो गया था जिस पर गांव की प्रेमबाई पति जयराम रघुवंशी, दुलारी बाई पति फुल्लू रघुवंशी, कलाबाई पति लखन लाल प्रेमबाई पति भददी रघुवंशी, जमनाबाई पति चंदन सिंह रघुवंशी सभी बछड़े को मारने की बात कहते हैं जिससे उसकी काफी बदनामी हो रही है। सम्पूर्ण जांच पर पाया गया कि आरोपी महिलाओं द्वारा गाय का बछड़ा मर जाने पर लगातार रामकुंवर बाई को दोषारोपण करती रही समाज से बाहर निकालने की धमकी देती रहीं। पांचो आरोपी महिलाओं द्वारा आत्महत्या का दुष्प्रेरण किया इसी सामाजिक निंदा के चलते रामकुंवर बाई द्वारा फांसी लगाकर आत्महत्या की गई जो कि प्रकरण धारा 306 भादवि के तहत दण्डनीय होने से पंजीबद्ध कर अनुसंधान में लिया जाता है। नकल मर्गइन्टीमेशन हस्वजेल है :- मै उपरोक्त पते पर रहता हूं खेती का काम करता हूं दिनांक 20 एव 21.09.17 के दरमियानी रात को मेरी मां रामकुंवर बाई हमारे पुराने घर के सामने टपरा में गुलाबी छिटके वाली साड़ी से फांसी लगाकर आत्महत्या कर ली है। दिनांक 20.09.17 को करीब 9.30 बजे खाना खाकर सब परिवार एक साथ बाहर वाले कमरे में सो गये थे जो सुबह करीब 6.30 बजे मेरे छोटे भाई की पत्नि सीमा बाई शौच के लिये उठी तो उसने देखा कि सामने वाले टपरे में सास रामकुंवर बाई गुलाबी छिटके वाली साड़ी से मकान के नाट में फांसी लगाकर लटकी हुई है जो घबराकर घर के सभी लोगों को जगाया। मेरी मां रामकुंवर बाई ने किस कारण से फांसी लगाकर लटकी है मैं नहीं जानता हूं। मेरी मां की उम्र करीब 70 वर्ष है, उंचाई करीब 5 फीट एवं बदन गौरा, बाल सफेद जो हरे कलर की साड़ी पहनी हुई है, जिसने फांसी लगाकर आत्महत्या कर ली है, रिपोर्ट करता हूं कार्यवाही की जाये।”

15. Further, statement of Liladhar, son of deceased recorded under Section 161 of Cr.P.C., is as under:

“लीलाधर रघुवंशी पिता खुमान सिंह रघुवंशी उम्र 47साल नि.रघुवंशी मोहल्ला ग्राम रामपुर :-

ने पूछताछ में बताया कि मै उक्त पते पर रहता हूं तथा खेती बाड़ी का काम करता हूं तथा रानीपुर में जयगुरुदेव आश्रम में सेवा का काम करता हूं मेरे परिवार में कम तीन भाई है जिसमें में सबसे बड़ा हूं, मझंला लक्ष्मीनारायण एवं छोटा भाई पप्पू उर्फ नर्मदा प्रसाद है। लक्ष्मी नारायण इन्दौर में रहता है वर्तमान में मै अपने भाई पप्पू बहु सीमा और अपनी दोनों लड़कियां पूजा और निशा ग्राम रामपुर में रह रहे है। मेरी मां रामकुंवर बाई भी हमारे साथ रहती थी। दिनांक 21.09.17 के दरमियानी रात में मेरी मां रामकुंवर बाई ने फांसी लगाकर आत्महत्या कर ली थी। दिनांक 20.09.17 को करीब 9.30 बजे परिवार खाना खाकर सो गये थे में अपनी दोनों लड़कियों एवं मां के साथ बाहर वाले कमरे में सो रहे थे सुबह करीब 6.30 बजे छोटे भाई की पत्नि सीमा बाई शौच के लिये उठी तो उसने देखा कि उसकी मां रामकुंवर बाई सामने वाले कमरे में साड़ी के फंदे से फांसी पर लटकी हुई थी सीमा के चिल्लाने की आवाज सुनकर मैं भी पहुंचा था। मेरी मां ने मुझे बताया था कि गांव की प्रेमबाई, कलाबाई, दुलारी बाई, जमना बाई, प्रेमबाई कह रही है तुमने गाय का बछड़ा मारा तुम्हें समाज में बंद कर देगें तो मेने अपनी मां से कहा था कि नवदुर्गा के बाद पंचायत बैठायें तो मेरी मां ने कहा था कि पंचायत में कुछ नहीं होगा तो फिर मेरी मां फांसी लगाने से पहले इस बात की शिकायत करने थाने गयी थी फिर वापस आकर रात में फांसी लगा ली मेरी मां की चारों-पांचो महिलाओं द्वारा गांव में बछड़ा मारने की बात फैलायी थी जिससे मेरी मां परेशान रहती थी इसी परेशानी में मेरी मां ने फांसी लगाकर आत्महत्या कर ली थी। यही मेरा कथन है।”

16. In this Court's considered opinion, if contents of FIR as well as statement of Liladhar, son of deceased recorded under Section 161 of Cr.P.C. and other evidence

available on record, is assessed and examined in the light of legal principles discussed in preceding paras, then, *prima facie*, it cannot be said that petitioners abetted deceased in any manner whatsoever to commit suicide. It is also so because there is no specific evidence as to when and in whose presence, petitioners circulated the aforesaid rumor. Further, there is no evidence whatsoever on record as to whose calf was killed and when and whether any report was lodged with respect to aforesaid or not. It is evident from petition that petitioners are not related to each other in any manner whatsoever and they are aged from 60 years to 77 years.

17. Hence, in view of discussion in the foregoing paras and having regard to the nature of evidence available on record in the light of legal principles referred in preceding paras, even *prima facie*, it cannot be said that petitioners abetted deceased to commit suicide in any manner whatsoever. *Prima facie*, ingredients constituting offence under Section 306 of IPC are not made out.

18. Resultantly, petition filed by the petitioners is **allowed** and ST No.6/18 pending before Additional Sessions Judge, Pipariya, Hoshangabad with respect to crime No.382/17 for offence under Section 306 of IPC is hereby quashed.

19. Accordingly, petition filed by the petitioners is allowed and disposed off.

(ACHAL KUMAR PALIWAL)
JUDGE