

Devendra Singh Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Apr-30-2007

Reported in : 2007(3)MPHT247; 2007(4)MPLJ447

Judge : Sushma Shrivastava, J.

Appellant : Devendra Singh

Respondent : State of M.P.

Disposition : Petition allowed

Judgement :

ORDER

Sushma Shrivastava, J.

1. Applicant has preferred this revision against the order dated 17-1-2006 passed by IIIrd Additional Sessions Judge, Khandwa (Fast Track Court) in S.T. No. 116/2005, whereby charges under Sections 306 and 506 (Part II) have been framed against the applicant. Applicant, however, has mainly challenged the charge framed against him under Section 306 of IPC.

2. Deceased Suresh committed suicide on 27-1-2005 at Village Ahmadpur, Khaigaon, District Khandwa leaving behind a suicide note indicating that the applicant was constantly harassing the deceased by giving threats to his life for

last one month prior to the incident in order to recover the amount lent to him. On the basis of mere enquiry, an offence was registered against the applicant and was investigated and applicant was prosecuted under Section 306 of IPC. On case being committed to the Court of Sessions, applicant was charged under Sections 306 and 506B of IPC by the impugned order, which has been challenged in this revision.

3. The learned Counsel for the applicant submitted that even if the prosecution case is accepted in its entirety, no case for framing a charge under Section 306 of IPC against the applicant is made out. The learned Counsel for the applicant also submitted that suicide note allegedly left by the deceased only indicated that applicant wanted to recover the amount of loan given to the deceased and he never intended that deceased should commit suicide.

4. Learned Counsel for the applicant relying on the decisions of this Court rendered in the case of Ved Prakash Tarachand Bhaiji v. State of Madhya Pradesh reported in 1995 MPLJ Page 458, Ashok Kumar Sawadiya and Ors. v. State of M.P. reported in 2001 (1) MPJR 189, Ram Naresh and Anr. v. State of M.P. and Ors. reported in 2002(2) M.P.H.T. 183 : 2002(2) MPLJ Page 360 and Rajesh Shivhare v. State of Madhya Pradesh reported in 2004(4) M.P.H.T. 7 (NOC), submitted that mere demand of money or loan amount or alleged threatening in connection with the demand of money cannot be said to be a provocation for committing suicide. Learned Counsel for the applicant also submitted that there was no material on record to indicate that the applicant in any manner instigated or intentionally aided and abetted the commission of suicide by the deceased within the meaning of Section 107 of IPC.

5. Section 107 of IPC reads as under:

107. 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 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 of illegal omission, the doing of that thing.

Explanation 1:-- A person who, by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2 :-- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

6. Now, advertng to the facts of the instant case, the suicide note allegedly left by the deceased indicates that the deceased committed suicide being fed-up with his life. It also prima facie indicates that the applicant was threatening the deceased for last one month prior to the occurrence in order to recover his money lent to the deceased. It nowhere indicates that the applicant intended that deceased should commit suicide or instigated him to commit suicide. The consistent view of this Court, as enunciated in various decisions cited above, has been that demand of money or loan does not amount to an abetment of commission of suicide.

7. More so, on perusal of the copies of the challan papers placed on record, it appears that there was no material on record to show, and even the statement of the wife of the deceased recorded under Section 161 of Cr.PC did not so disclose, that the applicant instigated or intentionally aided the commission of suicide by the deceased by any illegal act or omission. In fact, there was no material on record to hold prima facie that the applicant instigated or intentionally aided or in any other manner abetted the commission of suicide by the deceased.

8. The Apex Court in the case of Sanju @ Sanjay Singh Sengar v. State of Madhya Pradesh reported in : 2002 CriLJ2796 , also observed that the charge under section for the offence under Section 306 of IPC is not sustainable merely on the allegation of the harassment to the deceased.

9. In the wake of aforesaid, no prima facie case for framing a charge under Section 306 of IPC against the applicant was made out. The Trial Judge erred in law in framing charge against the applicant under Section 306 of IPC.

10. Revision petition is, therefore, allowed. The charge framed against the applicant under Section 306 of IPC is hereby set aside. However, the Trial Court shall proceed with the case with regard to the charge under Section 506-B of the IPC in accordance with law.

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