

Manju @ Devendra Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Mar-22-2013

Appellant : Manju @ Devendra

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. B.J.Chourasiya

Judgement :

Cr.R.No.2045/2012 22.3.2013 Shri B.J.Chourasiya, counsel for the applicant.

Shri Ajay Tamrakar, Panel Lawyer for the respondent/State.

As prayed by learned counsel for the parties, heard them finally.

The applicant has preferred the present revision against the order dated 17.8.2012 passed by the learned Second Additional Sessions Judge, Damoh in ST.

No.264/2011 whereby the charge of offence punishable under Section 306 of I.P.C is framed against the applicant.

The prosecution's case in short is that, the deceased was in habit to place his money in gambling and other evils.

He took much amount of loan from various villagers including the applicant.

The applicant asked for return of the loan but, the deceased could not return the money and he committed suicide by leaving a suicidal note that the applicant gave a threat to the deceased that within one day his money should be returned.

Charge sheet was filed and ultimately the matter was placed before the Sessions Court.

After considering the submissions made by learned counsel for the parties and looking to the facts and circumstances of the case, it is apparent that there was no relation of the applicant with the deceased so that a presumption under Section 113-A of the Evidence Act may apply.

It is apparent that the deceased took various loans from so many villagers. He could not repay the loan to anyone including the loan of the applicant.

In his suicidal note, he gave thanks to the villagers who, did not demand the loan back from him and he blamed the applicant because he demanded the loan from the deceased and actually the deceased had committed suicide on his own sentiments because he was unable to pay the loan amount to the various villagers including the applicant.

It is nowhere alleged in the suicidal note that the applicant gave any threat to the deceased.

The applicant demanded his loan within a time period of one day and that overt act of the applicant does not fall within the purview of Section 107 of I.P.C. The various villagers including the applicant are entitled to get the loan back from the successors of the deceased if any property of the deceased is existing.

Under such circumstances, it cannot be said that the applicant was the reason due to which the deceased had committed suicide.

Since the overt acts of the applicant do not fall within the purview of Section 107 of I.P.C, no offence punishable under Section 306 of I.P.C is made out against the applicant.

The learned Addtiional Sessions Judge, Damoh has committed an error of law in framing the charge of offence under Section 306 of I.P.C against the applicant.

Consequently, it is a fit case in which an interference is required from the side of this Court by way of a revision.

On the basis of the aforesaid discussion the revision filed by the applicant Manju alias Devendra is hereby allowed.

The impugned order dated 17.8.2012 passed by the learned Second Additional Sessions Judge, Damoh in ST No.264/2011 is hereby set aside.

The applicant is discharged from the charge of offence punishable under Section 306 of I.P.C. Copy of the order be sent to the trial Court for information and compliance.

(N.K.Gupta) Judge bina

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