

## Prachi vs State Of U.P. And Another on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:1256

Court No. - 82

Case :- CRIMINAL APPEAL No. - 10451 of 2024

Appellant :- Prachi

Respondent :- State of U.P. and Another

Counsel for Appellant :- Manoj Dubey

Counsel for Respondent :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This criminal appeal under Section 14-A (2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant with the prayer to set aside the bail rejection order dated 04.10.2024 passed by the Special Judge (SC/ST Act), Ghaziabad.
2. Heard Sri R. S. Rathi and Sri Manoj Dubey, learned counsel for the appellant as well as the learned AGA and perused the entire record. Despite service of notice, none is present for the opposite party no.2.
3. Prosecution has come forward with the case that the present appellant had illicit relation with the deceased namely Pammi, who is an unmarried lady. It is further alleged in the F.I.R. that the present appellant started blackmailing the deceased and on account of that he committed suicide.
4. It is submitted by the learned counsel for the appellant that the appellant is innocent, she has not committed the alleged offence and has been falsely implicated in this case. Alleged offences are not attracted against her. It is further submitted that there is absolutely no evidence on record to the

effect that any money was transferred by the deceased in the account of the present appellant. The whole prosecution story of physical relation between the present appellant and deceased is absolutely false and fabricated. It is also submitted that the alleged video prepared by the deceased before his suicide is a concocted piece of evidence. It is also submitted that essential ingredients to establish the offence for abetment to suicide or to bring the case within the purview of SC/ST Act are completely missing in this case. The Court concerned while passing the impugned order did not take into account the facts and evidence available on record in the right perspective and erred in passing the same. Appellant is an unmarried lady and she is languishing in jail since 18.07.2024 having no criminal history. It is lastly submitted that the impugned order rejecting the bail application of the appellant suffers from infirmity and illegality warranting interference by this Court.

5. On the other hand, learned AGA opposed the prayer for bail but however could not dispute the aforesaid facts.

6. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record including the impugned order carefully.

7. In *Gurcharan Singh v. State of Punjab*, (2017) 1 SCC 433 the Hon'ble Apex Court held that the basic ingredients of Section 306 IPC are suicidal death and abetment thereof. To constitute abetment, intention and involvement of accused to aid or instigate commission of suicide is imperative. Any severance or absence of any of these constituents would militate against said indictment. Remoteness of culpable acts or omissions rooted in intention of accused to actualise the suicide would fall short of offence of abetment essential to attract Section 306 IPC. Contiguity, continuity, culpability and complicity of indictable acts or omission are concomitant indices of abetment. Section 306 IPC thus criminalises sustained incitement for suicide.

8. The Hon'ble Apex Court in *Special Leave to Appeal (Crl.) No.7284 of 2017, Shabbir Hussain vs. The State of Madhya Pradesh & Ors.*, in almost similar circumstances, has held like this:

"In order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide.

Mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC [*Amalendu Pal v. State of West Bengal*(2010) 1 SCC 707].

Abetment by a person is when a person instigates another to do something. Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no option except to commit suicide. [*Chitresh Kumar Chopra v. State (Government of NCT of Delhi)* (2009) 16 SCC 605]."

9. Having regard to the facts and circumstances of the case and keeping in view the nature of the offence, evidence, complicity of the accused, role of the appellant, the Court is of the opinion that the appellant has made out a case for bail. The Court concerned erred in rejecting the bail application of the appellant. The impugned order suffers from infirmity and illegality and the same is liable to be set-aside and the appeal is liable to be allowed.

10. Accordingly, the appeal is allowed and the impugned order rejecting the bail application of the appellant is set-aside.

11. Let the appellant Prachi involved in Case Crime No. 466 of 2024, under Sections 108, 308(6) B.N.S. and Section 3(2)5 S.C./S.T. Act, Police Station Muradnagar, District Ghaziabad be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i). The appellant will not tamper with the evidence during the trial.

(ii). The appellant will not pressurize/ intimidate the prosecution witness.

(iii). The appellant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv). The appellant shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.

(v). The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

12. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 2.1.2025 Rmk.