

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE**BEFORE HON. SHRI JUSTICE ALOK VERMA,J****M.Cr.C. No.3739/2016****Tarun S/o Shri Nanuram Yadav****Vs.****State of Madhya Pradesh**

Shri Vinay Gandhi, learned counsel for the applicant.

Shri Sudhanshu Vyas, learned counsel for respondent/State.

ORDER**(Passed on 31/08/2016)**

Aggrieved by the order passed by VIII Additional Sessions Judge, Indore in Session Trial No.521/2015 dated 25.02.20016 whereby the learned Additional Sessions Judge framed charge against the present applicant under Section 306 of IPC.

2. Brief facts, as they emerge from prosecution story, for disposal of this revision are that for the last three years the applicant and the deceased were having a love affair. They wanted to get married but the present applicant was not marrying her. He wanted to perform a legal court marriage while the deceased wanted a proper social marriage, as per Hindu Rites and Customs. The parents of the present applicant did not grant permission for marriage. On 11.05.2015, the

deceased came to Indore to appear in an interview, the present applicant met her and some dispute arose between them, and thereafter, she committed suicide. Learned counsel for the applicant submits that it was only found that the deceased came to Indore and on the basis of call details, it was apparent that the present applicant met her at Indore. They talk to each other by an interval of one hour, and therefore, it is apparent that the present applicant abetted suicide of the deceased.

3. The applicant placed reliance on the judgment delivered by Hon'ble the Supreme Court in the case of **Sanju @ Sanjay Singh Sengar Vs. state of MP** reported in **2002 SCC (Cri) 1141** in which, it was held that ingredients of section 107 of IPC should present for taking the act as abetment of the suicide. “Instigate” denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea is the necessary concomitant for instigation. Words uttered in a quarrel or on the spur of moment, such as “to go and die”, cannot be taken to the uttered with mens rea.

4. Placing reliance on this judgment of Hon'ble the Supreme Court, learned counsel for the applicant argues that in the present case, the present applicants were not present when the deceased committed suicide. He was living separately,

therefore, it cannot be taken as abetment on his part, due to which the deceased committed suicide.

5. To see whether, the deceased committed suicide on being abetted by the present applicants, there should present one of the ingredients as stated in section 107 of IPC. Section 107 of IPC requires either of three overt acts on behalf of the persons said to have abetted the suicide:

“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.”

6. Apart from the above judgment of Hon'ble the Supreme Court, learned counsel for the applicant also placed reliance on the judgment of Hon'ble the Supreme Court in the cases of **Gangula Mohan Reddy vs. State of Andhra Pradesh; (2010) 1 SCC 750, S.S. Chheena vs. Vijay Kumar Mahajan and another; (2010) 12 SCC 190, Ramesh Kumar vs. State of Chhattisgarh; (2001) 9 SCC 618, Netai Dutta vs. State of West Bengal; 2005(2) SCC 659, Sweta Sharma vs. State of Jharkhand; MANU/JH/0180/2015, Amalendu Pal Alias**

Jhantu vs. State of West Bengal; 2010(1) SCC 707, Vijay Kumar Rastogi vs. State of Rajasthan; 2012 Cri.L.J. 2342, Rashmi Dewangan vs. State of C.G.; 2014(2) CGLJ19.

7. This apart, the judgment of Hon'ble the Supreme Court, learned counsel also placed reliance on the judgment of Hon'ble the Supreme Court in the case of **Pinakin Mahipatray Rawal Vs. State of Gujarat** reported at **2013 Cr.L.R. (SC) 955** whereby the Hon'ble Supreme Court observed in paragraph 26 of the judgment as under :-

“26. Section 306 refers to abetment of suicide. It says that if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment for a term which may extend to 10 years and shall also be liable to fine. The action for committing suicide is also on account of mental disturbance caused by mental and physical cruelty. To constitute an offence under Section 306, the prosecution has to establish that a person has committed suicide and the suicide was abetted by the accused. Prosecution has to establish beyond reasonable doubt that the deceased committed suicide and the accused abetted the commission of suicide. But for the alleged extra marital relationship, which if proved, could be illegal and immoral, nothing has been brought out by the prosecution to show that the accused had provoked, incited or induced the wife to

commit suicide.”

8. Reverting back to the present case, there is no direct evidence to show that in any manner the present applicant abetted suicide of the deceased. Their relationship for the last three years is an admitted fact but merely because they had been in relationship with each other for the last three years and some dispute arose between them does not constitute the offence of abetment as specified under Section 107 of IPC. Thus, placing reliance of case of **Pinakin Mahipatray Rawal (supra)**, I find that no charge is made out under Section 306 IPC.

9. In considered opinion of this Court this revision deserves to be allowed and hereby allowed. The present applicant is discharged from charges under section 306 of IPC. Accordingly, this revision is disposed of.

(ALOK VERMA)
JUDGE