

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

CRIMINAL PETITION No.12242 of 2018

ORDER:

The petitioners are accused Nos.2 & 3 in P.R.No.30 of 2017 on the file of the Additional Junior Civil Judge at Chilakaluripet, Guntur District. The petitioners, who are husband and wife, had advanced certain loans to the deceased who had taken loans from various other persons also. It appears that the deceased lady, who was under pressure from her creditors, had initially gone away from her house along with her daughter, on 18.12.2015, leaving a suicide note stating that she was leaving her house, with a view to commit suicide, on account of harassment of the creditors. However, she came back on 25.02.2016.”

2. On 30.08.2016, the deceased is said to have committed suicide after writing a suicide note giving a list of creditors who are said to have been harassing her for return of their money and that she was committing suicide as she was unable to bear the harassment of these creditors. The petitioners are also mentioned in the said suicide note.

3. The investigating officer after completion of investigation has filed a charge-sheet under Section 306 r/w. 34 of Indian Penal Code and the same has been taken cognizance by the Additional Junior Civil Judge at Chilakaluripet, Guntur District as P.R.C.No.30 of 2017. A perusal of the charge-sheet would show that the petitioners have been including as accused on the ground that the deceased had included the names of the accused, in her suicide note, as the persons who are harassing her for repayment of their money. The petitioners have approached this Court, by way of the present of Criminal Petition, for quashing the same.

4. Heard, Sri Marri Venkata Ramana, learned counsel for the petitioners, the learned Public Prosecutor appearing for the 1st respondent and Sri Sreenivasa Rao Velivela, learned counsel appearing for the 2nd respondent.

5. Sri Marri Venkata Ramana, learned counsel appearing for the petitioners would contend that the petitioners had not in any manner committed an offence under Section 306 of Indian Penal Code and relied upon the following Judgments of the Hon'ble Supreme Court of India as well as this Court:-

- i) *Umesh Kumar Vs. State of Andhra Pradesh & Anr¹*
(paragraph Nos.20, 21, 22, 28 & 30)
- ii) *Barapati Srilekha Vs. Ramachandra Reddy Patolla & ors².*
- iii) *Padi Venkateswarlu & ors Vs. The State of the Andhra Pradesh & ors³ and*
- iv) *The Judgment dated 02.05.2022 in Criminal Petition No.6981 of 2019 in the case of Adusumilli Raja Kumari and ors. Vs. Chunduri Udaya Lakshmi & ors.*

6. The relevant provisions of law which are relevant for

the present case are:

Section 107 IPC:-

Abetment of a thing.--A person abets the doing of a thing, who-

(Firstly)-- Instigates any person to do that thing; or

(Secondly)--Engages with one or more other person or persons in any conspiracy for 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.

Section 108 IPC defines the term 'Abettor', which reads thus:

108. Abettor--A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if

¹ 2013 10 SCC 591

² 2017 3 ALT (Cri.) 219 (A.P)

³ 2021 (2) ALD (Cri.) 400 (A.P) : 2021 (1) ALT (Cri.) 255 (A.P)

committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Section 306 IPC deals with the punishment for abetment of suicide and the same stipulates as follows:

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.

7. In the present case, the deceased had committed suicide. The question of whether the petitioners herein, had abetted her in the commission of her suicide is the issue before this Court. The Hon'ble Supreme Court of India had interpreted the definition of abetment in Section 107 of Indian Penal Code in the case of C.B.I Vs. V.C. Shukla in the following manner:-

"...a person abets the doing of a thing when he does any of the acts mentioned in the following three clauses.

(i) instigates that person to do that thing.

(ii) engages with one or more other person or persons in any conspiracy for the doing of that things.

(iii) Intentionally aids, by any act or illegal omission, the doing of that thing.

So far as the first two clauses are concerned it is not necessary that the offence instigated should have been committed. For understanding the word 'aid' in the third clause it would be advantageous to see Explanation 2 in Section 107 IPC, which reads thus:

"Whoever, either prior to or at the time of the commission of the act, does anything in order to

facilitate the commission thereof, is said to aid the doing of that act"

It is thus clear that under the third clause when a person abets by aiding, the act so aided should have been committed in order to make such aiding an offence....."

Clauses (i) and (ii) extracted above do not apply to this case because no 'instigation' by or 'conspiracy' between the petitioner and the other accused is alleged by the prosecution. The third clause also is not attracted because no 'aid' was given by the petitioner to the deceased when she committed suicide. Aiding suicide by a person can only be by positive acts of assisting in procuring the material required for suicide, like a person supplying rope or other material for hanging, when a person expresses his desires to commit suicide by hanging, or supplying weapon or material like drugs, poison, etc., when the person intending to commit suicide asks such aid, or if a person suggest the modes in which suicide can be committed like jumping into a river, lake or well, etc., to a person who intends to commit suicide."

8. In the present case, the allegations against the petitioners are that they had been harassing the deceased lady for recovery of the loans and advances by them. There are no specifics or details of the said harassment except the fact that the deceased had stated so in her suicide note. In the circumstances, the only an allegation against the petitioners is an allegation of general harassment for recovery of their money. Such harassment would not fall under Clause-1 & 2 of the above interpretation of the term "Abetment". Clause-3 requires an intention on the part of the petitioners to encourage the deceased person to commit. There is no allegation against the

petitioners of having done anything with an intention of encouraging the deceased lady to commit suicide.

9. All the Judgments cited by the learned counsel for the petitioners had gone into various facets of what would constitute abetment to suicide. One common thread is the requirement of intentionally pushing the deceased to commit suicide. Mere harassment would not amount to an offence under Section 306 of Indian Penal Code.

10. In that view of the matter, it must be held that the allegations in the charge-sheet do not make out any case of abetment by the petitioners, under Section 306 of Indian Penal Code and consequently, this Criminal Petition is allowed quashing P.R.C.No.30 of 2017 on the file of the Additional Junior Civil Judge at Chilakaluripet, Guntur District against the petitioners herein.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

R. RAGHUNANDAN RAO, J.

28.03.2023
BSM

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