

Rohini Sudarshan Gangurde
v.
The State of Maharashtra & Anr.

(Criminal Appeal No. 2877 of 2024)

10 July 2024

[Vikram Nath* and Satish Chandra Sharma, JJ.]

Issue for Consideration

Whether the alleged conduct of the appellant-accused in the nature of marital disputes attracts s.306 IPC read with s.107 IPC.

Headnotes[†]

Penal Code, 1860 – Ss. 306, 107 – Appellant is wife of deceased who committed suicide – Appellant and deceased resided in house jointly purchased by them – Cause of death ‘due to hanging’ – FIR lodged by mother of deceased under s. 306 IPC – Alleging deceased committed suicide because of harassment and beating by appellant on account of demand of money and for transfer of dwelling house in her name – Appellant allegedly also sent vulgar messages on mobile phone of deceased and would insist on him not visiting his parents and giving them money – Statement of colleague of deceased recorded wherein she referred to an incident when the appellant visited deceased and created a ruckus in the office by rushing towards him and being abusive – Chargesheet against appellant under section 306 of IPC – As per the chargesheet, offence took place at dwelling house where appellant harassed the deceased on account of money and for transfer of house in her name, inducing the deceased for attempt of suicide – Appellant preferred a discharge application before Trial Court – Trial Court rejected appellant’s discharge application – High Court dismissed the revision application against the Trial Court’s order.

Held: S.306 IPC must be read with s.107 IPC that explains the meaning of “abetment” – s.107 IPC lays down three criteria for abetment: there must be either an instigation, or an engagement or intentional aid to ‘doing of a thing’ – Applying these criteria to s.306 means the accused must have encouraged the person to

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commit suicide or engaged in conspiracy with others to encourage the person to commit suicide or acted (or failed to act) intentionally to aid the person to commit suicide – Without a positive act on part of accused to instigate or aid in committing suicide, conviction cannot be sustained – There must be clear *mens rea* to commit the offence – There must be an active/direct act leading the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide – Court must scrupulously examine facts and circumstances of the case and assess evidence adduced before it to find out whether the cruelty and harassment meted out left the victim with no other alternative but to put an end to life – Mere allegation of harassment without any positive action proximate to time of occurrence which led or compelled the person to commit suicide not enough to sustain conviction under s.306 IPC – For requirement of “instigation”, not necessary that actual words be used to that effect, yet a reasonable certainty to incite the consequence must be capable of being spelt out – In a case where accused has, by acts or omission or by a continued course of conduct, created such circumstances that deceased was left with no other option except to commit suicide, “instigation” may be inferred – A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation – On facts, court found the three ingredients of s.306 r/w s.107 IPC not present – No proximate link between marital dispute of deceased with appellant and the commission of suicide – No active role or positive or direct act to instigate or aid the deceased in committing suicide – No allegation of suggesting the deceased to commit suicide at any time prior to commission of suicide. [Paras 7-14]

Case Law Cited

S.S. Chheena v. Vijay Kumar Mahajan [2010] 9 SCR 1111 : [2010] 12 SCC 190; *Amalendu Pal v. State of W.B.* [2009] 15 SCR 836 : [2010] 1 SCC 707; *Ramesh Kumar v. State of Chhattisgarh* [2001] Supp. 4 SCR 247 : [2001] 9 SCC 618 – relied on

Gurucharan Singh v. State of Punjab [2020] 8 SCR 741 : [2020] 10 SCC 200 – referred to

List of Acts

Penal Code, 1860

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Penal Code, 1860; S.306 IPC; S.107 IPC; Abetment of suicide; Abetment; Instigation; Proximate link; Marital dispute; Harassment; *mens rea*.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2877 of 2024

From the final Judgment and Order dated 05.09.2023 of the High Court of Judicature at Bombay in CRLRA No. 410 of 2022

Appearances for Parties

Anand Dilip Landge, Paras Yadav, Mrs. Sangeeta. S. Pahune. Patil, Advs. for the Appellant.

Shrirang B. Varma, Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Bharat Bagla, Sourav Singh, Aditya Krishna, Ms. Preet S. Phanse, Adarsh Dubey, K.K.L. Gautam, Ms. Vaishali Nariyala, Manoj Sharma, Madan Sagar, Rajbeer, Sanjeev Malhotra, Advs. for the Respondents.

Judgment / Order of the Supreme Court**Judgment****Vikram Nath, J.**

1. Leave granted.
2. This appeal is preferred by the accused Appellant-Rohini Sudarshan Gangurde challenging the impugned order of Bombay High Court dated 05.09.2023 in Criminal Revision Application No. 410 of 2022. By this order the High Court has dismissed the Revision Application filed by the Appellant against the order of the Trial Court dated 24.02.2022. The Trial Court had rejected the discharge application of Appellant for her discharge from the offence under Section 306 of Indian Penal Code, 1860.¹
3. Facts of the case are summarised as follows:

¹ In short, 'IPC'

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- 3.1 Appellant is the wife of deceased Sudarshan Gangurde, who hanged himself to death on 17.02.2020 in his house. The appellant wife is accused of abetment to suicide and was thus charged under Section 306 of IPC. The complaint was filed by Smt. Usha Gangurde, mother of deceased alleging physical and mental harassment by the accused.
- 3.2 Appellant Rohini and deceased Sudarshan had a love affair which turned into marriage on 09.03.2015 against the will of family members of both of them. The couple started residing separately at Shingnapur in Kolhapur. From the wedlock one male child Shoren was born on 27.05.2017. The couple had jointly purchased a Row House flat at Shingnapur where they were residing when the incident took place. The parents and family members of the deceased were residing at Mumbai. The deceased was serving in CPR Hospital at Kolhapur as Social Service Superintendent. He was on visiting terms with his parents.
- 3.3 On 17.02.2020, the deceased aged 38 years, was found in hanging position by the accused wife in the balcony of common house they were residing at in Shingnapur. The neighbors informed the police. No suicide note was found. The post mortem report found no signs of injuries on the body of deceased. The cause of death is noted to be 'due to hanging'.
- 3.4 On the same day, First Information Report bearing No. 74/2020 was lodged by the mother of deceased- Smt. Usha Gangurde against the appellant under Section 306 of IPC, alleging that her son committed suicide due to harassment and beating by his wife Rohini on account of demand of money and for transfer of the dwelling house at Shingapur in her name. She further stated that when her son visited her, he also told her that his wife was abusing and beating him, insisting on him not to visit his parents and not to give them money. When her husband-Ashok Gangurde stayed at the house of deceased in May 2019, he told her that accused Rohni was beating and abusing her son for money and transfer of house in her name. Due to these disputes, Rohini was residing separately from the deceased in her parent's house at Sangali. The complainant further stated that accused was sending vulgar messages on mobile phone

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of the deceased. All this allegedly resulted in commission of suicide by the deceased.

- 3.5 Apart from the complainant, statement of one of the colleagues of the deceased Ujwala Sawant was also recorded. She referred to an incident dated 17.10.2019 when the appellant visited deceased and created a ruckus in the office by rushing towards him on being abusive. The incidence was corroborated by another colleague Mr. Bajirao Apte.
- 3.6 On the other hand, as per the statement of Appellant Rohini, her husband was addicted to liquor and there were quarrels between them on that ground. They tried to patch up as the deceased had assured to give up his habit to consume liquor. On this condition they resumed co-habitation. However, the deceased could not overcome the habit and started to drink more. It is argued by the counsel for Appellant that the deceased may have committed suicide out of frustration.
- 3.7 On 04.11.2020, the police filed the Charge-sheet against appellant under section 306 of IPC. As per the Charge-sheet, the offence took place on 17.02.2020 between 7.00 to 7.30 AM at the dwelling house in Shinganapur, where the accused harassed the deceased on account of money and for transfer of house in her name, inducing the deceased for attempt of suicide.
4. Based on the charge-sheet, the Sessions Case No. 100 of 2021 is registered and pending for adjudication before the Sessions Court at Kolhapur. On 02.12.2021, the Appellant-accused preferred a discharge application before Trial Court. On 24.02.2022, the Trial Court rejected the application. Aggrieved, the appellant preferred Criminal Revision Application before the High Court. The High Court, by the impugned order, has dismissed the Revision and thus effectively dismissed the discharge application. Therefore, the Appellant has challenged it before us.
5. The appellant has filed the present appeal on several grounds *inter alia*, that there is no evidence showing an active role played by Appellant which has abetted the commission of suicide. Further, the dwelling house was jointly purchased by the Appellant and the deceased and therefore there was no question of insisting to transfer the house in the name of Appellant. Neither the deceased, nor his

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family members have raised the grievance against alleged harassment before the authorities, until the suicide. Thus, the appellant states that all allegations are fake and frivolous.

6. On the other hand, learned counsel for the respondent submitted that the ingredients essential for the offence under Section 306 IPC were clearly made out from the evidence collected during the investigation and as such the High Court has rightly dismissed the petition.
7. Having heard the arguments of both the counsels and after perusing the record, we find that the only question that needs to be determined in the instant case is whether the alleged conduct of the appellant-accused *prima facie* attracts Section 306 of IPC, to continue the proceedings of Trial Court against the appellant.

Section 306 and Section 107 of IPC read as:

“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.

It must be read with Section 107 of IPC which explains the meaning of Abetment, which reads as:

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.

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Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

8. Reading these sections together would indicate that there must be either an instigation, or an engagement or intentional aid to ‘doing of a thing’. When we apply these three criteria to Section 306, it means that the accused must have encouraged the person to commit suicide or engaged in conspiracy with others to encourage the person to commit suicide or acted (or failed to act) intentionally to aid the person to commit suicide.
 9. In **S.S. Chheena v. Vijay Kumar Mahajan**,² this court explained the concept of abetment along with necessary ingredient for offence under Section 306 of IPC as under:
- “25. Abetment involves a 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 to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”
10. In **Amalendu Pal v. State of W.B.**,³ this court explained the parameters of Section 306 in following words:

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether

2 [2010] 9 SCR 1111 : (2010) 12 SCC 190

3 [2009] 15 SCR 836 : (2010) 1 SCC 707

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the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview 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 instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”
11. In *Ramesh Kumar v. State of Chhattisgarh*,⁴ while explaining the meaning of ‘Instigation’, this court stated that:

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of “instigation”, though it is not necessary that actual words must be used to that effect or what constitutes “instigation” must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an “instigation” may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.”

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12. These principles and necessary ingredients of Section 306 and 107 of Indian Penal Code were reiterated and summarized by this court in recent case of [Gurucharan Singh vs State of Punjab](#).⁵
13. After carefully considering the facts and evidence recorded by the courts below and the legal position established through statutory and judicial pronouncements, we are of the view that there is no proximate link between the marital dispute in the marriage of deceased with appellant and the commission of suicide. The prosecution has failed to collect any evidence to substantiate the allegations against the appellant. The appellant has not played any active role or any positive or direct act to instigate or aid the deceased in committing suicide. Neither the statement of the complainant nor that of the colleagues of the deceased as recorded by the Investigating Officer during investigation suggest any kind of instigation by the appellant to abet the commission of suicide. There is no allegation against the appellant of suggesting the deceased to commit suicide at any time prior to the commission of suicide by her husband.
14. Thus, none of the three essentials of Section 107 read with Section 306 IPC are existing.
15. Accordingly, the appeal is allowed. Impugned order of the High Court is set aside. The application for discharge is allowed.

Result of the case: Appeal Allowed.

⁵*Headnotes prepared by:* Aandrita Deb, Hon. Associate Editor
(Verified by: Shadan Farasat, Adv.)