Neutral Citation No:=2024:PHHC:061769

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41891-2023
Date of Decision: 06.05.2024

SUSHIL KUMAR @ SUSHIL YADAV & ANOTHER

... Petitioners

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Prashant Singh Chauhan, Advocate
for the petitioner.

Mr. Rajiv Goel, D.A.G., Haryana.

Mr. Himanshu Rao, Advocate
for respondent No.2.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.0166 dated 20.04.2022 registered under Sections 306 and 34 IPC, 1860 at Police Station City Rewari @ Rewari, District Rewari, Haryana, the report under Section 173 Cr.P.C. dated 04.03.2023 (Annexure P-5), the supplementary report under Section 173 Cr.P.C. dated 13.07.2023 (Annexure P-4) and all subsequent proceedings arising therefrom.

2. The brief facts of the case are that the FIR in question came to be registered at the instance of one Suresh Kumar, the brother of the deceased Anil Kumar with the allegations that Sunil Kumari wife Anil Kumar had called him stating that her husband had strangulated himself. When he (complainant) reached home, he found Anil Kumar hanging from the fan with a rope. Thereafter, they took him to the hospital where the doctor

declared him dead. On being searched by a doctor, a suicide note was found with the names of Sushil Kumar @ Sushil Yadav (petitioner No.1) and Naresh Kumar @ Naresh @ Nesi (petitioner No.2). The copy of the FIR is attached as Annexure P-2 to the petition.

The translated version of the suicide note is attached as Annexure P-3 to the petition and the same reads as under:-

> *"I, Anil Kumar in my full senses is ending my life and for the same nobody at fault neither my family nor my friends. Only two person are responsible for the same i.e. Sushil Kumar having mobile no.94164-98230 and second is known as Nesi having mobile no.93553-21773, because of them I am very upset. Forgive me, but the same is not forgivable this thing was not known to anybody.*
> *Anil Kumar*
> *20.04.2022*
>
> *Anil Kumar (in Hindi)"*

3. On the same day, the supplementary statement of the complainant was recorded to the effect that he had fully satisfied himself that there were monetary transactions between his brother Anil Kumar (deceased) with the petitioners who were threatening and pressurizing him because of which his brother had committed suicide. The copy of the supplementary statement dated 20.04.2022 is attached as Annexure P-6 to the petition.

4. On similar lines, the statement of Sunil Kumari wife of the deceased Anil Kumar was recorded on 29.04.2022 under Section 161 Cr.P.C. wherein she stated that her husband would remain under-stress on account of the fact that the petitioners had been demanding their money from him. Even on the date of the occurrence, he was under mental stress and in her absence

he committed suicide by hanging himself with a rope on a fan. The copy of the said statement is attached as Annexure P-7 to the petition.

5. The petitioners were arrested and suffered their separate disclosure statements stating that the deceased would avail loans from them which he repaid from time to time but lately, the loans availed by the deceased had not been repaid. They had been calling him repeatedly to return their money and would hurl abuses to mount pressure upon him which had led him to commit suicide and them being named in his suicide note. The copy of the said disclosure statements dated 19.06.2022 are attached as Annexures P-8 and P-9 to the petition.

6. Based on the investigation conducted, the first report under Section 173(2) Cr.P.C was submitted on 04.03.2023 and the copy of the said report is attached as Annexure P-5 to the petition. A supplementary challan under Section 173(8) Cr.P.C. was submitted on 13.07.2023 which is attached as Annexure P-4 to the petition.

7. The FIR, the reports under Sections 173(2) Cr.P.C. and 173(8) Cr.P.C. and all proceedings arsing therefrom are under challenge in this petition

8. The learned counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. There was nothing on record which would constitute the commission of an offence under Section 306 IPC as the ingredients of Section 107 IPC are completely lacking. For an offence under Section 306 IPC the prosecution should have, at the very least established that the accused had an intention to aid, instigate or abet the deceased to commit suicide. Abetment involved the 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 in aiding, instigating or abetting the deceased to commit suicide, the question of the commission of the offence did not arise. Merely being named in a suicide note did not establish the offence which must be made out on the basis of the allegations levelled. In the instant case, a reading of the FIR, the supplementary statements and the suicide note would at best go to show that the petitioners who are otherwise not connected with each other had separately advanced loans to the deceased who refused to repay them because of which they had been pressurizing him to return their money. By no stretch of imagination could be termed to be abetment as it was only natural that some amount of aggression would be used by the petitioners in order to get back their money. Be that as it may, the report under Section 173 Cr.P.C. did not refer to any monetary transactions between the parties though the disclosure statements referred to the same. The reference to telephonic conversations between the petitioners on the one hand and the deceased on the other would, once again, only go to show that the petitioners were seeking return of their money which they had advanced as a loan to the deceased. He, therefore contends that taking the allegations to be absolutely correct, no case under Section 306 IPC was made out and the FIR, the report under Section 173(2) Cr.P.C. and 173(8) Cr.P.C. and all subsequent proceedings including the order whereby charges had been framed against the petitioners were liable to be quashed. Reliance is placed on the judgments in the cases of ***Mohit Singhal & another Versus The State of Uttarakhand & others, 2024(1) R.C.R. (Criminal) 72***, ***Gadipudi Anitha Versus State of Andhra Pradesh, Criminal***

Petition No.12242 of 2018, Decided on 28.03.2023, ***Smt. Shaila Singh Versus State of Chhattisgarh & another, CRMP No.1441 of 2017***, ***Ram Sarup Versus Ravi & others, CRM-M-19094-2010, decided on 06.01.2012***, ***Naresh Kapoor Versus State of Punjab & another, CRR-300-2020, decided on 25.04.2024***, ***Harbhajan Sandhu Versus State of Punjab & another, CRM-M-34495-2021, decided on 23.02.2022*** and ***State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383***.

9. On the other hand, the learned State counsel alongwith the learned counsel for the private respondents Nos.2 and 3 contend that as per the prosecution case set out in the FIR, the statements under Section 161 Cr.P.C. and the suicide note the accused/petitioners were pressurizing/harassing the deceased to return their money. These allegations themselves would amount to abetment as envisaged under Section 107 IPC. The call records would also show that on the date of the occurrence, the petitioners had been calling up the deceased. The petitioners had raised certain arguments which would amount to raising disputed questions of fact for which evidence was to be led and cross-examination necessary. The said disputed questions of fact could not be adjudicated upon in summary proceedings under Section 482 Cr.P.C. Though, there was certain gaps in the prosecution evidence, the same would be addressed by the prosecution witnesses when they deposed in Court during the course of the Trial. Be that as it may, the present petition did not impugn the order whereby charges had been framed against the petitioners and even otherwise, post-framing of charges there was no question of quashing of the FIR and subsequent proceedings arising.

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10. I have heard the learned counsel for the parties.

11. Before proceeding further in the matter, it would be apposite to examine Sections 107 and 306 of the Indian Penal Code, 1860 and the same are reproduced hereinbelow:-

Section 107 IPC, 1860

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."

Section 306, IPC, 1860

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.

12. The judgments relied upon by the learned counsel for the petitioners are discussed hereinbelow:-

In ***Mohit Singhal*** (supra), it was held as under:-

"7. The suicide note records that the third respondent had borrowed a sum of Rs.60,000/-. According to the deceased, he had paid more than half of the amount to Sandeep. The

suicide note records that as he could not pay the rest of the money, the first appellant came to his house and started abusing him. He stated that the first appellant had assaulted him, and therefore, he complained to the police. He further noted that the business of giving money on interest was prospering. He stated that the third respondent is not a prudent woman, and due to her habit of intoxication and due to her conduct, she got trapped in this. In the suicide note, it is further stated that the first appellant has made his life a hell.

8. According to the complaint of the third respondent, the incident in her shop of the first appellant threatening and assaulting her and her husband was on 15th June 2017. After that, notice under section 138 of the Negotiable Instruments Act, 1881, was issued by Sandeep to the deceased on 27th June 2017. The suicide note was written three days after that, on 30th June 2017. The deceased committed suicide three days thereafter. Neither in the complaint of the third respondent nor in the suicide note, it is alleged that after 15th June 2017, the appellants or Sandeep either met or spoke to the third respondent and her deceased husband. Section 306 of the IPC makes abetment to commit suicide as an offence. Section 107 of the IPC, which defines the abetment of a thing, reads thus:

> *"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."

(underline supplied)

9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.

10. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.

11. Therefore, in our considered view, the offence punishable under Section 306 of IPC was not made out

against the appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of law.

12. Accordingly, we set aside the impugned judgment and quash the summoning order dated 23rd January 2019 in Criminal Case No. 454 of 2019 passed by the learned Additional Chief Judicial Magistrate Ist, Dehradun, District Dehradun.

(emphasis supplied)

In ***Gadipudi Anitha*** (supra), it was held as under:-

"2. On 30.08.2016, the deceased is said to have committed suicide after writing a suicide note giving a list of creditors who are said to have been harassing her for return of their money and that she was committing suicide as she was unable to bear the harassment of these creditors. The petitioners are also mentioned in the said suicide note.

3. The investigating officer after completion of investigation has filed a charge-sheet under Section 306 r/w. 34 of Indian Penal Code and the same has been taken cognizance by the Additional Junior Civil Judge at Chilakaluripet, Guntur District as P.R.C.No.30 of 2017. A perusal of the charge-sheet would show that the petitioners have been including as accused on the ground that the deceased had included the names of the accused, in her suicide note, as the persons who are harassing her for repayment of their money. The petitioners have approached this Court, by way of the present of Criminal Petition, for quashing the same.

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7. In the present case, the deceased had committed suicide. The question of whether the petitioners herein, had abetted her in the commission of her suicide is the issue before this Court. The Hon'ble Supreme Court of India had interpreted the definition of abetment in Section 107 of Indian Penal

Code in the case of C.B.I v. V.C. Shukla in the following manner:-

> *"...a person abets the doing of a thing when he does any of the acts mentioned in the following three clauses.*
>
> *(i) instigates that person to do that thing.*
>
> *(ii) engages with one or more other person or persons in any conspiracy for the doing of that things.*
>
> *(iii) Intentionally aids, by any act or illegal omission, the doing of that thing.*

So far as the first two clauses are concerned it is not necessary that the offence instigated should have been committed. For understanding the word 'aid' in the third clause it would be advantageous to see Explanation 2 in Section 107 IPC, which reads thus:

> *"Whoever, either prior to or at the time of the commission of the act, does anything in order to facilitate the commission thereof, is said to aid the doing of that act"*

It is thus clear that under the third clause when a person abets by aiding, the act so aided should have been committed in order to make such aiding an offence....."

Clauses (i) and (ii) extracted above do not apply to this case because no 'instigation' by or 'conspiracy' between the petitioner and the other accused is alleged by the prosecution. The third clause also is not attracted because no 'aid' was given by the petitioner to the deceased when she committed suicide. Aiding suicide by a person can only be by positive acts of assisting in procuring the material required for suicide, like a person supplying rope or other material for hanging, when a person expresses his desires to commit suicide by hanging, or supplying weapon or material like drugs, poison, etc., when the person intending to commit suicide asks such aid, or if a person

suggest the modes in which suicide can be committed like jumping into a river, lake or well, etc., to a person who intends to commit suicide."

8. In the present case, the allegations against the petitioners are that they had been harassing the deceased lady for recovery of the loans and advances by them. There are no specifics or details of the said harassment except the fact that the deceased had stated so in her suicide note. In the circumstances, the only an allegation against the petitioners is an allegation of general harassment for recovery of their money. Such harassment would not fall under Clause-1 & 2 of the above interpretation of the term "Abetment". Clause-3 requires an intention on the part of the petitioners to encourage the deceased person to commit. There is no allegation against the petitioners of having done anything with an intention of encouraging the deceased lady to commit suicide.

9. All the Judgments cited by the learned counsel for the petitioners had gone into various facets of what would constitute abetment to suicide. One common thread is the requirement of intentionally pushing the deceased to commit suicide. Mere harassment would not amount to an offence under Section 306 of Indian Penal Code.

10. In that view of the matter, it must be held that the allegations in the charge-sheet do not make out any case of abetment by the petitioners, under Section 306 of Indian Penal Code and consequently, this Criminal Petition is allowed quashing P.R.C.No.30 of 2017 on the file of the Additional Junior Civil Judge at Chilakaluripet, Guntur District against the petitioners herein.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

(emphasis supplied)

In ***Smt. Shaila Singh*** (supra), it was held as under:-

13. Even if the prosecution version is taken as true and correct, there is no material on record to establish that the petitioner had adopted any coercive methods to recover her loan amount. Further, if there was any demand made by the petitioner, that cannot be treated as abetment as any person who has given loan would certainly like to get it back. If there was any unlawful activity performed by the petitioner in order to recover the loan amount, either the deceased or her husband could have taken shelter of any competent Court of law or at least made a complaint before the police authorities, which admittedly in this case is missing.

(emphasis supplied)

In ***Ram Sarup*** (supra), it was held as under:-

3. Briefly stated the facts are that the aforesaid petitioners had loaned some money (Rs. 17 lacs) to Shamsher Singh, who failed to repay the same. Persistent demands were made by them and upon violation to repay the amount, the petitioners even approached the police. Unabled to withstand this humiliation, the deceased Shamsher Singh, who was running a shop of the commission agent under the name and style of M/s Mansa Ram and Sons at Karnal, took the extreme step of taking his own life.

4. The petitioners say that by no stretch of imagination can this be called abetting an offence of suicide and further state with reference to the peculiar facts of the case that during the life time of Shamsher Singh, they had initiated three complaints against him under Section 138 of the Negotiable Instruments Act, as the deceased had issued cheques as a measure of discharge of his liability, which cheques were dishonoured. The first complaint was filed on 6.7.2007 for a cheque pertaining to an amount of Rs. 7 lacs and the second on 21.7.2006 regarding an amount of Rs. 3 lacs, while the third one was filed on 27.1.2007 pertaining to an amount of

Rs. 7 lacs. After the petitioners had led their evidence and when the statement of the deceased was to be recorded under Section 313 of the Code of Criminal Procedure, he committed suicide. The petitioners then withdrew the complaints and filed a suit for recovery against the present complainant, who is son of the deceased, in order to recover the amounts from the estate of the deceased. This suit was filed on 21.11.2009 and along with the suit an application under Order 39 Rule 1 and 2 and Order 38 Rule 5 of the Civil Procedure Code were filed seeking attachment of the assets of the complainant. It is thereafter that the instant complaint was filed after a lapse of almost a year. Prior to this, an FIR was registered on the statement of complainant Ravi on similar allegations. The said FIR bearing No.317 dated 21.5.2009 under Sections 306/34 Indian Penal Code was investigated by the police, but the allegations were found to be false and the FIR was thus cancelled. It is with reference to the aforesaid facts as also the suicide note that the petitioners pray that the proceedings against them are frivolous and the allegations in the complaint do not set out the commission of any offence and thus pray that the same be quashed.

5. Learned counsel for respondent No.2 (in Crl.Misc.No.M-20028 of 2010), on the other hand, has vehemently opposed the prayer and has justified the complaint as also the summoning order and has stated that the complaint at the threshold should not be quashed once it discloses commission of an offence. He has also referred to the unfortunate situation where the petitioners were hounding the deceased for recovery of the amount and using strong arm tactics creating unbearable pressure upon the deceased and also thrusting humiliation upon him.

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9. The Supreme Court in Sanju alias Sanjay Singh Sengar v. State of M.P. 2002, Cri.L.J.2796 has in emphatic words described what is instigation. In that case the accused had asked the deceased 'to go and die' and in that backdrop the Supreme Court observed as follows:-

> *."Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of means rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with means rea."*

10. To constitute abetment of suicide the words, actions and conduct that is attributed to a person has to be overt and not merely inferential resulting from a contribution to a situation by a normal standardised conduct of human behaviour. It would then depend upon sensitivity of a person and his perceptible reaction to the situation if he convinces himself about the futility of his existence.

11. In the instant case the petitioners were having loan transactions with the deceased and it was normal for them to insist that their money be returned. No act has been attributed to them which can be termed to be taking recourse to illegal activity for recovery of such an amount. Rather, they had used the agency of the police to register FIR against the deceased and had also filed complaints against him under Section 138 of the Negotiable Instruments Act. Their conduct, therefore, was that of a prudent law abiding citizen making an endeavour to recover a bad loan.

12. The deceased, on the other hand, was surrounded by numerous such transactions which had gone bad and it is, therefore, the cumulative effect of all such bad transactions

which pushed him to a corner. Such situation could possibly be have been a result of his own mismanagement, but that is not for the Court to comment upon. Suffice it to say that the complaint even if taken on its face value does not sufficiently establish the commission of an offence under Section 306 Indian Penal Code and since it has been filed in the backdrop of a tussle where the petitioners seek to recover their loan from the estate of the deceased, the lodging of the complaint in order to ward off such action cannot be ruled out implying thereby that the complaint is motivated.

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14. Learned counsel for the respondent/complainant, on the other hand, placed reliance upon a judgment in Didigam Bikshapathi & Anr. v. State of A.P., 2008(1)RCR (Criminal) 209 where the Supreme Court while referring to the facts of the case in which there was a business dispute between the accused and the deceased and the accused having hurled abuses in filthy language upon refusal by the accused to return the amount led to the committing of suicide by the deceased leaving behind a suicide note and the Hon'ble Supreme Court observed that a case for abetment of suicide was indeed made out. The distinctive feature in this case relied upon by the learned counsel for the respondent/complainant is the suicide note itself which is noticed by the Supreme Court wherein a clear mention has been made about the role of the accused. In Netai Dutta v. State of W.B., 2005 Crl.L.J. 1737 it was observed by the Supreme Court as under :-

> *"6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any wilful act or omission or intentionally aided or instigated the deceased Pranab*

Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Panab Kumar Nag."

15. To the mind of this Court, the suicide note in question also does not suggest any wilful act or omission or an act of intentional aiding or instigating the deceased and since the basic ingredients of constituting an offence are not made out and the background of the case strongly suggest an attempt to evade the liability to satisfy a loan, I am of the opinion that the pressure tactic adopted by the respondents is an abuse of the process of law.

(emphasis supplied)

In ***Naresh Kapoor*** (supra), it was held as under:-

12. A perusal of the aforementioned judgments would show that to constitute an alleged abetment of suicide under Section 306 IPC 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 action on the part of the accused which compelled the commission of suicide. If a person committing suicide is hypersensitive and the allegations attributed to the accused are otherwise not ordinarily expected to induce a similarly situated person to take the extreme step to commit suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Therefore, what is required is an examination of every case on its own facts and circumstances and keeping in view the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased. Further, even if the allegations against the

accused were of such a nature that would drive an ordinary person to commit suicide, there must be a proximate and live link between the occurrence of extreme harassment and the subsequent suicide. The act complained off at the hands of the accused must be the only factor which subsequently led to the deceased committing suicide.

13. Coming back to the instant case, a perusal of the FIR and the suicide note would show that no specific incidents whatsoever have been pointed out by the complainant or the deceased which compelled the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioner/accused to instigate or aid the deceased in committing of suicide. From the allegations and from the record, it has not been established that the petitioner/accused intended to push the deceased to such a situation that she would ultimately commit suicide. At the very best, what could be said is that the deceased was harassed and nothing more.

(emphasis supplied)

In ***Harbhajan Sandhu*** (supra), it was held as under:-

"14. Another factor which would go to the root of the matter is that there has been absolutely no positive act on the part of the petitioner-accused to instigate or aid in the committing of suicide. From the allegations and from the record, it is not established that the petitioner-accused intended to push the deceased into such a position that he ultimately committed suicide. Issuance of the alleged threats three months prior to the suicide without any positive act of aiding or instigating would not by itself create an offence under Section 306 IPC.

**** **** ****

16. Even, otherwise, merely being named in a suicide note would not by itself establish the guilt of an accused until the

> *ingredients of an offence are made out. In the present case, taking the suicide note to be absolutely correct, the allegations therein do not constitute an offence for which the petitioner can be prosecuted.*
>
> (emphasis supplied)

13. A perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide inasmuch as the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide. To constitute abetment, the intention and involvement of an accused to aid or instigate the commission of suicide is imperative. There must be a positive act on the part of an accused to aid or instigate the deceased to commit suicide. Further, merely being named in a suicide would not by itself establish the culpability of an accused until the ingredients of an offence are made out.

14. Further, while dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment. If the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to take the extreme step of committing suicide, then the Court would do well in not quashing proceedings. On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive nature or other contributing factors then the Court must not hesitate in quashing the proceedings.

15. As regards the principles governing quashing of an FIR, the Hon'ble Supreme Court in the case of ***State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383***, has held as under:-

> *"107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

(emphasis supplied)

16. Further, the question of permitting the Trial to continue on the premise that the gaps in the prosecution case would be addressed when the evidence is recorded does not arise in view of the judgment of this Court in the case of ***M.L. Wadhwa Versus M.M. Rehani & another, 2006(1) R.C.R. (Criminal) 17*** as per which charges cannot be framed on the likelihood of the prosecution leading better evidence at a subsequent stage.

17. Coming back to the facts of the present case, a perusal of the FIR, the statements under Section 161 Cr.P.C. and the suicide note do not

disclose any specific incidents of acute harassment which was likely to drive the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioners to aid or instigate the deceased for committing suicide. From the allegations and the from the record it has not been established that the petitioners intended to push the deceased to such a situation that he would ultimately commit suicide. At the very best what could be said is that the deceased was pressurized to return the loan amount received by him from the petitioners and nothing more. Therefore, apparently a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his hypersensitive nature. Furthermore, where a person succumbs to the pressure of his debt and the creditor is taken as an abettor to his suicide simplicitor, the legitimate interest of a person asking for his own money in a reasonable manner would be harmed in every such case.

18. Keeping in view the aforementioned principles in mind and on an examination of the FIR and the report under Section 173(2) Cr.P.C. and 173(8) Cr.P.C. the uncontroverted allegations levelled in the FIR and the evidence collected in support of the same clearly do not disclose the commission of any offence by the petitioners.

19. In view of the above, I find considerable merit in the present petition. Therefore, the FIR No.0166 dated 20.04.2022 registered under Sections 306 and 34 IPC, 1860 at Police Station City Rewari @ Rewari, District Rewari, Haryana, the report under Section 173 Cr.P.C. dated 04.03.2023 (Annexure P-5), the supplementary report under Section 173

Cr.P.C. dated 13.07.2023 (Annexure P-4) and all subsequent proceedings arising therefrom stand quashed.

(JASJIT SINGH BEDI)
JUDGE

06.05.2024
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No