

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

Criminal Petition No.9630 OF 2021

Between:

Seni Thirupathi & Another ... Petitioners

And

The State of Telangana,
rep. by its Public Prosecutor,
High Court for the State of Telangana,
Hyderabad & Another ... Respondents

Criminal Petition No.9123 OF 2021

Between:

Seni Naveen & Another r ... Petitioners

And

The State of Telangana,
rep. by its Public Prosecutor,
High Court for the State of Telangana,
Hyderabad & Another ... Respondents

DATE OF JUDGMENT PRONOUNCED: 13.12.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- | | | |
|---|--|--------|
| 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.P. No. 9630 of 2021

% Dated 13.12.2022

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! **Counsel for the Petitioners:** Sri. CH. Ravinder

^ **Counsel for the Respondents:** S.Sudershan,

Addl. Public Prosecutor for R1

M/s.Yadu Krishna Sainath for R2

> **HEAD NOTE:**

? **Cases referred**

¹ AIR 2017 SC 74

² 2021 (3) ALT (CrI.) 308 (SC)

³ 2010 (3) ALT (CrI.) 392 (SC)

HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION Nos.9630 AND 9123 OF 2021****COMMON ORDER:**

1. Since petitioners in both the Criminal Petitions are accused in S.C.No.160 of 2021 on the file of Principal Senior Civil Judge-cum-Assistant Sessions Judge, Mancherial, they are being heard together and disposed off by way of this order.

2. Criminal Petition No.9630 of 2021 is filed by the petitioners/A1 and A2 and Criminal Petition No.9123 of 2021 is filed by the petitioners/A3 and A4.

3. The case of the prosecution is that on 23.11.2019, the petitioners abused the daughter of the 1st petitioner asking her to die repeatedly by saying “*Nuvvu Naa Biddave Kaadu Nuvvu Purugul mandu traagi chaavu neevu chachchina okka rupayee kuda neeku gaani nee bharthaku gaani evvamu ikkada enduku unnave ekkadikaina poi purugula mandu techchukoni naa inti mundu chaavu*” (You are not my daughter. You drink pesticide and die. I will not pay single rupee to you or your husband. You can get pesticide and die in front of our house.) The said words were repeated and for the reason of

humiliation, L.W2 attempted to commit suicide by consuming insecticide poison in front of the house of the petitioners. The victim underwent treatment in Star Hospital, Mancherial and medical officer issued certificate stating that the victim consumed 'Deltamethrin+ Trizophos poison'.

4. On the basis of the said complaint, police registered crime and filed charge sheet for the offences punishable under Sections 290, 355, 306 r/w 108 r/w 34 of IPC.

5. Learned counsel appearing for the petitioner would submit that there were heated exchange of words for the amount allegedly advanced as loan to the 1st petitioner. It will not in any manner amount to abetment to commit suicide. He relied upon the judgment of Hon'ble Supreme Court reported in the case of **Gurcharan Singh v. State of Punjab**¹, wherein the Hon'ble Supreme Court held as follows:

"The pith and purport of Section 306 IPC has since been enunciated by this Court in Randhir Singh v. State of Punjab (2004) 13 SCC 129; (AIR 2004 SC 5097), and the relevant excerpts therefrom are set out hereunder:

"12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of

¹ AIR 2017 Supreme Court 74

conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC.

13. In *State of W.B. v. Orilal Jaiswal* (1994) 1 SCC 73: (AIR 1994 SC 1418), this Court has observed that the courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.”

6. He also relied upon the judgment of in the case of *Kanchan Sharma v. State of Uttar Pradesh* and another², wherein the Hon’ble Supreme Court held that in the absence of any material which is placed on record within the meaning of Section 107 of IPC, the Court cannot proceed for offence of abetment to commit suicide.

7. In the judgment in the case of *S.S.Chheena v. Vijay Kumar Mahajan and others*³, wherein it is held as follows:

“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

² 2021 (3) ALT (CrI.) 308 (SC)

³ 2010 (3) ALT (CrI.) 392 (SC)

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

8. On the other hand, it was argued on behalf of the respondents that continuously asking the victim to go and die would amount to abetting suicide. Victim, who is the daughter of the 1st petitioner was forced to consume pesticide for the reason of petitioners continuously asking her to consume poison and die and for the said reason, the prosecution has to be continued before the trial Court.

9. Admittedly, there are money transactions in between the *defacto* complainant, who is the son-in-law of the 1st petitioner and 1st petitioner. Whether loan was advanced or any money was due to L.W.1, is the question of a fact. However, the allegation against the petitioners is that when asked to repay the loan amount, the petitioners stated that there is no due and they are not going to pay any amount and she can go and die. In the present facts of altercation regarding money and the petitioners refusing to acknowledge any debt and thereafter asking the victim to go and die will not amount to an offence of abetting and instigating a person to commit suicide. During the course of heated exchange of words for the reason of owing or not

owing money, it cannot be said that the petitioners have compelled the victim in any manner to commit suicide. The way the petitioners were denying any liability and refusing to pay the amount and in the process asking the victim to go and die, cannot be said to be an act of abetment to commit suicide falling within the definition of Section 107 of IPC. Unless there is an element of deliberate act of instigating or intentionally aiding a person to do a thing, can only be held to have abetted commission of such thing. Unless these ingredients are present, it would not fall within the definition of abettor under Section 108 of IPC. For the said reasons, the prosecution cannot be allowed to continue against the petitioners.

10. Accordingly, both the Criminal Petitions are allowed and the proceedings against petitioners/A1 to A4 in S.C.No.160 of 2021 on the file of Principal Senior Civil Judge-cum-Assistant Sessions Judge, Mancheri are hereby quashed.

K.SURENDER, J

Date: 13.12.2022

Note: LR copy to be marked.

B/o.kvs

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.9630 and 9123 OF 2021

Date: 13 .12.2022.

kvs

