

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Appeal No.980 OF 2009

Between:

Tirupati Pochaiah and others.

... Appellants

And

The State of Andhra Pradesh,
Rep. by State Public Prosecutor,
High Court of A.P, Hyderabad.

... Respondent

DATE OF JUDGMENT PRONOUNCED: 30.08.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K.SURENDER

+ CRL.A. No. 980 of 2009

% Dated 30.08.2022

Tirupathi Pochaiah & others. ... Appellants

And

\$ The State of Andhra Pradesh,
Rep. by State Public Prosecutor,
High Court of A.P, Hyderabad. ...Respondent

! **Counsel for the Appellant:** Sri P.Sriharinath

^ **Counsel for the Respondent:** Public Prosecutor

> **HEAD NOTE:**

? **Cases referred**

¹ 2021 SCC OnLine SC 737

² (2019) 10 Supreme Court Cases 188

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL APPEAL No.980 OF 2009

JUDGMENT:

1. The appellants/A1 to A6 are convicted for the offence under Section 306 of IPC and sentenced to undergo ten years rigorous imprisonment each vide judgment in S.C.No.316 of 2008, dated 09.09.2009 passed by the Assistant Sessions Judge, Siddipet. Aggrieved by the same, present appeal is filed.

2. The case of the prosecution is that the deceased is the husband of P.W.1. She stated that her husband committed suicide by consuming pesticide. The reason for committing suicide was that her deceased husband went to the water tank and when there was no water and the motor starter was locked, he abused the persons who had locked it. Two women Kundala Yadavva and Vemula Laxmi heard the deceased abusing and they in turn informed all the appellants who are caste elders. They conducted panchayat in the village and imposed fine of Rs.2,200/- on the deceased. Though, the amount was paid after six days, the appellants abused and

harassed the deceased continuously for which reason he committed suicide. P.W.2 is the mother of the deceased who stated that village elders imposed fine of Rs.30,000/- and stated that the appellants were responsible for the death of his son. P.W.3 the brother, P.W.4 another brother also stated that the deceased was fined for abusing the persons who had locked the water tank and the motor switch.

3. Learned counsel for the appellants submits that the incident is one of imposing a fine by the village elders for the reason of abusive conduct of the deceased. The said act of imposing a fine will not amount to abetting suicide as mentioned in Section 306 of IPC. In support of his contentions, he relied on the judgment in the case of; i)

Kanchan Sharma v. State of Uttar Pradesh¹, wherein the

Hon'ble Supreme Court held as follows:

“10. In the judgment in the case of [S.S. Chheena v. Vijay Kumar Mahajan & Anr.](#)³ this Court reiterated the ingredients of offence of [Section 306](#) IPC. Paragraph 25 of the judgment reads 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 2

¹ 2021 SCC OnLine SC 737

(2010) 1 SCC 707 3 (2010) 12 SCC 190 CrI.A.@S.L.P.(CrI.)No.7554 of 2019 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.”

4. In **State of West Bengal v. Indrajit Kundu and others**²,

wherein the Hon’ble Supreme Court held as follows:

“12. In the judgment in *Ramesh Kumar v. State of Chhattisgarh* [*Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] this Court has considered the scope of Section 306 and the ingredients which are essential for abetment as set out in Section 107 IPC. While interpreting the word “instigation”, it is held in para 20 as under : (SCC p. 629)

“20. Instigation is to goad, urge forward, provoke, incite or 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 capable of being spelt out. The present one is not a case 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 been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

5. On the other hand, learned Assistant Public Prosecutor submits that the appellants being village elders, humiliated the deceased by imposing fine and abusing him, for which reason, the deceased committed suicide.

² (2019) 10 Supreme Court Cases 188

6. As seen from the record, the complaint was filed on 07.06.2007 stating that Vemula Laxmi and Kundala Yadavva heard the deceased abusing the caste elders and accordingly she named 13 persons as the elders, who held caste panchayat and fined Rs.2,200/-. For the said reason, the deceased was frustrated and committed suicide. There is no averment in Ex.P1 complaint that the appellants and the other persons mentioned in the complaint had at any point of time abused or harassed the deceased. Though 13 persons are named in the complaint, only six persons were charge sheeted. The reason for not charge sheeting others, other than the appellants is not stated by the Investigating Officer and no reasons are given in the charge sheet, which charge sheet is available in the appeal booklet.

7. The omnibus allegation made by P.W.1 that the appellants abused and harassed is not found in the complaint nor did P.Ws.2 to 4 stated anything about the appellants harassing or abusing the deceased.

8. A bald allegation which is an improvement made during the trial in the court cannot be made basis to find the appellants guilty of the offence under Section 306 of IPC. No specific instances are given by any of the witnesses to say that the deceased was humiliated or harassed. To attract the offence under Section 306 of IPC, the essential ingredients are to instigate, provoke or encourage to do an act. There are no allegations either in the complaint or in the evidence of P.Ws.1 to 4 to suggest that the appellants had at any point of time instigated or provoked or constantly harassed the deceased resulting in the deceased committing suicide. For the reasons mentioned above, the conviction recorded by the trial Court is liable to be set aside and accordingly set aside.

9. In the result, the Criminal Appeal is allowed.

K.SURENDER, J

Date: 30.08.2022

Note: LR copy to be marked.

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HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.980 OF 2009

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