

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

CRIMINAL PETITION No.3460 OF 2018

BETWEEN

Mr.Atul Mathur,
S/o.Om Prakash Mathur,
Aged 57 years, Occ:Director
(Service & Training Head) for Whirlpool Company,
R/o.H.No.13, Old Faridabad, Faridabad & another.

... Petitioners/Accused Nos.1 & 2

And

The State of Telangana through
P.S.Marredpally, Secunderabad,
rep.by the Public Prosecutor (TG),
High Court, Hyderabad & another.

... Respondents/Complainants

Date of Judgment Pronounced:**28.02.2023**

SUBMITTED FOR APPROVAL:

THE HONOURABLE Dr.JUSTICE CHILLAKUR SUMALATHA

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

Dr.JUSTICE CHILLAKUR SUMALATHA

*** THE HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA**

+ CRIMINAL PETITION No.3460 OF 2018

% Dated 28-02-2023

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! Counsel for Petitioners: Sri T.Pradyumna Kumar Reddy

^ Counsel for Respondent No.1: Sri T.V.Ramana Rao

<GIST:

> HEAD NOTE:

? Cases referred

¹ (2019) 10 Supreme Court Cases 188

² 1995 Supp (3) SCC 438

³ 2019 SCC OnLine TS 3089

⁴ LL 2021 SC 539

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA**CRIMINAL PETITION No.3460 of 2018****ORDER:**

1. Projecting that the petitioners are innocent and thereby seeking the Court to quash the proceedings that are pending against the petitioners, who are arrayed as Accused Nos.1 & 2 in S.C.No.358 of 2017, which is pending before the Court of VI Additional Metropolitan Sessions Judge, Secunderabad, the present Criminal Petition is filed invoking Section 482 Cr.P.C.
2. Heard Sri T.Pradyumna Kumar Reddy, learned Senior Counsel who argued on behalf of Sri S.Leo Raj, learned counsel on record for the petitioners. Also heard the learned Additional Public Prosecutor who is representing Respondent No.1-State.
3. Notice sent to Respondent No.2 returned unserved with an endorsement "Unclaimed".
4. The facts of the case as could be perceived through the contents of charge sheet, if narrated in a narrower compass are that the deceased-Vijay Kumar(hereinafter be referred as

‘the deceased’ for brevity) was working as Service Engineer at Whirlpool Company since ten years. Two years prior to his death, the deceased-Vijay Kumar opened an office in the name and style Sri Sai Ganesh Electronics at Krishnapuri colony, West Maredpally. He took agency from Whirlpool company for selling the products of the said company. The accused fixed target to sell their products. The accused started pressurizing the deceased to increase the sales. The accused forcibly supplied material fixing up targets. The deceased, who could not withstand such pressure and could not sell the products as per targets, finally, committed suicide by hanging. Before death, he made a suicide note in which he narrated the harassment of the accused. There is a specific mention that “*Memu appu chesi business chestunnamu, meeru chesthe cheyandi ledante chavandi, ledante mee daggara panichese vallanu tisesi kothavallanu pettukondi etc*”. Thus, the accused abetted the deceased to commit suicide and thereby, they committed offence punishable under Section 306 read with 34 IPC.

5. Stating that the petitioners are innocent, learned counsel for the petitioners submits that the 1st petitioner

resides at Faridabad and the 2nd petitioner resides at Chennai. There is neither direct or indirect material to connect the petitioners with the crime in question. Learned counsel submits that the role, if any, played by the petitioners, is not specifically stated anywhere, including in the alleged suicide note. Learned counsel further submits that the case does not fall within the ambit of Section 306 IPC and even if the version of the prosecution that the company insisted the deceased to increase sales is taken to be true, that does not mean that the accused have instigated the deceased to commit suicide. Learned counsel also submits that the essential requirements to make out an offence punishable under Section 306 IPC are not present in the case on hand and therefore, the proceedings that are pending against the petitioners for the said offence are liable to be quashed.

6. The submission of the learned Additional Public Prosecutor, on the other hand, is that the deceased was working under the petitioners and the petitioners, who launched a new product, directed the deceased to increase sale of the said product and also fixed targets which the

deceased could not withstand. Learned Additional Public Prosecutor contends that though the deceased and his associates approached the concerned and requested not to pressurize them as they are unable to sell the products as per targets, the accused did not show any sympathy and they, on the other hand, instigated the deceased to commit suicide and openly stated that in case they cannot do business, they may die and aggrieved by the words used and the harassment made, the deceased committed suicide and therefore, the trial proceedings should go on.

7. The word “Suicide” is nowhere mentioned in the Indian Penal Code. However, the word “Suicide” can be termed to be ‘Self-Killing’. While Section 309 IPC makes an attempt to commit suicide punishable, Section 306 IPC prescribes punishment for abetment to commit suicide. In case a person commits suicide due to abetment of another, the said person would be held liable for punishment under Section 306 IPC.

Section 306 IPC reads as under:-

306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either

description for a term which may extend to ten years, and shall also be liable to fine.

8. As per Section 306 IPC, a person who abets another to commit suicide would be punished. Therefore, the word 'abetment' gains much significance. The word abetment as defined under Section 107 of Indian Penal Code reads as under:-

“Section 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.”

Explanation 1. —A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.”

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act and thereby facilitates the commission thereof, is said to aid the doing of that act.

9. Thus, to fix the case within the ambit of Section 306 IPC, it has to be established that a person has either instigated or engaged with another or intentionally aided another or made misrepresentation or wilful concealment of a material fact so as to make the person against whom such instigation or engagement or aid or misrepresentation or concealment is directed to commit suicide.

10. Therefore, it has to be seen primarily whether such an abetment is present on part of the petitioners herein for the deceased to commit suicide. Stating that even if a person is casually asked to die, it does not fall within the ambit of the word “abetment”, learned counsel for the petitioners relied

upon the decision of the Hon'ble Apex Court in the case between **STATE OF WEST BENGAL Vs.INDRAJIT KUNDU AND OTHERS**¹ wherein the Court at Para 11 of the order held as follows:-

*“11. From the material placed on record, it is clear that respondents are sought to be proceeded for charge under [Section 306/34](#) mainly relying on the suicide letters written by the deceased girl and the statements recorded during the investigation. Even according to the case of de facto complainant, respondent Nos. 2 and 3 who are parents of first respondent shouted at the deceased girl calling her a call-girl. This happened on 05.03.2004 and the deceased girl committed suicide on 06.03.2004. By considering the material placed on record, we are also of the view that the present case does not present any picture of abetment allegedly committed by respondents. The suicide committed by the victim cannot be said to be the result of any action on part of respondents nor can it be said that commission of suicide by the victim was the only course open to her due to action of the respondents. There was no goading or solicitation or insinuation by any of the respondents to the victim to commit suicide. In *Swamy Prahaladdas vs. State of M.P.*² this Court while considering utterances like “to go and die” during*

¹ (2019) 10 Supreme Court Cases 188

² 1995 Supp (3) SCC 438

the quarrel between husband and wife, uttered by the husband held that utterances of such words are not direct cause for committing suicide. In such circumstances, in the aforesaid judgment this Court held that Sessions Judge erred in summoning the appellant to face the trial and quashed the proceedings.”

11. Also, submitting that where pressure is applied to pay the loan amount and a person due to such pressure committed suicide, even then, it cannot be held that there is abetment to commit suicide, learned counsel for the petitioners relied upon the decision of this Court in the case between **D.Krishna Vs.State of Telangana**³ wherein this Court at Para 12 of the order, held as follows:-

“12. In the instant case, in the suicide note, except stating that the petitioners have harassed the deceased to pay the loan amount, there is no reference to any act or a specific incident whereby both of them committed a wilful act or intentionally aided or instigated the deceased in committing suicide. Unable to pay the loan amount within the stipulated time and apprehending that the petitioners would come to the house and create a galata, the deceased committed suicide. Mere mentioning of names in suicide notice without any specific instance of

³ 2019 SCC OnLine TS 3089

intentional aiding or provoking the deceased to commit suicide would not by itself amount to an offence under Section 306 of IPC. Vague and general averments in the suicide note will not satisfy the requirements of Section 107 of IPC. Hence, the allegations in the charge sheet do not constitute the offence punishable under Section 306 of IPC.”

12. Further, submitting that in the absence of any incitement to commit an offence of suicide, mere allegations of harassment of the deceased by any person would not be sufficient in itself, learned counsel for the petitioner relied upon the decision of the Hon'ble Apex Court in the case between **GEO VARGHESE Vs. THE STATE OF RAJASTHAN & ANR**⁴ wherein the Court at Para 22 of the judgment, held as follows:-

“22. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is

⁴ LL 2021 SC 539

hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

13. For making a person liable for the offence of abetment to commit suicide, there should be sufficient proof of incitement of commission of such an act. Mere using abusive language or in a heated discussion and during the course of exchange of words, asking the other to die does not amount to instigation to commit suicide. The hypersensitiveness of the person who commits suicide should not rope the other with criminal prosecution.

14. In the case on hand, more than sufficient opportunity is there for the deceased to get the agreement terminated and to come out of the clutches of the accused and the company if any. Furthermore, the deceased might have taken up the task of convincing the company that there is no possibility of increasing the sales or reaching the targets. Further, the

authorities concerned might have been approached. But the deceased preferred to end his life. A person dead, cannot be blamed. However, as earlier indicated, the reasons shown cannot be termed to be instigation on part of the petitioners herein for the deceased to commit suicide.

15. This Court does not find any *prima facie* case attracting the ingredients of Section 306 IPC which is guided by Section 107 IPC. Therefore, this Court is of the view that continuation of proceedings against the petitioners would certainly amount to abuse of process of Court.

16. Resultantly, the Criminal Petition is allowed. The proceedings that are pending against the petitioners in S.C.No.358 of 2017, before the Court of VI Additional Metropolitan Sessions Judge, Secunderabad, are hereby quashed.

17. Miscellaneous petitions, if any pending, shall stand closed.

Dr.JUSTICE CHILLAKUR SUMALATHA

Dt.28.02.2023

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HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.3460 of 2018

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