

Jeevan Vs. the State of Madhya Pradesh Judgement Given By: Hon'ble Shri Justice N.K. Gupta

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Court : Madhya Pradesh

Decided On : Jan-23-2014

Appellant : Jeevan

Respondent : The State of Madhya Pradesh Judgement Given By: Hon'ble Shri Justice N.K. Gupta

Advocate for Pet/Ap. : Shri. Nishant Datt

Judgement :

CRR No.937/2012 Criminal Revision No.937/2012 23.1.2014 Shri Nishant Datt, counsel for the applicants.

Shri G.S.Thakur, Panel Lawyer for the State/ respondent.

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

The applicants have challenged the order dated 9.3.2012 passed by the learned Additional Judge to FiRs.Additional Sessions Judge, Burhanpur in S.T.No.61/2011, whereby the charges of offence punishable under section 306 of IPC is framed against all the applicants.

The prosecution's case, in short, is that, the deceased Anil Mahajan committed suicide on 17.2.2011 and the merg enquiry was initiated.

Anusuiya Bai, mother of the deceased has stated that on 14.2.2011, the deceased Anil was with one Ganesh and Ganesh kissed the niece of Kishore Toke but, since the deceased was accompanied with Ganesh, therefore, the applicants had given threatening to Ganesh as well as to Anil and also they assaulted them.

On 17.2.2011, when Anusuiya Bai came back to her house, he found her son to be dead.

Thereafter, on 8.4.2011, Anusuiya Bai gave a written report to the police CRR No.937/2012 that the deceased Anil was harassed and threatened by the applicants on 15.2.2011 and 16.2.2011 and thereafter, he was also assaulted on 17.2.2011 and therefore, he committed suicide.

Hence, a case under section 306 of IPC was registered against the applicants, in which the trial Court has framed the charges vide the impugned order.

At the time of framing of charges, no appreciation of evidence is required but, it should be considered that if no rebuttal evidence is adduced then, whether any conviction can be directed on the basis of the evidence collected by the prosecution or not.

In the present case, initially, Anusuiya Bai told about the incident taken place on 14.2.2011.

She did not mention about any incident taken place in between 14.2.2011 to 17.2.2011.

No FIR is lodged for the incidents, which took place between 14.2.2011 to 17.2.2011.

There is no medical report submitted by the prosecution to show that the deceased sustained any injury due to assault caused by the applicants.

It is alleged by the deceased that he did not participate in outraging the modesty of the girl, who was niece of Kishore Toke.

It was done CRR No.937/2012 by Ganesh, his companion.

However, if the applicants assaulted the deceased then, that was nothing but, a revenge taken by them since they had suspicion upon the deceased that he outraged the modesty of that girl.

By their overt-acts they never intended that the victim would commit suicide.

Under such circumstances, prima facie the overt-acts as alleged against the applicants by Anusuiya Bai and various witnesses do not fall within the purview of sections 107 or 109 of IPC and therefore, prima facie no offence punishable under section 306 of IPC is made out against the applicants.

It is the settled view of Hon'ble the Apex Court that if the accused has created such a situation that the victim had no option except to commit suicide then, offence under section 306 of IPC shall be constituted.

In the present case, it is not established prima facie that the applicants had brought the deceased in such a condition that he had no option except to commit suicide because the deceased Anil and his companion Ganesh were sailing in the same boat and therefore, if such a situation was caused by the applicants then, Ganesh would have also committed suicide alongwith the deceased Anil but, Ganesh has not CRR No.937/2012 done in the similar manner and therefore, it cannot be said that the applicants kept the deceased in such a position that he had no option except to commit suicide.

If the applicants were harassing the victim on the basis of false allegation then, he could lodge an FIR against the applicants or the persons who assaulted him.

If he was in torture then, FIR could be lodged by her mother as it was lodged after his death.

It appears that the deceased had committed suicide due to his sentimental mental condition and therefore, it cannot be said that the applicants abated him to commit suicide.

On the basis of the aforesaid discussion, prima facie no offence punishable under section 306 of IPC is made out against the applicants.

The learned Additional Sessions Judge has committed an error of law in framing the charges against the applicants for offence punishable under section 306 of IPC.

The revision filed by the applicants appears to be acceptable and therefore, it is hereby accepted.

The impugned order dated 9.3.2012 passed by the learned Additional Sessions Judge, Burhanpur is hereby set aside.

CRR No.937/2012 The applicants are discharged from the charges of offence punishable under section 306 of IPC.

A copy of the order be sent to the learned Additional Sessions Judge, Burhanpur with the direction that matter may be dropped against the applicants.

(N.K.GUPTA) JUDGE Pushpendra

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