



HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1441 of 2017

Smt. Shaila Singh W/o Rajbahadur Singh Aged About 44 Years R/o Ward No. 13, H No. 151, Near Amit Kirana Store, Rajeev Nagar, Supela, Bhilai, District Durg, Chhattisgarh., Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station Newai, District Durg, Chhattisgarh.
2. District Magistrate, Durg, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Awadh Tripathi, Advocate
For Respondents/State	:	Ms. Madhunisha Singh, Deputy Advocate General.
For Intervenor	:	Ms. Priyanka Rai, holding brief of Mr. Varunendra Mishra, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Order on Board

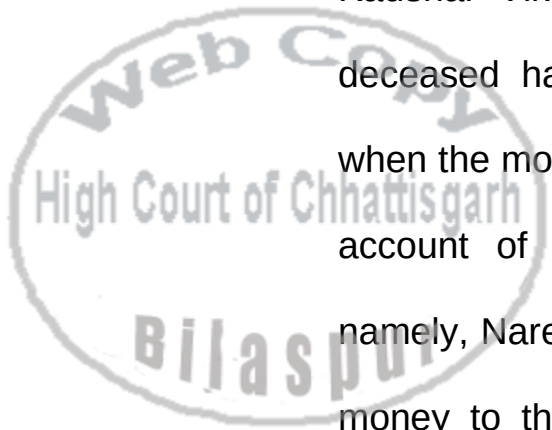
17/10/2023

1. The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure (for short, the Cr.P.C.) for quashing of the charge-sheet and FIR registered for the offence punishable under Section 306 of the Indian Penal Code (for short, the IPC) in Crime No.126/2016 at Police Station – Newai, District Durg and quashing of the charge dated 18.09.2017 passed in Sessions Trial No. 172/2016



by the learned 7th Additional Sessions Judge, Durg.

2. Brief facts of the case are that the husband of the deceased, namely, Naresh Yadav who is a government teacher had introduced a government scheme relating to Prime Minister Vikas Kaushal Scheme to the present petitioner and given detail of the benefits that if under the aforesaid scheme, any institution works, then they will be able to get Rs. 10,000/- per student on the condition that the student will firstly have to deposit Rs. 12,000/-. The petitioner provided about Rs. 10 Lakhs to the husband of the deceased for the aforesaid Kaushal Vikas Yojna with the help of Leela's Foundation. The deceased had submitted applications of about 2000 student and when the money was deposited under the government scheme in the account of Leela's Foundation, the husband of the deceased, namely, Naresh Yadav had dishonestly not returned the share of the money to the concerned institution including the institution of the petitioner, who has already spent about Rs. 10 Lakhs for the benefit of aforesaid scheme. The husband of the deceased in whose account the Leela's Foundation has deposited the huge money of the institutions but Naresh Yadav stated that he had not taken back the amount from the Leela's Foundation even he has not returned the money to the investor including the present petitioner and when the present petitioner made a request to Naresh Yadav to repay the amount, whatsoever he had taken from the petitioner. On the date of incident, since morning, as Naresh Yadav did not receive the phone call of the petitioner, she sent some message on the phone of





husband of the deceased and subsequently, the petitioner came to know that the wife of Naresh Yadav along with her three children had consumed some poisonous substance *i.e.* Harpic and written a suicide note. The children survived while the wife of Naresh Yadav expired. Accordingly, the prosecution agency has filed charge sheet against the petitioner for an offence under section 306 of the IPC by registered a Crime No.126/2016.

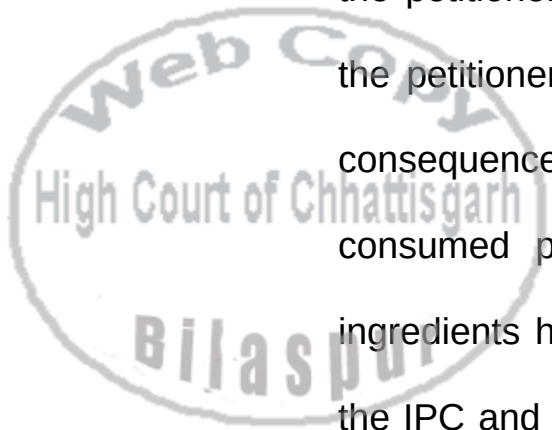
3. The learned trial Court, vide order dated 18.09.2017, without there being any ingredients against the present petitioner, has framed charges under Section 306 of the IPC read with Section 107 of the IPC against the petitioner. Further, the petitioner has filed an application under Section 138 of the Negotiable Instrument Act against the husband of the deceased which indicates that the husband of the deceased, namely, Naresh Yadav had taken money from the petitioner. Hence this petition.
4. Mr. Awadh Tripathi, learned counsel for the petitioner submits that neither in the dying declaration nor in the F.I.R. as well as the other material, there is any kind of instigation on the part of the petitioner, even there is no material which indicates that anything has transpired in between the deceased and the present petitioner, so there is no material for charging the petitioner for the offence of abetting the deceased to commit suicide. It is further submitted that there is no *mens rea* on the part of the petitioner to commit the offence. The intention of the legislature and the ratio of the cases decided by this court are clear that in order to prosecute a person under section 306





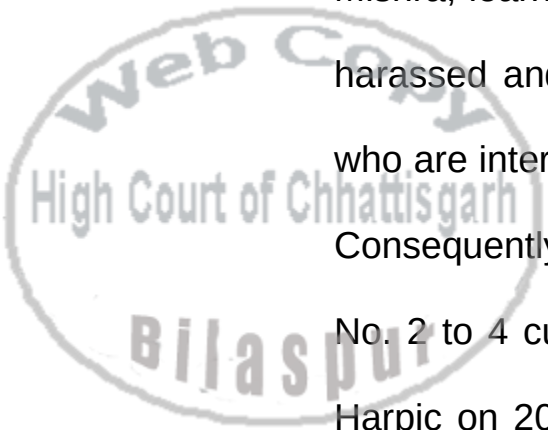
of IPC, there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act, which may lead the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position to commit suicide.

5. Mr. Tripathi further submits that the deceased has consumed some poisonous substance and the allegation has been made against the petitioner only during the course of the investigation that some amount has been taken by the husband of the deceased as loan from the petitioner and the aforesaid amount has not been returned and the petitioner has threatened the husband of the deceased to face consequence and being aggrieved by the said threat the deceased consumed poisonous substance. It is further submitted that no ingredients has been made out for an offence under section 306 of the IPC and if the petitioner has made demand from the husband of the deceased on which the deceased had taken the step for committing suicide, it cannot be said that deceased was left with no other option but to commit suicide. The present petitioner, who allegedly made a demand from the husband of the deceased to repay the loan amount, the deceased never made any complaint to the police authorities nor moved before any higher officials of the Police Department. There had been no communication/talks or argument between the petitioner or the deceased but even then the deceased chose to commit suicide, hence, no case is made out for the offence under Section 306 IPC.





6. Per contra, Ms. Madhunisha Singh, learned Deputy Advocate General, appearing for the respondents/State supports the impugned order passed by the learned Additional Sessions Judge, Durg. It is further submitted that a suicide note has been written by the deceased in which, it has been stated that the petitioner was not ready to wait for returning her borrowed amount, therefore, she was left with no other option but to suicide but it is fairly submitted that the said suicidal note was not examined by the hand writing expert.
7. Ms. Priyanka Rai, learned counsel holding brief of Mr. Varunendra Mishra, learned counsel for the Intervenor submits that the petitioner harassed and abetted the wife of intervenor No. 1 and his children who are intervenors No. 2 to 4, in connection with demand of money. Consequently, the deceased, Smt. Anupama Yadav and intervenors No. 2 to 4 cut their veins of their wrist and consumed toilet cleaner Harpic on 20.04.2016. The wife of the Intervenor No. 1 died during treatment and left a suicidal note in which there is an allegation of illegal demand of money and harassment. The petitioner has not arrayed the intervenors are party respondents being victim of the incident.
8. I have heard the learned counsel for the parties and perused the material available on record.
9. The question in the present case is as to whether even on considering the entire material available on record to be correct and true, a *prima facie* case for alleged commission of offence punishable under Section 306 of the IPC is made out against the petitioner?





10. It is the duty of the prosecution to establish that such person has abetted the commission of suicide and abetment has been defined under Section 107 of the IPC. In the present case, there is no material on record that the petitioner in any manner instigated or engaged in any conspiracy or intentionally aided the deceased for commitment of suicide.
11. In the matter of **Ramesh Kumar v. State of Chhattisgarh** reported in (2001) 9 SCC 618, the Supreme Court, while considering the conviction for an offence under Section 306 of the IPC on the basis of the dying declaration recorded by an Executive Magistrate, where she had stated that previously there had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter, she had poured kerosene on herself and had set fire. Acquitting the accused, the Supreme Court held as under :-

“A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.”

12. Reverting to the facts of the present case, in light of principle of law laid down by the Supreme Court in **Ramesh Kumar** (supra), it is quite



vivid that necessary ingredient is not available on record to attract the offence under Section 306 of the IPC. So, this Court is of the view that the order passed by the learned trial Court for framing of charge for offence under Section 306 of the IPC against the petitioner is not sustainable.

13. Even if the prosecution version is taken as true and correct, there is no material on record to establish that the petitioner had adopted any coercive methods to recover her loan amount. Further, if there was any demand made by the petitioner, that cannot be treated as abetment as any person who has given loan would certainly like to get it back. If there was any unlawful activity performed by the petitioner in order to recover the loan amount, either the deceased or her husband could have taken shelter of any competent Court of law or at least made a complaint before the police authorities, which admittedly in this case is missing.

14. Accordingly, it is set aside. The petitioner is discharged from the said charge.

15. Accordingly, the present petition filed under Section 482 of the Cr.P.C is allowed to the extent indicated hereinabove.

16. Registrar (Judicial) is directed to send a copy of this order to the trial Court concerned for necessary information and compliance forthwith.

Sd/-

(Ramesh Sinha)
Chief Justice