

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

M. Cr. C. No.30157/2018
(Ashif Khan Vs. State of M. P.)

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Indore, dated 29/09/2018

Mr. Vikas Yadav, learned counsel for the applicant.

Ms. Bhakti Vyas, learned Government Advocate for the respondent / State.

The present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 for quashment of FIR registered at Crime No.702/2018 for an offence under Section 306 of the Indian Penal Code, 1860.

The facts of the case reveal that an engagement took place between the present applicant Ashif Khan and Farheen in the year 2015. Thereafter, though no marriage has taken place, the girl committed suicide on 14/02/2017 by hanging. A Merg was registered on the same date ie. on 14/02/2017 at Merg No.4/2017 under Section 174 of the Code of Criminal Procedure, 1973 and on 14/02/2017 there was no whisper of any kind against any foul-play in the matter. Later, on 16/12/2017 ie. after about ten months a First Information Report was registered and the First Information Report reads as under:-

“मैं थाना एम.आई.जी. में सउनि के पद पर पदस्थ हू थाना एम.आई.जी. इन्दौर के मर्ग क्र.04/17 धारा 174 जा.फौ. की जांच में साक्षी शहजाद बी पति बदुरुदीन व बदुरुद्दीन व शहरुप, कमरुद्दीन के कथन लिये जिन्होने अपने कथन में बताया कि मृतिका फरहीन पिता बदुरुद्दीन उम्र 18 साल निवासी 51 श्रीनगर मैन की शादी दिनांक 12/02/17 को आशिक पिता निजामुद्दीन खान निवासी 17 बी रोशन नगर खजराना इन्दौर के साथ शादी की बात चीत कर शादी दिनांक 24/04/17 को शादी की तारीख नियत की थी शादी की तारीख नियत होने के बाद आशिक पिता निजामुद्दीन खान ने दहेज में मृतिका फरहीन से महंगी कार मांगने व प्रताणित करने पर मृतिका फरहीन द्वारा दिनांक 14/02/17 को 14.00 घर में फांसी लगाकर आत्महत्या कर ली बताया तथा मृतिका फरहीन की पी.एम. रिपोर्ट प्राप्त की गयी जिसमें डा. द्वारा Death was due to Asphyxia as a result of Hanging

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duration of death was within 12 hrs since post mortem examination लेख किया है मर्ग जांच अपराध धारा 306 भा.द.वि का पाया जाने से कायमी कर विवेचना में लिया गया मर्ग इंटिमेशन कमांक क.04/17 हस्व जेर है कायमी मर्ग क.04/17 धारा 171 जा.फौ. नाम सूचनाकर्ता कमरुद्दीन पिता इमामुद्दीन अगवान उम्र 44 साल निवासी 51 श्रीनगर मेन इंदौर 9826333398 नाम मृतिका फरहीन पिता बदरुद्दीन अगवान उम्र 18 साल निवासी 51 श्रीनगर मेन इंदौर घटना स्थल : 51 श्रीनगर मेन इंदौर घटना दिनांक व समय 14/2/17 के 14.00 बजे सूचना दिनांक व समय 14/2/17 के 16.25 बजे कायमीकर्ता प्रआर. 2613 संजय चतुर्वेदी थाना एम.आय.जी इंदौर जांचकर्ता सउनि. रणसिंह चौहान थाना एम.आय.जी. इंदौर विवरण मैं 51 श्रीनगर मेन इंदौर में रहता हूं तथा व्यापार करता हूं आज दिनांक 14.02.17 के करीब दोपहर 02.00 बजे की बात होगी मेरे भतीजे शाहरुख ने मुझे फोन कर बताया कि मेरी बहन फरीन बेहोश हो गई है जिसको मैं ग्रेटर कैलाश हास्पिटल ले जा रहा हूं फिर मैं अपनी बहन फरीन को परिवार वालों को साथ लेकर जैसे ही अस्पताल पहुंचा डॉ. को दिखाया तो डॉ. साहब ने बताया कि आपकी बहीन की मृत्यु हो चुकी है मेरी बहन की लाश ग्रेटर कैलाश अस्प. में रखी हुई है फिर अस्पताल से मुझे थाने पर सूचना देने के लिये भेजा है। सूचना आमद ली जाकर मर्ग कायम कर जांच सउनि. रणसिंह चौहान के जिम्मे कर रवाना किया गया। सूचना प्रतिलिपि मर्ग क्र.04/17 धारा 174 जा.फौ. सूचना एस.डी.एम महोदय विजय नगर क्षेत्र की ओर सूचनार्थ है।”

In the First Information Report, which was registered after ten months of the death, there was one line statement that there was a demand of an expensive car by the present applicant.

Learned counsel for the applicant has argued before this Court that the so called engagement took place two and half years prior to the date of incident and the girl committed suicide on 14/02/2017 and the FIR was registered only on 16/12/2017 ie. after ten months and there was no instigation at any point of time by the present applicant resulting in suicide.

On the other hand, learned government advocate has read out the statements available in the case diary. She has stated that there was a demand by the present applicant in respect of an expensive car and in those circumstances, the girl has committed suicide.

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It is true that subsequently after registration of FIR on 16/12/2017, there is a whisper regarding demanding car but the fact remains that from 14/02/2017 till 16/12/2017, not a single person including parents of the girl have stated anything against the present applicant to the police about the so called demand.

Section 306 of the Indian Penal Code, 1860 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.”

In light of the aforesaid statutory provision, it can be safely gathered that there was no instigation at any point of time by the present applicant instigating the deceased to commit suicide. A bald statement has been made after ten months after the death of the girl and it cannot be used against the applicant as there is no statement left behind by the girl and the girl has committed suicide for the reasons best known to her or to the family members.

Resultantly, the petition is allowed, the FIR registered at Crime No.702 of 2018 at Police Station MIG, Indore and all the subsequent proceedings are quashed.

Certified copy as per rules.

(S. C. SHARMA)
J U D G E

Tej

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Tej Prakash Vyas
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