

Shabbir Hussain vs The State Of Madhya Pradesh on 26 July, 2021

Bench: L. Nageswara Rao, Aniruddha Bose

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ITEM NO.19

Court 6 (Video Conferencing)

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.)

No(s). 7284/2017

(Arising out of impugned final judgment and order dated 10-02-2017
in CRR No. 00725/2016 passed by the High Court of M.P. at Indore)

SHABBIR HUSSAIN

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

Respondent(s)

(IA No. 87837/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT, IA No. 87838/2017 - EXEMPTION FROM FILING O.T.)

Date : 26-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s)

Mr. Hemendra Jailiya, Adv.
Mr. Ajit Sharma, AOR

For Respondent(s)

Mr. Sushil Kumar Jain, Adv.
Mr. Puneet Jain, Adv.
Ms. Christi Jain, Adv.
Mr. Harsh Jain, Adv.
Mr. Harshit Khanduja, Adv.
Ms. Yashika Sharma, Adv.
Ms. Pratibha Jain, AOR

UPON hearing the counsel the Court made the following
O R D E R

On 10.09.2014, due to certain matrimonial dispute, Roshan Bee, wife of deceased Firoz Khan moved to her parental home. On 22.09.2014, Firoz Khan committed suicide in his house by consuming

poison and also left four suicide notes. 17:51:57 IST Reason:

Shabbir Hussain, brother of the deceased – Firoz Khan, preferred complaint i.e. Crime No. 1403/2014, which was registered against respondent Nos.2 to 4 under Section 306/34 IPC. After investigation, chargesheet was filed against respondent Nos.2 to 4 and Trial commenced against respondent Nos.2 to 4. Respondent Nos.2 to 4 preferred Criminal Revision No.725/2016 under Section 397/401 Cr.P.C. before the High Court of Madhya Pradesh at Indore. The High Court allowed the Criminal Revision filed by respondent Nos.2 to 4, aggrieved by which, the petitioner has preferred this special leave petition.

Learned counsel for the petitioner submitted that the High Court committed an error in allowing the Criminal Revision, especially after 10 witnesses had already been examined. He referred to the suicide notes that were written by the deceased Firoz Khan, to support his submissions that Firoz was harassed by respondent Nos.2 to 4, due to which he took his own life. He argued that abetment of the offence of suicide by respondent Nos.2 to 4 is prima facie made out as the harassment by respondent Nos.2 to 4 facilitated the act of suicide by the deceased.

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]. In the instant case, the allegations against Respondent Nos. 2 and 4 is that they harassed the deceased. There is no other material on record which indicates abetment. The High court did not commit any error in allowing the Criminal Revision. Therefore, special leave petition is dismissed. Pending applications, if any, also stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(ANAND PRAKASH)
BRANCH OFFICER