

Mohit Singhal v. State of Uttarakhand , 2023 Scej 578 = PLRonline 478683 (SC) = (2023-4)212 PLR 367 (SC)

SUPREME COURT OF INDIA

Present : Justice Abhay S. Oka and Justice Pankaj Mithal.

MOHIT SINGHAL & Anr. – Appellants

Versus

The STATE OF UTTARAKHAND & Ors. – Respondents

Criminal Appeal No. 3578 of 2023.

(i) Indian Penal Code, 1860, Section 107 - Abetment to commit suicide - Instigates - 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 - 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. [Para 9]

(ii) Indian Penal Code, 1860, Section 107, 306 - Abetment to commit suicide - Deceased had borrowed money and having failed to repay the same, a notice was issued under [section 138](#) of the Negotiable Instruments Act, 1881 - It is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by using abusive language and by assaulting him by a belt for that purpose - Incident happened more than two weeks before the date of suicide - No allegation of any act done in the close proximity to the date of suicide - Alleged acts of the appellants can amount to instigation to commit suicide - To the contrary the deceased has blamed the wife for landing in trouble due to her bad habits - Offence punishable under Section 306 of IPC was not made. [Para 10]

For the Appellants :- Mr. Aakash Sirohi, Mr. Indra Lal, Ms. Neema. For the Respondents :- Mr. Sudarshan Singh Rawat, Mr. Ashutosh Kumar Sharma, Ms. Saakshi Singh Rawat, Mr. Sunny Sachin Rawat,.

JUDGMENT

Abhay S. Oka, J. – (01.12.2023) – The appellants were shown as accused in the First Information Report registered at the instance of the third respondent for an offence punishable under Section 306 of IPC (for short, ‘IPC’).

2. It is an admitted position that the third respondent, who is the widow of deceased Ashok Kumar, had borrowed a sum of Rs.40,000/- from one Sandeep Bansal @ Sandeep Lala. The

first appellant is the son of the said Sandeep Bansal. The third respondent, in her complaint to the police, stated that subsequently, she borrowed a sum of Rs.60,000/- from Sandeep. While paying the said amount, Sandeep deducted a sum of Rs.15,000/- towards interest.

3. The third respondent in her complaint stated that on 8th June 2017, she received a call from Sandeep. He abused her for not repaying the loan. The third respondent sought time of two months to repay the loan. On 15th June 2017, the first appellant came to the shop of the third respondent, where her husband was sitting. The first appellant demanded money, and the deceased husband of the third respondent pleaded with him to give him some time within which he could arrange for the money. It is alleged that the first appellant abused the deceased and assaulted the deceased with a belt. He also assaulted the third respondent and the mother of the deceased. It is alleged that the first appellant threatened the third respondent to abduct her daughter.

4. The third respondent alleges that Sandeep had taken 10 to 12 cheques from her. One cheque was dishonoured, so Sandeep issued a legal notice dated 27th June 2017 to the deceased. The third respondent alleges that her husband was under tension due to these events and, therefore, he was very upset. She alleges that due to the acts of the appellant of threatening him, the deceased took recourse to the extreme step of committing suicide. The prosecution is also relying upon the alleged suicide note written by the deceased on 30th June 2017. The deceased ended his life on 4th July 2017. By the impugned judgment, the High Court rejected the prayer of quashing the offence.

SUBMISSIONS

5. The submission of the learned counsel appearing for the appellants is that even going by the case made out by the third respondent, the deceased was under tension as he could not repay the amount borrowed by the third respondent and had received a notice from Sandeep, as cheque issued to Sandeep was dishonoured. Learned counsel submitted that taking the suicide note and complaint of the third respondent as correct, by no stretch of the imagination, an offence punishable under Section 306 of IPC is made out.

6. The learned counsel appearing for the State and learned counsel appearing for the respondents supported the impugned judgment. Their submission is that the allegations in the suicide note are sufficient to make out a prima facie case against the appellants. Their submission is that the issue of whether the offence under Section 306 of IPC is made out can be decided only after evidence is adduced.

OUR VIEW

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.

13. The appeal is, accordingly, allowed.

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