

**Public Prosecutor Vs. M. Krishnaiah**

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**SooperKanoon Citation :** [sooperkanoon.com/431344](http://sooperkanoon.com/431344)

**Court :** Andhra Pradesh

**Decided On :** Jan-23-2009

**Reported in :** 2009CriLJ2342

**Judge :** G.V. Seethapathy, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 107 and 306

**Appeal No. :** Criminal Appeal No. 1311 of 2000

**Appellant :** Public Prosecutor

**Respondent :** M. Krishnaiah

**Advocate for Def. :** C.P. Kumar, Adv.

**Advocate for Pet/Ap. :** Addl. Public Prosecutor

**Disposition :** Petition dismissed

**Judgement :**

**G.V. Seethapathy, J.**

1. This criminal appeal and the criminal revision case arise out of the judgment dated 03.09.1999 in CrI.A. No. 178 of 1998 on the file of the III Additional Sessions Judge, Tirupati, wherein the said appeal filed by the accused was allowed setting aside the conviction of the accused for the offence under Section 306 IPC and

sentence of rigorous imprisonment for three years and fine of Rs. 1,000/- imposed by the learned Assistant Sessions Judge, Puttur by judgment dated 10.11.1998 in SC No. 399 of 1996. The present appeal is filed by the State against the impugned judgment of acquittal passed by the learned Additional Sessions Judge, Tirupati and the criminal revision case is filed by the de-facto complainant.

2. As both the matters arise out of the same impugned judgment, they are being heard together and disposed of by this common judgment.

3. The case of the prosecution, in brief, is as follows:

The accused was a resident of Berivanikandrige, working as trainee in Computer Section, Apollo Hospital, Madras. Jayasankar-complainant-PW. 1 is a resident of Govindappakandrige and elder brother of the deceased Bharathi. Rudra Kanthamma-PW.2, who is the maternal aunt of the deceased Bharathi, is the wife of PW.4 Srinivasulu Naidu. As they had no issues, they brought up the deceased and got her educated. The deceased was the daughter of one Janardhan Naidu (LW.4) and she completed her post graduation. She used to visit Govindappakandrige now and then. The accused had maternal aunt at Govindappakandrige and he used to visit the said village during holidays.

About two years prior to the incident, the accused saw the deceased at Govindappakandrige and developed friendship with her. The accused, who was experienced in trapping innocent girls, wrote many letters expressing his deep love for her and won the heart of the deceased. The deceased also expressed her willingness to marry the deceased. The accused was visiting Puttur and meeting the deceased at her aunt's house to the knowledge of others. He also developed physical contact with the deceased on the false promise of marriage. Later, the accused developed evil idea of extracting dowry from the deceased and wrote letters to her expressing his demand for dowry to the extent of two lakhs, besides gold.

On 25.07.1995 also, he wrote such letter to the deceased. The deceased felt sad, as she knew the poverty of her parents. The letter written by the accused caused depression in the mind of the deceased. She waited for some time expecting

change in the mind of the accused, but the accused was adamant. The deep depression caused by the letter of the accused drove the deceased to take the extreme step of putting an end to her life. She, therefore, committed suicide by hanging on 16.02.1996 at 10 a.m. in the house of her aunt at Puttur. On receiving complaint Ex.P.1 from PW.1, the Sub-Inspector of Police-PW. 18 registered a case in Cr. No. 21 of 1996 and investigated. The investigation revealed that persistent demand of dowry by the accused compelled the deceased Bharathi to commit suicide. After completion of the investigation, the Sub-Inspector of Police filed charge sheet for the offence under Section 306 IPC.

4. The learned Assistant Sessions Judge, Puttur framed charge under Section 306 IPC against the accused and the accused pleaded not guilty.

5. In support of their case, the prosecution examined PWs.1 to 18 and marked Exs.P. 1 to P. 19. No oral evidence was adduced on behalf of the accused, but Exs.D. 1 to D.19 were marked.

6. On consideration of the evidence available on record, the trial Court found the accused guilty of the offence under Section 306 IPC and convicted him for the same and imposed sentence of rigorous imprisonment for three years and also to pay fine of Rs. 1,000/-, in default to suffer simple imprisonment for one year.

7. Aggrieved by the same, the accused preferred an appeal in Crl.A. No. 178 of 1998 before the III Additional Sessions Judge, Tirupati. By judgment dated 03.09.1999, the said appeal was allowed setting aside the conviction and sentence imposed by the trial Court and consequently the accused was acquitted.

8. Aggrieved by the same, the present appeal is filed by the State and criminal revision case is filed by PW.2.

9. Arguments of the learned Additional Public Prosecutor appearing for the appellant-State, learned Counsel appearing for the revision petitioner and the arguments of the learned Counsel for the accused were heard. Perused the record.

10. Learned Additional Public Prosecutor would contend that the letters Exs.P.2 and P.3 clearly establish the persistent demand on the part of the accused for dowry and the letter Ex.P.2 which was received by the deceased on the previous day of her committing suicide proved to be the last straw on the camel's back and drove the deceased to take the extreme step of ending her life, as she was aware that it was impossible for her parents to meet the said demand on account of their poverty. She would, therefore, contend that Ex.P.2 letter written by the accused was the proximate cause for the commission of suicide by the deceased and, therefore, writing of such letter by the accused amounted to abetment within the meaning of Section 107 IPC. She would also point out that Ex.P.2 was produced before the police immediately after the occurrence and the inquest report also refers to Ex.P.2 and the lower Appellate Court erred in observing that it was produced one month later. She would also contend that the lower appellate Court erred in reversing the judgment of conviction passed by the trial Court by relying upon the letters produced by the defence, which were written in between Exs.P.2 and P.3.

11. Learned Counsel for the accused, on the other hand, would contend that there was no mens rea on the part of the accused or any intention to instigate or aid or abet the deceased to commit suicide and the letter Ex.P.2 does not constitute abetment within the meaning of Section 107 IPC. He would further contend that any amount of humiliation does not amount to causing abetment.

12. It is not disputed and is borne out by the evidence on record particularly the letters exchanged between the deceased and accused that they were in love with each other and were contemplating to marry. While so, the deceased committed suicide on 16-02-1996. The prosecution alleges that on the previous day i.e., 15-02-1996 the deceased received letter-Ex.P-2 written by the accused which had driven the deceased to take the extreme step of committing suicide owing to deep depression and dejection caused on account of the contents of the said letter. The prosecution relies upon another letter Ex.P-3 which was written earlier by the accused on 25-07-1995 as the cause for setting in mood of dejection in the mind of the deceased due to change of attitude on the part of the accused. In between the two letters, several letters were exchanged and some of them received by the

accused were marked on 'D' series as Exs.D-1 to D-8, D-18 and D-19. Some of the letters received by the deceased from the accused were marked as a bunch under Ex.P-4. In Ex.P-3 dated 25-07-1995, the accused while expressing his love to the deceased and feeling sorry for the troubles she was faced with and assuring that everything would be solved and discounting the proposal to marry secretly had further suggested three measures, which he hoped would solve the problem. Firstly, he thought that if P.W.2, the aunt of the deceased, could arrange more than two lakhs and good amount of gold, the problem would be solved, secondly he advised her to study M.A very seriously so that she could command respect from his parents and thirdly the deceased should compromise with her parents also. He also expressed confidence that he would change his father's mind, but it may take some time. Finally, he assured the deceased that their marriage would take place in a grand way and he insisted that it is better to have the marriage through the parents so that they will not get any problem in future. As can be seen from the letter Ex.P-3 and bunch of other letters, there appeared to be some response from the parents of both sides for the marriage between the deceased and the accused and the accused was trying to evolve ways and means of convincing the elders of both sides to have the marriage performed under the aegis of the elders in a respectable way instead of going through secretly. Ex.P-3 does not contain any demand as such for payment of dowry or gold as a consideration for the marriage, but only a suggestion from the accused that if P.W.2, who was fostering the deceased, could arrange for such payment, things would become easier in convincing his parents. The subsequent letters that transpired between the accused and the deceased would show that they have not taken the suggestion by accused for arranging cash and gold seriously and they continued their contact and correspondence as usual. A perusal of those letters that followed Ex.P-3 would not disclose that there was any change in the mind of the accused regarding his love for the deceased or that he started putting any conditions for fruition of love into marriage. The letter-Ex. P-2 received by the deceased on the previous day is alleged to have upset the deceased so much that she was driven to commit suicide on the next day of receiving it. A close scrutiny of the letter-Ex. P-2 would only show that the accused was cursing himself and was feeling sorry for the change of attitude on the part of the deceased. Even in

Ex.P-2, the accused expressed his love for the deceased. Of course, in Ex.P-2 he stated that he cannot adjust with the deceased and advised her to take her own decision saying that may be it was the last and final letter from him. He further stated that he would commit suicide if anything happens to her life. There is no demand for payment of any cash or gold or any other conditions put forward in the letter-Ex.P-2 for the marriage to take place. On the other hand, Ex.P-2 would disclose that the deceased and accused had developed some misunderstandings towards one another. There is nothing in Ex.P-2 that would amount to instigating, let alone aiding the deceased to commit suicide. Even assuming that on seeing the letter-Ex.P-2 the deceased became depressed and dejected and decided to end her life. There is nothing in the contents of Ex.P-2 to suggest that the accused was in any way responsible for the extreme step taken by the deceased. The accused is charged with the offence under Section 306 IPC, which renders a person who abets the commission of suicide by another, liable for punishment. The expression 'abetment' is defined under Section 107 IPC in the following terms:

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 the thing.

In order to establish the Ingredients of the offence under Section 306 IPC, the prosecution has to show that the abetment was of the kind as defined in Section 107 IPC. There is nothing in Ex.P-2 to show that the accused in any way instigated or intentionally aided by any acts or omissions in the commission of suicide by the deceased.

13. It is well settled that mens rea is necessary to constitute instigation. Any amount of abuse or threat or humiliation without the necessary intention, does not amount to instigation. Intentional aiding and instigation need not be reflected by

specific words or in any particular form and could be discerned by the conduct also. In *V. Adinarayana v. State of A.P.* this Court relying on the decision of the Apex Court in *Shriram v. State of U.P.* : [1975]2SCR622 held that threatening words used by the accused are not sufficient to constitute instigation. In *V. Shankaraiah v. State of A.P.* , this Court held that the deceased committing suicide on account of cancellation of marriage with A-1 after it was settled, does not amount to instigation on the part of the accused, simply because the deceased was humiliated by the accused. This Court further observed that various High Courts have taken a view that merely because a person was feeling insulted or humiliated, due to the comments or utterances made by the accused, the accused cannot be said to be guilty of the offence under Section 306 IPC.

14. In a recent decision in *Sohan Raj Sharma v. State of Haryana* : 2008 CriLJ2569 the Apex Court held that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. The mere fact that the husband treated the deceased-wife with cruelty is not enough.

15. In the present case, the letter-Ex.P-2, which according to the prosecution is the proximate cause for the commission of suicide, does not disclose that the accused had in any way induced or instigated or intentionally aided or assisted in the commission of the suicide by the deceased.

16. The learned Counsel for the revision petitioner-P.W.2 would invite attention to a decision in *Dammu Sreenu and Anr. v. State of A.P.* wherein this Court held that if it can be said that acts and omissions of the accused would certainly drive a person of ordinary prudence to commit suicide, the element of mens rea would certainly be present with the accused. In the above case, A-2 was the wife of the deceased and A-1 was her paramour. On facts, it was found that the behaviour and attitude of A-1 and A-2 was not one which could be countenanced by any civilized society and any person placed in the position of deceased would have either done some wrong to A-1 to rescue his wife A-2, or to commit suicide and the deceased has chosen the latter. On evidence, it was also found that apart from causing humiliation to the deceased, the acts of the accused caused the members

of the family of the deceased as well as A-2, to hide their faces in shame. It was, therefore, held that the outrageous acts resorted to by A-1 and A-2 can safely be held as constituting abetment of the suicide by the deceased. In the present case, no such situation exists and the decision cited is not applicable to the facts on hand. It cannot be said that the contents of Ex.P-2-letter are such that any person of ordinary prudence would be driven to commit suicide after receiving the said letter. If the deceased felt dejected or disappointed on receiving letter-Ex.P-2, there were so many ways and means of remedying the situation, especially when she was in constant communication with the accused since a long time. Resort to the extreme step of ending the life on seeing the contents of the letter-Ex.P-2 is not warranted on the part of any person of ordinary prudence. Under those circumstances, it must be held that the lower appellate Court has on proper appreciation of the evidence available on record and on a careful scrutiny of the contents of the letters exhibited in evidence by both sides had rightly held that the ingredients of the offence under Section 306 IPC are not attracted to the facts of the present case. The impugned judgment of the learned Additional Sessions Judge, Tirupati setting aside the conviction and sentence recorded by the trial Court against the accused and consequently finding him not guilty of the offence under Section 306 IPC is, therefore, held not liable to be interfered with. There are absolutely no valid or justifiable grounds or compelling and substantial reasons to interfere with the order of acquittal passed by the learned Additional Sessions Judge, Tirupati. There are no merits in the appeal filed by the State or in the revision case filed by P.W.2.

17. In the result, both criminal appeal and the criminal revision case are dismissed.