

**Sanjeev Kumar Vs. State of Bihar**

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**Court :** Patna

**Decided On :** Oct-08-2009

**Reported in :** 2010CriLJ482

**Judge :** Samarendra Pratap Singh, J.

**Appellant :** Sanjeev Kumar

**Respondent :** State of Bihar

**Disposition :** Application dismissed

**Judgement :**

ORDER

**Samarendra Pratap Singh, J.**

1. Heard learned Counsel for the petitioner and the State.
2. In the instant application the petitioner prays for quashing the order dated 2-6-2002, passed by learned Additional Sessions Judge, Fast Track Court-V, Chapra in Sessions Trial No. 453 of 2006, whereby he rejected the application of petitioner to discharge him from being prosecuted under Section 306 of the Indian Penal Code.
3. Deceased is one Pramod Kumar Singh, who committed suicide on 22-7-2004. His wife Sunita Devi gave statement on 23-7-2004 giving rise to institution of U. D.

case. Two days after the death of the deceased, his elder son found a suicidal note in the pocket of one of the shirts of his late father and gave it to his uncle Sanjay Kumar Singh. The aforesaid Sanjay Kumar Singh, who happens to be the brother of the deceased, lodged the instant case on 11-8-2004 giving rise to Chapra Nagar P. S. case No. 169 of 2004, under Section 306 of the Indian Penal Code.

4. The informant stated in the First Information Report that his brother Pramod Kumar Singh was married to Dr. Sunita Sinha and had two sons namely Rajnish, aged seven years and Nitish, aged four years from the wedlock. He has mentioned in detail the contents of suicidal note in the First Information Report. The central point in the suicidal note was that deceased Pramod Kumar Singh committed suicide, on account of family shame, as the petitioner flirted with his wife in his house itself, despite his protest.

5. The petitioner, who is a police official came into contact with the deceased family during Elections, since then he has been visiting his house with an eye on his wife. The petitioner regularly abused the deceased and even threatened that he would abduct his wife. Once he even attacked the deceased with a broken bottle. The deceased also apprehended that the petitioner may further blackmail him with photographs of his wife. All these instances forced and instigated the deceased to take extreme step of finishing his life.

6. The police submitted charge sheet under Section 306 of Indian Penal Code and cognizance was also taken in the same Section. The case was committed to the Court of Sessions. The petitioner filed an application for discharge under Section 227, Cr. P. C. The trial Court by order dated 2-6-2007 rejected the application for discharge and hence this quashing application.

7. The petitioner submits that even assuming the prosecution case to be true, no offence under Section 306 of the Indian Penal Code would be made out. He further submits that unless and until suicide is not the direct result of quarrel between the parties, a charge under Section 306 of Indian Penal Code is not maintainable. In support of his contention, learned Counsel for the petitioner has referred to decisions in case of Swamy. Prahalad Das v. State of M. P. and Anr.,

reported in : (1995) Supp (3) SCC 438, and Sanju alias Sanjay Singh Sengar v. State of M. P. reported in : (2002) 5 SCC 371 : 2002 Cri LJ 2796.

8. The petitioner contended that in the aforesaid cases also, the Hon'ble Apex Court was considering the validity of rejection of petition of discharge, wherein it was contended that there is no sufficient ground for proceeding under Section 306 of the Indian Penal Code itself.

9. In the case of Swamy Prahalad Das (supra), one Sushila Bai, (married woman) had two paramours; one was the deceased and the other was the appellant. Sushila Bai bewitched the deceased letting her heart to the appellant. On 13-6-1992, all the three had a quarrel while sharing their morning tea. During that course, the appellant is said to have taunted, that the deceased may go and die. It is alleged that the deceased thereafter went home in a dejected mood, and committed suicide. The trial Court framed charge under Section 306 of the Indian Penal Code, linking act of commission of suicide as an out come of verbal dual and utterances of appellant.

10. The Hon'ble Apex Court set aside the framing of charge under Section 306 of the Indian Penal Code on two grounds, Firstly, the words uttered were not enough to instigate the deceased to commit suicide. Secondly, the words are casual in nature which are often used in the heat of the moment between quarrelling parties. Nothing serious is expected to follow thereafter. The Hon'ble Apex Court held as in paragraph 3 that'.... the said Act does not reflect the requisite mens rea on the assumption that these words would be carried out in all events. Besides the deceased had plenty of time to weigh the pros and cons of the act by which he ultimately ended his life. It cannot be said that the suicide by the deceased was the direct result of the words uttered by the appellant.'

11. In the case of Sanju alias Sanjay Singh Sengar (supra), reported in : (2002) 5 SCC 371 : 2002 Cri LJ 2796, the learned trial Court had rejected the petition to discharge the accused under Section 306 of the Indian Penal Code. According to prosecution case, there was a strained relation between the deceased and his wife, who at the material time was staying at her brother's place. The wife's brother is appellant before Hon'ble Apex Court. On 25-7-1998, the deceased had gone to

the appellant's house to bring back his wife. There was a quarrel between the appellant and the deceased, who had to return alone, without his wife. The deceased informed his brothers and others that the appellant Sanju had abused him by using filthy words. On 27-7-1998, the deceased hanged himself. The deceased left suicidal note, in which he blamed the appellant for the suicide.

12. The Hon'ble Apex Court held that 'Suicide was not approximate to the quarrel though the deceased was named in the suicide note, as such suicide was not the direct result of the quarrel when the appellant used abusive language and told the deceased to go and die.' The Hon'ble Apex Court also observed that there was also evidence on record that the deceased always indulge in drinking and was not doing any work. The Hon'ble Court thus held that suicide note, taken with other circumstances, held, deserved no credence.

13. There cannot be any dispute regarding propositions and law laid by the Hon'ble Apex Court that if suicide is not direct result of the quarrel for abusive words uttered against a person, charge under Section 306 of the Indian Penal Code cannot be made out.

14. Before I examine the submissions of the parties, it would be necessary to have a look at Section 306 of Indian Penal Code, which is quoted hereinbelow:

Abetment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine'. 'The term abetment has been defined in Section 107 of the Indian Penal Code, which reads as follows: 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 that thing.

15. Thus, a person would be accused of abetting an offence, if his act or omission would come within the purview of any of the circumstances enumerated in the provision.

16. The Section states that one who abets suicide would come under purview of Section 306 of the Indian Penal Code and would be punished accordingly.

17. The decisions referred by the learned Counsel for the petitioner would not be applicable in the facts of the case. The allegation in the instant case is that the petitioner developed illicit relationship with the wife of the deceased. Despite protest, the petitioner frequented the house of the deceased time and again. Not only this, he threatened and even assaulted him with a sharp broken bottle. The petitioner had even threatened the deceased to make certain photographs of his wife, public. The deceased in his suicidal note stated that frequent visiting of the petitioner to his house and his open romance with his wife was too much of a shame and indignation to bear any further in the society. In order to save himself from such humiliation, the deceased seems to have committed suicide. The suicide does not seem to be an out come of any casual incident or fight, but it was a resultant effect of continuous humiliation perpetrated on the deceased by the petitioner by regularly visiting and courting his wife. The material in the diary also supports the allegations that petitioner used to visit the deceased's wife in his absence.

18. The acts and conduct of the petitioner abetted and instigated the deceased to commit suicide. Thus, I prima facie, find that there is sufficient material to hold that commission of suicide by deceased is directly linked and outcome of humiliation perpetrated by petitioner.

19. In the result, there is no merit in this application and the same is dismissed. However, the observations made herein would not cause prejudice to the case of the defence, in the trial.

20. With the above observation, this application is, accordingly, disposed of.