

[2010] 1 S.C.R. 7

GANGULA MOHAN REDDY
v.
STATE OF ANDHRA PRADESH
(Criminal Appeal No. 1301 of 2002)

JANUARY 5, 2010

[DALVEER BHANDARI AND A. K. PATNAIK, JJ.]

Penal Code, 1860:

ss. 306 and 107 – Abetment to suicide – HELD: Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing – There has to be a clear mens rea to commit the offence – Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

The appellant was convicted by the trial court u/s 306 IPC on the allegation that his farm labour (deceased) committed suicide because of the harassment meted out to him by the appellant. The prosecution case was that the appellant, two days prior to the incident, leveled an allegation of theft of ornaments against the deceased; that the appellant had also demanded from the deceased Rs.7000/- which was given to him as advance at the time when he was kept in employment. The conviction was affirmed by the High Court.

In the instant appeal filed by the accused, it was contended for the appellant that the conviction of the appellant was unsustainable as no ingredients of offence punishable u/s 306 IPC were made out.

Allowing the appeal, the Court

HELD: 1.1. Abetment involves a mental process of

A instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. [Para 20] [14-G]

B 1.2. The intention of the Legislature and the ratio of the cases decided by this court is clear that in order to convict a person u/s 306 IPC there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide. [Para 21] [14-H; 15-A-B]

C 1.3. In the instant case, the deceased was undoubtedly hyper sensitive to ordinary petulance, discord and differences which happen in day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation. In the light of the provisions of law and the settled legal positions crystallized by a series of judgments of this Court, the conviction of the appellant cannot be sustained. [Para 18 and 22] [14-D; 15-B-C]

D *Mahendra Singh & Another v. State of M.P.* 1995 Supp. (3) SCC 731; *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618; *State of West Bengal v. Orilal Jaiswal & Another.* (1994) 1 SCC 73; and *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* 2009 (11) SCALE 24, relied on.

Case Law Reference:

G	1995 Supp. (3) SCC 731	relied on	para 13
	2001) 9 SCC 618	relied on	para 15
	(1994) 1 SCC 73	relied on	para 16
	2009 (11) SCALE 24	relied on	para 19

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GANGULA MOHAN REDDY v. STATE OF ANDHRA 9
PRADESH

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal A
No. 1301 of 2002.

From the Judgment & Order dated 20.3.2002 of the High
Court of Andhra Pradesh at Hyderabad in Criminal Appeal No.
1039 of 1996. B

D. Ramakrishna Reddy (for T. Anamika) for the Appellant.

I. Venkatanarayana, Manoj Saxena, Rajnish Singh, Bachita
Barua (for T.V. George) for the Respondent.

The Judgment of the Court was delivered by C

DALVEER BHANDARI, J. 1. This appeal is directed
against the judgment of the High Court of Judicature of Andhra
Pradesh at Hyderabad in Criminal Appeal No. 1039 of 1996
dated 30.3.2002. The appellant was convicted by the Assistant
Sessions Judge, Nagarkurnool under Section 306 of the Indian
Penal Code (for short 'the Code') and sentenced to suffer
rigorous imprisonment for 10 years and to pay a fine of
Rs.10,000/- and in default to suffer simple imprisonment for six
months. D
E

2. The appellant, aggrieved by the said judgment of the
learned Assistant Sessions Judge filed an appeal before the
High Court. The High Court upheld the judgment of the learned
Assistant Sessions Judge, but while affirming the conviction of
the appellant under Section 306 of the Code, the sentence of
rigorous imprisonment of 10 years was reduced to 5 years. The
appellant, aggrieved by the said judgment, approached this
Court. This Court granted leave and released the appellant on
bail. F
G

3. The brief facts which are relevant to dispose of this
appeal are recapitulated as under:

According to the case of the prosecution, the appellant,
who is an agriculturist had harassed his agriculture labour H

A (servant) deceased Ramulu by levelling the allegation that he had committed theft of some gold ornaments two days prior to his death. It was also alleged that the appellant had demanded Rs.7,000/- from the deceased which was given in advance to him at the time when he was kept in employment.

B
4. The prosecution further alleged that the deceased
C Ramulu could not bear the harassment meted out to him and
he committed suicide by consuming pesticides. The
prosecution in support of its case examined the father of the
deceased as P.W.1 Urikonda Jammanna in which he had
D stated that his son Ramulu was a farm servant and used to work
at the house of the appellant. He also stated that the appellant
gave Rs.7,000/- in advance to his son. PW1 also stated that
E about two years ago, the appellant had asked his son (Ramulu)
that his wrist watch was missing from his house and harassed
D him on which his son had returned the watch to the appellant.
PW1 in his statement stated that the appellant also levelled the
allegation that the gold ear-rings were also missing from his
house and the same were stolen by Ramulu. PW1 also stated
that the appellant also demanded the advance of Rs.7,000/-
E paid to Ramulu at the time of his employment. He further stated
that Ramulu committed suicide because the appellant had
levelled the allegation of theft of ornaments.

F
5. The prosecution also examined Balamma, the mother
of the deceased as P.W.2. She also corroborated the
statement of PW1 and gave same version of the incident in her
testimony. On the basis of the testimonies of P.W.1 and P.W.2,
the Trial Court convicted the appellant under Section 306 of the
Code and his conviction on appeal was confirmed by the High
G Court.

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6. Learned counsel for the appellant submitted that the
conviction of the appellant is totally unsustainable because no
ingredients of offence under section 306 of the Code can be
made out in the facts and circumstances of this case. It would
be profitable to set out section 306 of the Code:

"306. 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 extent to ten years, and shall also be liable to fine."

7. The word suicide in itself is nowhere defined in the Indian Penal Code, however its meaning and import is well known and requires no explanation. 'Sui' means 'self' and 'cide' means 'killing', thus implying an act of self-killing. In short a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

8. Suicide by itself is not an offence under either English or Indian criminal law, though at one time it was a felony in England. In England, the former law was of the nature of being a deterrent to people as it provided penalties of two types:

- . Degradation of corpse of deceased by burying it on the highway with a stake through its chest.
- . Forfeiture of property of deceased by the State.

9. This penalty was later distilled down to merely not providing a full Christian burial, unless the deceased could be proved to be of unsound mind. However, currently there is no punishment for suicide after the enactment of the Suicide Act, 1961 which proclaims that the rule of law whereby it was a crime for a person to commit suicide has been abrogated.

10. In our country, while suicide in itself is not an offence, considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under section 309 of IPC.

11. 'Abetment' has been defined under section 107 of the Code. We deem it appropriate to reproduce section 107, which reads as under:

A "107. *Abetment of a thing* – A person abets the doing of a thing, who –

First – Instigates any person to do that thing; or

B 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 places in pursuance of that conspiracy, and in order to the doing of that thing; or

C Thirdly – Intentionally aides, by any act or illegal omission, the doing of that thing."

12. Explanation 2 which has been inserted along with section 107 reads as under:

D "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 facilitate the commission thereof, is said to aid the doing of that act."

E 13. Learned counsel for the appellant has placed reliance on a judgment of this Court in *Mahendra Singh & Another v. State of M.P.* 1995 Supp. (3) SCC 731. In the case of *Mahendra Singh*, the allegations levelled are as under:-

F "My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning."

G 14. The court on aforementioned allegations came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under
H section 306 IPC merely on the basis of aforementioned

allegation of harassment of the deceased is unsustainable in law. A

15. Learned counsel also placed reliance on another judgment of this court in *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618. A three-Judge bench of this court had an occasion to deal with a case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered "you are free to do whatever you wish and go wherever you like". Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in paragraph 20 has examined different shades of the meaning of "instigation". Para 20 reads as under: B C

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect. or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. the present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation." D E F

16. In *State of West Bengal v. Orilal Jaiswal & Another*. (1994) 1 SCC 73, this Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trail for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and H

A difference in domestic life quite common to the society to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

17. The Court in Ramesh Kumar's case came to the conclusion that there is no evidence and material available on record wherefrom an inference of the accused-appellant having abetted commission of suicide by Seema may necessarily be drawn.

18. In the instant case, the deceased was undoubtedly hyper sensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

19. This court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* 2009 (11) SCALE 24 had an occasion to deal with this aspect of abetment. The court dealt with the dictionary meaning of the word "instigation" and "goading". The court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self esteem and self respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

20. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

21. The intention of the Legislature and the ratio of the

cases decided by this court is clear that in order to convict a person under section 306 IPC there has to be a clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide.

22. In the light of the provisions of law and the settled legal positions crystallized by a series of judgments of this Court, the conviction of the appellant cannot be sustained. Consequently, the appeal filed by the appellant is allowed and disposed of.

23. During the pendency of the appeal, the appellant was released on bail. He is not required to surrender. His bail bond is cancelled and he is set at liberty forthwith, if not required in any other case.

24. Consequently, the appeal filed by the appellant is allowed.

R.P.

Appeal allowed.