

R. Shashirekha vs State Of Karnataka on 27 March, 2025

Author: B.R. Gavai

Bench: B.R. Gavai

2025 INSC 402

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(Arising out of SLP(Crl.) No.14900 of 2024)

R. SHASHIREKHA

...APPELLANT(S)

VERSUS

STATE OF KARNATAKA
AND OTHERS

...RESPONDENT(S)

JUDGMENT

B.R. GAVAI, J.

1. Leave granted.

2. The present appeal challenges the final judgment and order dated 3rd September 2024, passed by the learned Single Judge of the High Court of Karnataka at Bengaluru in Criminal Petition No. 5821 of 2024 whereby the High Court allowed the petition filed by the respondent Nos. 2 to 4 thereby quashing the FIR and further investigation in Crime Case No.172 of 2024 pending on the file of XXXII Additional Chief Metropolitan Magistrate, Bengaluru (hereinafter, “trial 15:48:35 IST Reason:

court”).

3. Shorn of details, the facts leading to the present appeal are as under:

3.1 The husband of the appellant (hereinafter, ‘deceased’) and respondent Nos.2 and 3 were partners of one M/s.

Soundarya Constructions, incorporated in 1994. Respondent No.4 was working as a manager in M/s. Soundarya Constructions.

3.2 On 14th April 2024, the husband of the Appellant was found dead at his residence. Thereafter, the police drew a panchnama and conducted the inquest as per Section 174 of Code of Criminal Procedure, 1973 (hereinafter, 'Cr.P.C.') wherein it was found that the deceased died by way of hanging and he had committed suicide. Thus, the police filed an Unnatural Death Report No.15 of 2024 (hereinafter, 'UDR') and the case was closed.

3.3 On 22nd May 2024, after about 39 days of the death of the deceased, the appellant registered a complaint at the concerned Police Station alleging that on 18th May 2024, when she was cleaning the wardrobe of the deceased, she found a death note, written by the deceased in his own handwriting. The note stated that the deceased was cheated by respondent Nos.2 and 3 whereby he had incurred losses of Rs.60 crore. It was further stated that respondent Nos.2 and 3 had forged the signature of the deceased on blank cheques and blank papers and misused them. The note also stated that respondent Nos.2 and 3 made the deceased invest money in M/s. Soundarya Constructions. Respondent Nos.2 and 3 lied to the deceased and told him that the company was in loss, despite the same being in profit. They made him mortgage his personal properties and the money received from the deceased was used by respondent Nos.2 and 3 for their personal gain. She further stated in the FIR that respondent No.4 was also directly involved in the above case. 3.4 Consequently, a complaint being Case Crime No. 172 of 2024 was registered against respondent Nos.2 to 4 on 22nd May 2024 for offences punishable under Sections 306, 420 and 506 read with Section 34 of the Indian Penal Code, 1860 (hereinafter, 'IPC').

3.5 Upon registration of the complaint and commencement of the investigation, aggrieved, respondent Nos.2 to 4 filed a petition being Criminal Petition No. 5821 of 2024 under Section 482 of the Cr.P.C. before the High Court to quash the FIR and further investigation in Crime Case No.172 of 2024 pending on the file of the trial court.

3.6 The learned Single Judge of the High Court, vide impugned final judgment and order, allowed the petition of respondent Nos.2 to 4 and held that for an offence to be constituted under Section 306 of the IPC there must be proximate and positive act to instigate in aiding suicide. The document allegedly forged by respondent Nos.2 to 4 is a 5-year-old document, thus, the death of the deceased has no proximity to the death of the deceased. Next, with regard to Section 420 of the IPC, it was held that if the deceased was lured into something during his lifetime, it was open for the deceased to file a complaint and not upon the appellant i.e., the wife of the deceased. Therefore, the ingredients of neither Section 306 nor Section 420 of the IPC are made out. 3.7 Being aggrieved thereby, a special leave petition was filed by the appellant-complainant in which notice was issued vide order dated 5th November 2024.

4. We have heard Shri Shanthkumar V. Mahale, learned Senior Counsel appearing on behalf of the appellant, Shri D.L. Chidananda, learned counsel appearing on behalf of respondent No.1/State and Shri Dama Sheshadri Naidu, learned Senior Counsel appearing on behalf of respondent Nos.2-4/accused persons.

5. Shri Mahale, learned Senior Counsel appearing on behalf of the appellant submits that the learned Single Judge of the High Court has grossly erred in allowing the petition filed by respondent

Nos.2 to 4 herein. It is submitted that the learned Single Judge has almost conducted a mini-trial which is not permissible for the High Court while exercising its jurisdiction under Section 482 of Cr.P.C. He submits that since the High Court has exceeded its jurisdiction under Section 482 of Cr.P.C., the judgment and order passed by the High Court needs to be quashed and set aside.

6. Shri Mahale submits that, in any case, the learned Single Judge of the High Court has grossly erred in quashing the proceedings under Section 306 of IPC. It is submitted that the learned Single Judge of the High Court has not given any reason as to why the allegations taken at its face value in the FIR, the case under Section 306 of IPC could not be made out.

7. Shri Mahale submits that the learned Single Judge of the High Court has grossly erred insofar as quashing of the proceedings under Section 420 of IPC is concerned. It is submitted that during the investigation, the investigating agency has seized sufficient material to indicate that respondent Nos.2 to 4 had committed an act of cheating, breach of trust and forgery.

8. Shri Naidu, learned Senior Counsel appearing on behalf of respondent Nos.2 to 4, on the contrary, submits that the learned Single Judge has, upon consideration of the entire material in a well-reasoned order, found that the allegations, taken at its face value, do not constitute an offence punishable under Sections 306 and 420 of IPC. He submits that no case is made out for interference and pressed for dismissal of the appeal.

9. Shri Chidananda, learned counsel appearing on behalf of respondent No.1-State submits that after the matter was investigated, the investigating agency found sufficient material to proceed for the offence punishable under Sections 306 and 420 of IPC. He, therefore, supports the appeal.

10. Insofar as the averment in the FIR with regard to the offence punishable under Section 306 of IPC is concerned, it is averred by the appellant-complainant that after her husband had died on 14th April 2024 by committing suicide, while she was checking the belongings of her deceased husband on 18th May 2024, she found a death note written by her husband in his own handwriting. She narrated that after she read the said death note, she came to know that her husband has incurred a loss of Rs.60 crore and was cheated by the partners of M/s. Soundarya Constructions i.e. respondent Nos.2 and 3 herein. She has stated in the FIR that respondent Nos. 2 and 3 have given false promises and forged her husband's signature on blank cheques and blank papers and misused the same. She further stated that her husband was blackmailed by respondent Nos.2 and 3. She further states that her husband used to always be worried about the fraudulent activities of respondent Nos.2 and 3. She further states that a week before her husband's death, her husband had been receiving continuous calls from respondent Nos.2 and 3 and whenever such call was received, he used to be completely upset and decided to die by committing suicide and wrote the death note. It is also averred in the FIR that respondent No.4 was also directly involved in the above case.

11. From the allegations taken in the FIR at its face value, it can be seen that the case of the appellant-complainant is that even much before her husband died, he used to be blackmailed by respondent Nos. 2 and 3. According to her, a week before her husband's death, her husband had been receiving continuous calls from the above persons and whenever he received such calls, he was

completely upset and had decided to commit suicide.

12. If the version of the appellant-complainant is to be accepted, the question remains as to why she kept silent from 14th April 2024 till 22nd May 2024. If her husband was upset a week before his death, whenever he received calls from respondent Nos.2 and 3 and if he was blackmailed by the said respondents, then nothing could prevent the appellant-complainant from reporting this matter to the police immediately after the deceased committed suicide. Thus, it is apparent from the material on record that all these allegations were an afterthought.

13. Assuming that the allegations are true, even otherwise, the case under Section 306 of IPC would not be made out. Recently, this Court in a case of Prakash and Others v. State of Maharashtra and Another¹ in which one of us (Gavai, J.) was a Member has considered all the earlier judgments with regard to Section 306 of IPC. After referring to the earlier judgments, this Court has observed thus:

“31. In the case of Sanju @ Sanjay Singh Sengar (supra), this Court, under similar circumstances, had quashed the chargesheet under Section 306 of the IPC against the accused- appellant. A factor that had weighed with the Court in the said case was that there was a time gap of 48 hours being the alleged instigation and the commission of suicide. This Court held that the deceased was a victim of his own conduct, unconnected with the quarrel that had ensued between him and the appellant, 48 hours prior to the commission of his suicide.

32. In the case at hand, taking the allegations in the FIR at face value, the incident at the mahalokadalat had occurred on 17th February 2015, while the deceased had committed suicide on 20th March 2015. There is a clear gap of over a month between the incident at the mahalokadalat and the commission of suicide. We therefore find that the courts below have erroneously accepted the prosecution story that the act of suicide by the deceased was a direct result of the words uttered by the appellants at the mahalokadalat.

34.The cardinal principle of the subject-matter at hand is that there must be a close proximity between the positive act of instigation by the accused person and the commission of suicide by the victim. The close proximity should be such as to 2024 SCC OnLine SC 3835 : 2024 INSC 1020 create a clear nexus between the act of instigation and the act of suicide. As was held in the case of Sanju @ Sanjay Singh Sengar (supra), if the deceased had taken the words of the appellants seriously, a time gap between the two incidents would have given enough time to the deceased to think over and reflect on the matter. As such, a gap of over a month would be sufficient time to dissolve the nexus or the proximate link between the two acts.”

14. A perusal of the judgment of the High Court itself would reveal that the Government Pleader appearing in the case has submitted before the High Court that the entire investigation was complete and what was remaining was the filing of a final report before the concerned court. The learned Single Judge has observed that he has perused the entire investigation papers and perusal of

the same revealed that there is not a tittle of a document that would pin respondent Nos.2 to 4 down for any act of abetment for suicide of the husband of the appellant-complainant.

15. We are, therefore, of the considered view that even taking the allegations at its face value, it cannot be said that the allegations would amount to instigating the deceased to commit suicide. In any case, there is no reasonable nexus between the period to which the allegations pertain and the date of death. In that view of the matter, we do not find that the learned Single Judge of the High Court has erred in quashing the proceedings under Section 306 of IPC.

16. Having held that no error was committed by the High Court in quashing the FIR with respect to the offence punishable under Section 306 of the IPC, we will now consider whether the High Court was justified in quashing offence punishable under Section 420 of IPC.

17. Insofar as Section 420 of IPC is concerned, the only observation the learned Single Judge of the High Court has made was if the complainant's husband had been lured into something during his lifetime, it was open for him to file a complaint. The learned Single Judge of the High Court further observed that it was not open for the appellant-complainant to file a complaint after the death of her husband. Having observed this, the learned Single Judge of the High Court observed that no semblance of the ingredients of either Section 306 of IPC or Section 420 of IPC were found in the case at hand.

18. The learned Single Judge of the High Court, in our view, while quashing the proceedings under Section 420 of IPC, has acted in a casual and cursory manner. If the learned Single Judge of the High Court was of the view that even investigation papers as collected by the investigating agency did not constitute an offence punishable under Section 420 of IPC, then the least that was expected of the learned Single Judge of the High Court was to give reasons as to why the material collected by the investigating agency which has been placed before the learned Single Judge of the High Court was not sufficient to constitute an offence punishable under Section 420 of IPC.

19. In absence of any reason given, we are of the considered view that the learned Single Judge of the High Court has erred in quashing the proceedings under Section 420 of IPC.

20. In that view of the matter, we are inclined to partly allow the appeal.

21. In the result, we pass the following order:

(i) The appeal is partly allowed;

(ii) The impugned judgment and order dated 3rd

September 2024 passed by the learned Single Judge of the High Court in Criminal Appeal No. 5821 of 2024 insofar as it quashes the proceedings under Section 306 of IPC is concerned, is upheld;

(iii) The impugned judgment and order dated 3rd September 2024 passed by the learned Single Judge of the High Court in Criminal Appeal No. 5821 of 2024 insofar as it quashes the proceedings under Section 420 of IPC is concerned, is quashed and set aside; and

(iv) The learned trial court would proceed further in accordance with law insofar as the case under Section 420 of IPC is concerned.

22. However, we clarify that, in the event respondent Nos.2 to 4 are of the view that even the material collected by the investigating agency is not sufficient to proceed further for the offence punishable under Section 420 of IPC, they will be at liberty to file an application for discharge, which shall be considered by the trial court in accordance with law without being influenced by the observations made by the learned Single Judge of the High Court and this Court.

23. Pending application(s), if any, shall stand disposed of.

.....J. (B.R. GAVAI)J. (AUGUSTINE GEORGE MASIH)
NEW DELHI;

MARCH 27, 2025.