



2025:AHC:169239

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5794 of 2023

Rachana Devi And 2 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)

: Manoj Kumar Patel

Counsel for Opposite Party(s)

: Anand Pati Tiwari, G.A.

Court No. - 82

HON'BLE SAMEER JAIN, J.

1. Supplementary affidavit filed by revisionists is taken on record.
2. Heard Sri Manoj Kumar Patel, learned counsel for the revisionists, Sri Anand Pati Tiwari, learned counsel for O.P. No.2 and Sri Kunwar Tejendra Bahadur, learned AGA for the State.
3. By way of instant revision following prayer has been made:-

" It is therefore, most respectfully prayed that this Hon'ble Court may very kindly be pleased to set-aside the impugned judgment and order dated 19.10.2023 passed by Sessions Judge Auraiya rejecting the discharge application under section 227 Cr.P.C. in Sessions Trial No. 828 of 2023 (State Vs. Rachana Devi and others) arising out of case crime no. 683 of 2022 under section 306 I.P.C. Police Station-Dibiyapur District-Auraiya., so that justice may done otherwise the revisionist shall suffer irreparably.

It is further prayed that his Hon'ble Court may kindly be pleased to stay the entire criminal proceeding initiated against the revisionists in Sessions Trial No. 828 of 2023 (State Vs. Rachana Devi and others) arising out of case crime no. 683 of 2022 under section 306 I.P.C. Police Station-Dibiyapur District-Auraiya, pending before District and Session Judge Auraiya, during the pendency of the present Revision, otherwise the revisionists shall suffer an Irreparable loss and injury."

Factual matrix of the case

4. FIR of the present case was lodged on 14.11.2022 against revisionists and

one another under Section 306 IPC and according to FIR, marriage of the son of O.P. No. 2 was solemnized with revisionist no.1 about 7 years before and after marriage revisionists used to insult his son. It is further mentioned in the FIR that revisionist no.1 lodged a false case against O.P. No.2 and others under Sections 498-A, 323, 504, 506 IPC and 3/4 D.P. Act and thereafter she had left her matrimonial home and started leaving with revisionist nos. 2 and 3 but subsequently both the parties settled the dispute, however, revisionist no.1 did not drop the case.

5. It is further mentioned in the FIR, on 20.06.2022 revisionist no.1 turned out O.P. No.2 and his wife from her matrimonial home but subsequently she permitted them to live in her matrimonial home. As per FIR, on 08.11.2022, revisionist no.1 called revisionist nos. 2 and 3 and her brother in her matrimonial home and badly insulted O.P. No.2 and thereafter O.P. No.2 and his wife again left the house and on 12.11.2022, O.P. No.2 received information that revisionist no.1 is making quarrel with his son and on 13.11.2022, he received information about the death of his son. According to FIR, son of O.P. No.2 committed suicide due to the abetment of revisionists.

6. After registration of the FIR, investigation was conducted and after investigation charge-sheet has been filed against revisionists and after submission of charge sheet, court concerned took the cognizance and thereafter case was committed to the court of sessions. Before trial court, revisionists filed discharge application but their discharge application has been dismissed vide impugned order dated 19.10.2023. Hence, instant revision.

Submission advanced on behalf of revisionists

7. Learned counsel for the revisionists submitted that revisionist no.1 is the wife of the deceased while revisionist nos. 2 and 3 are his mother-in-law and father-in-law respectively. He further submitted that as per allegation, due to abetment of the revisionists, son of O.P. No.2 i.e. husband of revisionist no.1 committed suicide by hanging himself but allegation of abetment levelled against them is totally false.

8. He further submitted that actually O.P. No.2 and his family members including the deceased used to torture the revisionist no.1 and due to this reason, she had to lodge a case against them under Sections 498-A, 323, 504, 506 IPC and 3/4 D.P. Act and however, on the request of O.P. No.2 and his son, revisionist no.1 started living in her matrimonial home but they again started torturing her and due to this reason sometimes dispute arose between husband and wife. He further submitted that due to bad behaviour of O.P.

No.2 and his family members including deceased, revisionist nos. 2 and 3 being parents of revisionist no.1 raised objection but they never insulted the son of O.P. No.2 and due to matrimonial dispute deceased committed suicide by hanging himself and it cannot be reflected, due to the abetment of revisionists, he committed suicide.

9. He further submitted that there is no evidence on record, which can suggest that due to abetment of the revisionists, deceased committed suicide and bald allegation of torture and insult made against the revisionists does not constitute offence of Section 306 IPC but court concerned failed to consider this fact and wrongly dismissed the discharge application filed by the revisionists.

10. He further submitted that during investigation I.O. also recorded the statements of independent witnesses, who were neighbours and however, from their statements recorded under Section 161 Cr.P.C., it reflects, some dispute very often arose between husband and wife i.e. revisionist no.1 and deceased but merely on the basis of such routine matrimonial dispute, it cannot be said that revisionist no.1 abated the deceased to commit suicide.

11. He further submitted that from the statements of independent witnesses, it also reflects on 8.11.2022 revisionists nos. 2 and 3 came at the matrimonial home of revisionist no.1 and serious altercation took place between them and deceased and thereafter they said that "why he not die" but even considering this fact, it cannot be said that due to abetment of revisionist nos. 2 and 3, deceased committed suicide.

12. He further submitted that during investigation I.O. failed to collect any cogent and admissible evidence, which can suggest that due to abetment of revisionists deceased committed suicide and, therefore, impugned order dated 19.10.2023 is illegal.

13. He further submitted that therefore, impugned order is illegal and after setting aside the impugned order dated 19.10.2023, revisionists may be discharged.

Submission advanced on behalf of State and O.P. No.2

14. Per contra, learned AGA as well as learned counsel for O.P. No.2 opposed the prayer and submitted that revisionist no.1 is the wife of deceased while revisionist nos. 2 and 3 are her parents and there are ample evidences, which can suggest that revisionists used to torture and insult the deceased and therefore, it cannot be said, there is no evidence of abetment against them.

15. They further submitted that even as per statements of witnesses recorded during investigation, it reflect, revisionist nos. 2 and 3 also insulted the deceased and on 08.11.2022, they also instigated him to die.

16. They further submitted that therefore, from the material available on record, it is apparent that prima facie offence under Section 306 IPC is made out against the revisionists and, therefore, by rejecting discharge application of revisionists, trial court did not commit any illegality and instant revision is devoid of merit and is liable to be dismissed.

Analysis and conclusion

17. By way of instant revision revisionists challenged the impugned order dated 19.10.2023 passed by the trial court, by which their discharge application has been dismissed.

18. Law with regard to discharge is settled, if material available on record prima facie does not constitute the alleged offence then accused should be discharged and not otherwise.

19. The Apex Court in case of ***Captain Manjit Singh Viridi vs. Hussain Mohammed Shattaf (2023) 7 SCC 633*** in paragraph no. 11 has already observed as:-

"11. The law on issue as to what is to be considered at the time of discharge of an accused is well settled. It is a case in which the Trial Court had not yet framed the charges. Immediately after filing of charge sheet, application for discharge was filed. The settled proposition of law is that at the stage of hearing on the charges entire evidence produced by the prosecution is to be believed. In case no offence is made out then only an accused can be discharged. Truthfulness, sufficiency and acceptability of the material produced can be done only at the stage of trial. At the stage of charge, the Court has to satisfy that a prima facie case is made out against the accused persons. Interference of the Court at that stage is required only if there is strong reasons to hold that in case the trial is allowed to proceed, the same would amount to abuse of process of the Court."

20. Therefore, from the material available on record, it is to see, whether offence under Section 306 IPC is made out against the revisionists or not.

21. In case at hand, revisionist no.1 is the wife of the deceased while revisionist nos. 2 and 3 are his in-laws and according to the prosecution, due to their abetment deceased committed suicide and thus they committed

offence punishable under Section 306 IPC.

22. Before delving into the matter, it is necessary to go through the Section 306 IPC, which reads as follows:-

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

23. From perusal of Section 306 IPC, it reflects, abetment to commit suicide is one of the essential ingredient to constitute offence under Section 306 IPC.

24. Abetment has been defined under Section 107 IPC, which reads as follows:-

"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 that thing."

25. The Apex Court in case of **Laxmi Das vs. State of West Bengal and others 2025 SCC OnLine SC 120** in paragraph no. 8 held as:-

"8. When [Section 306](#) IPC is read with [Section 107](#) IPC, it is clear that there must be (i) direct or indirect instigation; (ii) in close proximity to the commission of suicide; along with (iii) clear mens rea to abet the commission of suicide."

26. Therefore, it is apparent that to constitute offence under Section 306 IPC instigation is one of the essential ingredients. Instigation means to provoke, incite or encourage a person to do an act.

27. The Apex Court in case of **Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618**, on which reliance was placed by Apex Court in case of

Laxmi Das(supra) in paragraph no. 20 observed as:-

"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."

28. Therefore, in the light of principle laid down by the Apex Court, it is to analyse, whether from the material placed before the trial court offence under Section 306 IPC is made out or not.

29. In case at hand, from the material available on record including the statements of witnesses recorded during investigation, it appears, there are general allegations of harassment and insult against the revisionists and as per statements of witnesses, it reflects, revisionist no.1 used to quarrel with the deceased but from their statements, it could not be reflected that revisionists in any manner instigated the deceased to commit suicide.

30. *Mens rea* to abet the commission of suicide is essential for offence punishable under Section 306 IPC. *Mens rea* is the mental state, which shows the intention and, therefore, if wife or husband or their relatives are being either harassed or tortured but without any intention to commit suicide, then it cannot be said that there was abetment to commit suicide.

31. In the present case, however, as per prosecution, revisionists used to torture and insult O.P. No.2 but even if entire material collected by I.O. during investigation are accepted as it is then also it could not be reflected that revisionists were having *mens rea* to abet the deceased for suicide.

32. Further, however, from the record, it reflects, due to matrimonial dispute arose between revisionist no.1, the wife and deceased, the husband, wife i.e. revisionist no.1 lodged a case against him and his family members under Section 498-A, 323, 504, 506 IPC and 3/4 D.P. Act. but matrimonial discord and differences in domestic life are quite common and if due to this reason either husband or wife commits suicide then it cannot be held that due to their abetment deceased committed suicide.

33. The Apex Court in case of ***Kamaruddin Dastagir Sanadi vs. State of Karnataka through SHO Kakati 2024 SCC OnLine SC 3541*** also observed that discord and differences in domestic life are quite common in the society. Commission of suicide largely depends upon the mental status of the victim. Unless & until some guilty intention on the part of accused is apparent, it is ordinarily not possible to show accused committed offence punishable under Section 306 IPC.

34. As already observed, from perusal of the material available on record, it could not be reflected that revisionists were having *mens rea* or any intention that deceased committed suicide, therefore, *prima facie*, it reflects, allegations levelled against the revisionists are not sufficient to constitute offence under Section 306 IPC.

35. Further, however, from the statements of witnesses recorded during investigation, it reflects, on 8.11.2022, revisionists nos. 2 and 3, the in-laws of the deceased i.e. parents of revisionist no.1 came at the house of the deceased and during quarrel told him "he should die" and thereafter deceased committed suicide on 13.11.2022 but in view of this Court, it does not constitute offence punishable under Section 306 IPC as it cannot be said that due to their abetment deceased committed suicide.

36. In case of ***Swamy Prahaladdas vs. State of M.P. and another 1995 Supp (3) SCC 438:1995 SCC (Cri) 943*** the accused remarked to the deceased that go and die and thereafter deceased committed suicide, the Apex Court in paragraph no. 3 observed as:-

"3. Those words are casual in nature which are often employed in the heat of moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite means rea on the assumption that these words would be carried out in all events."

37. Therefore, it is apparent that if any words uttered in heat of the moment during quarrel and thereafter deceased committed suicide then also it cannot be held that due to abetment of accused deceased committed suicide.

38. Further, to constitute offence under Section 306 IPC, it is necessary that the alleged harassment was of such nature, which left no other option for the deceased except to commit suicide.[See: ***Amalendu Pal alias Jhantu vs. State of West Bengal (2010) 1 SCC 707***].

39. In case at hand, however, as per prosecution, due to matrimonial dispute revisionists used to harass the deceased but from the entire evidence available on record, it could not be reflected that except to commit suicide,

he was not having any other option, therefore, from this point of view also offence under Section 306 IPC is not made out.

40. Therefore, from the discussion made above, it reflects, no *prima facie* offence under Section 306 IPC is made out against the revisionists and court concerned without properly analyzing the evidence available on record dismissed the discharge application filed by revisionists and, therefore, committed illegality.

41. Therefore, considering the facts and circumstances of the case discussed above, in considered view of this Court while dismissing the discharge application of the revisionists trial court committed illegality and impugned order dated 19.10.2023 is illegal.

42. Accordingly, impugned order dated 19.10.2023 passed by the court concerned is hereby set aside.

43. The instant revision stands **allowed**.

September 8, 2025
KK Patel

(Sameer Jain,J.)