

PRAVEEN PRADHAN

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v.

STATE OF UTTRANCHAL & ANR.
(Criminal Appeal No. 1589 of 2012)

OCTOBER 4, 2012

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**[DR. B.S. CHAUHAN AND FAKKIR MOHAMED
IBRAHIM KALIFULLA, JJ.]**

Code of Criminal Procedure, 1973 – s. 482 – Charge u/ s. 306 IPC – Alleging constant humiliation and insult to the deceased, driving him to commit suicide – Petition for quashing the criminal proceedings – Dismissed by High Court – On appeal, held: The allegations in FIR supported by the suicide note and police statement of family members of the deceased – In view of the facts and circumstances of the case, criminal proceedings cannot be quashed.

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ss. 482 and 228 – Application for quashing of proceedings – Held: While dealing with such application, court cannot form a firm opinion, but a tentative view evoking presumption u/s. 228 Cr.P.C.

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Penal Code, 1860 – s. 306 – Abetment of suicide – Offence of abetment by instigation depends upon the intention of the abettor and not on his act – Instigation has to be gathered from the circumstances of the case – In absence of direct evidence as regards instigation, it is to be inferred from the circumstances.

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Words and Phrases – ‘Instigation’ – Meaning of, in the context of s. 306 IPC.

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FIR was lodged against the appellant-accused alleging that he consistently humiliated and ill-treated the deceased which resulted in suicide committed by the

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- A deceased. During investigation, suicide note was found which also made same allegations against the accused. The appellant-accused was charged u/s. 306 IPC. He filed an application u/s. 482 for quashing of the charge-sheet, but the same was dismissed by High Court. Hence the present appeal.

Dismissing the appeal, the Court

- HELD: 1. The offence of abetment by instigation depends upon the intention of the person who abets and not upon the act which is done by the person who has abetted. The abetment may be by instigation, conspiracy or intentional aid as provided under Section 107 IPC. However, the words uttered in a fit of anger or omission without any intention, cannot be termed as instigation.
- D Instigation has to be gathered from the circumstances of a particular case. No straight-jacket formula can be laid down to find out as to whether in a particular case there has been instigation which forces the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Therefore, in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed suicide. More so, while dealing with an application for quashing of the proceedings, a court cannot form a firm opinion, rather a tentative view that would evoke the presumption referred to under Section 228 Cr.P.C. [Paras 14 and 15] [1140-C-D, E-G]
- G *Chitresh Kumar Chopra v. State (Government of NCT of Delhi)* AIR 2010 SC 1446; 2009 (13) SCR 230; *Ramesh Kumar v. State of Chhattisgarh* AIR 2001 SC 3837; 2001 (4) Suppl. SCR 247; *State of Punjab v. Iqbal Singh* AIR 1991 SC 1532; 1991 (2) SCR 790 ; *Surender v. State of Haryana*

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(2006) 12 SCC 375; 2006 (9) Suppl. SCR 296; *Kishori Lal v. State of M.P.* AIR 2007 SC 2457; 2007 (7) SCR 1051; *Sonti Rama Krishna v. Sonti Shanti Sree* AIR 2009 SC 923; 2008 (16) SCR 743 – relied on.

2.1. In the FIR, the complainant, the brother of the deceased, made several allegations against the appellants, all of which, have also been mirrored in the suicide note left behind by the deceased, and it is also evident from the FIR that the deceased had intimated his family members regarding the ill-treatment and harassment constantly meted out to him, by the appellants. A plain and simple reading of this suicide note makes it crystal clear that the appellants had not just humiliated and insulted the deceased on one occasion. In fact, it is evident that the appellants perpetually humiliated, exploited and de-moralised the deceased, which hurt his self-respect tremendously. The words used are, to the effect that the appellants always hurt the self-respect of the deceased and he was always scolding him. The appellants always made attempts to force him to resign. The statements under Section 161 Cr.PC., particularly, one made by the widow of the deceased and also those of various other family members, corroborate the version of events, as given in his suicide note. [Paras 7 and 8] [1135-G-H; 1136-A, G-H, 1137-A]

2.2. In the instant case, alleged harassment had not been a casual feature, rather remained a matter of persistent harassment. The deceased was a qualified graduate engineer and still suffered persistent harassment and humiliation and additionally, also had to endure continuous illegal demands made by the appellants, upon non-fulfillment of which, he would be mercilessly harassed by the appellants for a prolonged period of time. He had also been forced to work continuously for long durations in the factory, vis-à-vis

A other employees which often even extended to 16-17 hours at a stretch. Considering the facts and circumstances of the present case, it is not a case which requires any interference by this court as regards the impugned judgment and order of the High Court. [Para 16] [1140-H; 1141-A-E]

B *Swamy Prahaladdas v. State of M.P. and Anr. (1995) Supp (3) SCC 438; Sanju @ Sanjay Singh Sengar v. State of M.P. AIR 2002 SC 1998: 2002 (3) SCR 668; Madan Mohan Singh v. State of Gujarat and Anr. (2010) 8 SCC 628: 2010 (10) SCR 351 – distinguished.*

Case Law Reference:

	(1995) Supp (3) SCC 438	Distinguished	Para 9
D	2002 (3) SCR 668	Distinguished	Para 10
	2010 (10) SCR 351	Distinguished	Para 11
	2009 (13) SCR 230	Relied on	Para 12
E	2001 (4) Suppl. SCR 247	Relied on	Para 13
	1991 (2) SCR 790	Relied on	Para 14
	2006 (9) Suppl. SCR 296	Relied on	Para 14
	2007 (7) SCR 1051	Relied on	Para 14
F	2008 (16) SCR 743	Relied on	Para 14

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1589 of 2012.

G From the Judgment & Order dated 5.01.2012 of the High Court of Uttarakhand at Nainital in Criminal Misc. Application No. 420 of 2006.

H U.U. Lalit, K.V. Vishwanathan, Raunak Dhillon, Ishan Gaur, Mehul M. Gupta (For Karanjawala & Co.) for the Appellant.

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Rahul Verma, Saurabh Trivedi for the Respondents. A

The Judgment of the Court was delivered by

DR. B.S. CHAUHAN, J. 1. Leave granted.

2. This appeal has been preferred against the impugned judgment and order dated 5.1.2012 passed by the High Court of Uttarakhand at Nainital in Criminal Misc. Application No. 420 of 2006, by way of which the High Court dismissed the application under Section 482 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C. '), filed by the appellant for the purpose of quashing the criminal proceedings, i.e. chargesheet No. 208/2005 and order of cognizance dated 28.4.2006 passed by the Chief Judicial Magistrate, Haridwar, filed upon an investigation conducted on the basis of FIR No.285 of 2005 (Crime No.258/2005) pertaining to P.S.: Ranipur, Haridwar. B C D

3. The facts and circumstances giving rise to this appeal are as follows :

A. That, a First Information Report (hereinafter referred to as 'FIR') was lodged by one Ambreesh Singh, who is the brother of Anurag Singh, the deceased, alleging that the appellant had long been attempting to compel the deceased to indulge in several wrongful practices at the work place. The deceased was not comfortable with complying with such orders and as a consequence, the appellant started making illegal demands and as the same were not fulfilled, he began to harass and insult the deceased at the regular intervals. The appellant, in fact, on one occasion, disgraced the deceased in front of the staff of the entire factory, and told him that "had there been any other person in his place, he would have died by hanging himself". E F G

B. Anurag Singh talked to several of his family members on 6.10.2005 over the phone. They stated that he came across as highly perturbed and, hence, they tried to pacify him. H

A However, owing to the constant humiliation and ill-treatment meted out to him by the appellant, Anurag Singh committed suicide on 7.10.2005.

B C. On the basis of the said FIR, criminal proceedings were initiated and in the course of the investigation, the Investigating Officer found a suicide note which had been written by the deceased and upon reading this, it seems evident that he held the appellant responsible for his death, by way of committing suicide.

C D. During the said investigation, the statement of various persons including that of the widow of the deceased, and also those of his other family members, were recorded and they all supported the version of events, as was given by the deceased in his suicide note which made it amply clear that according to him, the appellant was solely responsible for his death. Upon conclusion of the investigation, the police filed charge-sheet No.208/2005 on 5.11.2005 against the appellant under Section 306 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC').

E E. Aggrieved, the appellant filed a Criminal Misc. Application No. 420 of 2006 under Section 482 Cr.PC. on 13.6.2006 for the purpose of quashing the said chargesheet, and also the other proceedings incidental thereto. The High Court granted stay of such proceedings, initiated on the basis of the said charge-sheet, as an interim measure. However, vide impugned judgment and order dated 5.1.2012, the said application was then dismissed.

Hence, the present appeal.

G 4. Shri U.U. Lalit and Shri K.V. Vishwanathan, learned senior counsel appearing on behalf of the appellant, have submitted that the facts and circumstances of the present case do not actually make out any offence against the appellant as far as Section 306 IPC is concerned. They have submitted that,

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even if the allegations made out in the FIR/charge-sheet, are taken on their face value, and accepted in entirety, the same do not prima facie, constitute any offence against the appellant. In a case under Section 306/107 IPC, establishment and attribution of *mens rea*, on the part of the accused which caused him to incite the deceased to commit suicide is of great importance. The cruelty shown towards the deceased in such cases, must be of such magnitude, that it would in all likelihood, drive the deceased to commit suicide. The utterances of a few harsh words on one occasion, for that matter a suggestion being made with the intention of improving work, does not amount to harassment/cruelty of such intensity, that it may be termed as abetment to commit suicide. Hence, the appeal deserves to be allowed.

5. Per contra, Shri Rahul Verma, learned counsel appearing for the respondent-State, has vehemently opposed the appeal, contending that the appellant would persistently and consistently harass the deceased to compel him to do various illegal things and that it was not an isolated instance of harassment, or an occasional off hand remark that was made by the appellant in relation to the deceased. As the deceased had refused to fulfil the illegal demands of the appellant, the appellant made his life extremely difficult, by humiliating him constantly which eventually drove him to commit suicide. Therefore, the facts of the case being as explained above, do not warrant any interference with the impugned judgment and order of the High Court. The appeal is, hence, liable to be dismissed.

6. We have considered the rival submissions made by learned counsel for the parties and perused the records.

7. In the FIR, the complainant, who is the brother of the deceased, made several allegations against the appellant, all of which, have also been mirrored in the suicide note left behind by the deceased, and it is also evident from the FIR that the deceased had intimated his family members regarding the ill-

A treatment and harassment constantly meted out to him, by the appellant. The deceased was very perturbed and the same is evident from the suicide note which reads as under:

B *"I am dying due to Praveen Pradhan. He has done too much atrocities. He is very cunning man. He **always humiliated-exploited me all the time**. He made me demoralised and made my self respect hurt too much.*

C He has hurted Mr. O.P. Agaral (KPGI) and Mr. CRK Gaur (Project Consultant). These persons also had to go before time due to him. He **always** hurts other's feelings as he is a egoistic and cruel man.

I have been **daily hurted** my self respect. He is always scolding me. I have to die solely due to him.

D I have told my feelings to Mr. Pavan and Mr. Raghu earlier. But his attitude do not change. He **always** scolded and demoralised me. Even in front of Amit (Jaymit) he insulted me. He said Anurag is a "chutiya" as he is working for him and he doubted my dignity. I can't tolerate any way to my dignity.

E He **always** forced me to resign. This can be verified from Mr. Minesh Dakwe (who is in Mahindra) that he forced me to resign. His attitude can be verified from other officers of factory. He is proving me faulty and incompetent after completing entire project work successfully."

(Emphasis added)

G A plain and simple reading of this suicide note makes it crystal clear that the appellant had not just humiliated and insulted the deceased on one occasion. In fact, it is evident that the appellant perpetually humiliated, exploited and de-moralised the deceased, which hurt his self-respect tremendously. The words used are, to the effect that the appellant **always** hurt the

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self-respect of the deceased and he was **always** scolding him. The appellant **always** made attempts to force him to resign.

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8. The statements recorded by the police under Section 161 Cr.PC., particularly, one made by Smt. Kavita Singh, widow of the deceased and also those of various other family members, corroborate the version of events, as given in his suicide note. Therefore, the question that arises is whether the court would be justified in quashing the chargesheet filed against the accused, in the instant case.

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9. In *Swamy Prahaladdas v. State of M.P. & Anr.*, (1995) Supp (3) SCC 438, a similar question arose before this Court wherein one Sushila Bai, a married woman allegedly had two paramours. There was sexual jealousy between the two. Sushila had managed to completely bewitch one of them. In one fine morning, while Sushila Bai was having her morning tea with both her paramours, they began to quarrel. During the course of such quarrelling, one of them made a remark asking the other "to go and die". The other person to whom such remark was made, went home very dejected and thereafter, committed suicide. This Court held as under:

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"In the first place, it is difficult in the facts and circumstances, to come to even a prima facie view that what was uttered by the appellant was enough to instigate the deceased to commit suicide. Those words are casual in nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. 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."

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10. In *Sanju @ Sanjay Singh Sengar v. State of M.P.*, AIR

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A 2002 SC 1998, a quarrel had taken place between the accused and the deceased during which, the accused asked the deceased "to go and die". A chargesheet was filed against the accused under Section 306 r/w Section 107 IPC when the said person actually committed suicide. This Court dealt with the issue elaborately, taking into consideration the fact that the accused had also specifically been named in the suicide note left behind by the deceased, and held that merely asking a person "to go and die" does not in itself amount to instigation and also does not reflect *mens rea*, which is a necessary concomitant of instigation. The deceased was anyway in great distress and depression. The other evidence on record showed him to be a frustrated man who was in the habit of drinking. Thus, considering the said circumstances, this Court quashed the proceedings against the accused, holding that ingredients of abetment were not fulfilled therein.

11. In *Madan Mohan Singh v. State of Gujarat & Anr.*, (2010) 8 SCC 628, this Court re-examined this question, in a similar case, involving Sections 306/107 IPC, wherein the deceased left a suicide note stating that the accused was solely responsible for his death. The deceased in this case, was a driver in the Microwave Project Department. He had undergone a bypass surgery for his heart, just before the occurrence of such incident and his doctor had advised him against performing any stressful duties. The accused was a superior officer to the deceased. When the deceased failed to comply with the orders of the accused, the accused became very angry and threatened to suspend the deceased, rebuking him very harshly for not listening to him. The accused also asked the deceased how he still found the will to live, despite being insulted so. The driver after all this, committed suicide. This Court found that such incident was a one time occurrence. For the purpose of bringing home any charge, vis-à-vis Section 306/107 IPC against the accused, this Court stated that there must be allegations to the effect that the accused had either instigated the deceased in some way, to commit suicide or had

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engaged with some other persons in a conspiracy to do so, or that the accused had in some way aided any act or illegal omission to cause the said suicide. In the said case, this court, after assessing the material on record, found that the deceased was suffering from mental imbalance which caused depression. The accused had never intended for the deceased employed under him to commit suicide. This court observed that if the making of observations by a superior officer, regarding the work of his subordinate, is termed as abetment to suicide, it would become almost impossible, for superior officers to discharge their duties as senior employees.

12. In *Chitresh Kumar Chopra v. State (Government of NCT of Delhi)*, AIR 2010 SC 1446, this Court while dealing with the term 'instigation' held:

"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. 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 to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

Thus, to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by "goad" or 'urging forward'. The dictionary meaning of the word "goad" is "a thing that stimulates someone into action; provoke to action or reaction.....to keep irritating or annoying somebody until he reacts."

A 13. This Court in *Ramesh Kumar v. State of Chhattisgarh*,
 AIR 2001 SC 3837, while dealing with a similar situation
 observed that what constitutes 'instigation' must necessarily and
 specifically be suggestive of the consequences. A reasonable
 certainty to incite the consequences must be capable of being
 B spelt out. More so, a continued course of conduct is to create
 such circumstances that the deceased was left with no other
 option but to commit suicide.

C 14. The offence of abetment by instigation depends upon
 the intention of the person who abets and not upon the act which
 is done by the person who has abetted. The abetment may be
 by instigation, conspiracy or intentional aid as provided under
 Section 107 IPC. However, the words uttered in a fit of anger
 or omission without any intention cannot be termed as
 instigation. (Vide: *State of Punjab v. Iqbal Singh*, AIR 1991 SC
 D 1532; *Surender v. State of Hayana*, (2006) 12 SCC 375;
Kishori Lal v. State of M.P., AIR 2007 SC 2457; and *Sonti
 Rama Krishna v. Sonti Shanti Sree*, AIR 2009 SC 923.)

E 15. In fact, from the above discussion it is apparent that
 instigation has to be gathered from the circumstances of a
 particular case. No straight-jacket formula can be laid down to
 find out as to whether in a particular case there has been
 instigation which force the person to commit suicide. In a
 particular case, there may not be direct evidence in regard to
 F instigation which may have direct nexus to suicide. Therefore,
 in such a case, an inference has to be drawn from the
 circumstances and it is to be determined whether
 circumstances had been such which in fact had created the
 situation that a person felt totally frustrated and committed
 suicide. More so, while dealing with an application for quashing
 G of the proceedings, a court cannot form a firm opinion, rather
 a tentative view that would evoke the presumption referred to
 under Section 228 Cr.P.C.

H 16. Thus, the case is required to be considered in the light
 of aforesaid settled legal propositions. In the instant case,

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alleged harassment had not been a casual feature, rather remained a matter of persistent harassment. It is not a case of a driver; or a man having an illicit relationship with a married woman, knowing that she also had another paramour; and therefore, cannot be compared to the situation of the deceased in the instant case, who was a qualified graduate engineer and still suffered persistent harassment and humiliation and additionally, also had to endure continuous illegal demands made by the appellant, upon non-fulfillment of which, he would be mercilessly harassed by the appellant for a prolonged period of time. He had also been forced to work continuously for a long durations in the factory, vis-à-vis other employees which often even entered to 16-17 hours at a stretch. Such harassment, coupled with the utterance of words to the effect, that, "had there been any other person in his place, he would have certainly committed suicide" is what makes the present case distinct from the aforementioned cases considering the facts and circumstances of the present case, we do not think it is a case which requires any interference by this court as regards the impugned judgment and order of the High Court. The appeal is, therefore, dismissed accordingly.

Before parting with the case, we would clarify that none of the observations made hereinabove would have adverse effect on the rights of the appellant in any of the proceedings during trial as such observations have been made only and only to decide this case.

K.K.T.

Appeal dismissed.