

(2014) 02 GUJ CK 0108
In the Gujarat High Court

Case No : Criminal Misc. Application No. 15948 of 2012

Anilkumar Chandubhai Patel and 2 Ors.	APPELLANT
Vs	
State of Gujarat and 1 Another	RESPONDENT

Date of Decision : 06-02-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 114, 306, 506

Citation : (2014) 02 GUJ CK 0108

Hon'ble Judges : M.D. Shah, J

Bench : Single Bench

Advocate : Shakeel A Qureshi, Advocate for the Applicant(s) No. 1-3, Advocate for the Appellant; L.R. Pujari, APP for the Respondent(s) No. 1, Advocate for the Respondent

Final Decision : Allowed

Judgement

M.D. Shah, J.—Heard learned advocate, Mr. Shakeel A. Qureshi for the petitioners and learned APP, Mr. L.R. Pujari for the respondent No. 1.

2. This application is filed to quash the complaint registered as C.R. No. I-167 of 2012 at Makarpura Police Station, Vadodara City, for the offences punishable under Secs. 306, 506 and 114 of IPC.

3. It is alleged that deceased borrowed money from the present petitioner accused No. 1 to the tune of Rs. 20,000/-. Adding interest on it, the deceased paid Rs. 1,20,000/- in installments. Thereafter also, the accused came to the shop of the deceased and demanded Rs. 28,00,000/-. They also gave threat to kill him. Due to this torture, deceased committed suicide by consuming poison leaving a suicide note. In the suicide note also, said fact is narrated.

4. Looking to the allegations made in the complaint, prima facie ingredients of offence of Sec. 306 of IPC are not attracted as there is no intentional aiding committed by the accused persons leading the deceased to commit suicide. Reliance is placed on the decision of this Court in the case of A.K. Chaudhary and

Others Vs. The State of Gujarat and Others, more particularly in paragraph 17 wherein it was held that ingredients of offence punishable under Sec. 306 of IPC are attracted only if the suicide is due to direct and alarming encouragement or incitement leaving no option but to commit suicide. Part of paragraph 17 reads as under:

17. In view of the above, it appears that the ingredients for abetment for suicide would be satisfied only if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide....

5. In the instant case, there was no direct and alarming encouragement or incitement committed by the accused persons in reference to the suicide committed by the deceased and hence, in view of the ratio laid down in the afore referred reported case, this Court is of the opinion that the complaint in question deserves to be quashed and set aside.

6. In view of the above, complaint being C.R. No. I-167 of 2012 at Makarpura Police Station, Vadodara City and the proceedings thereunder are quashed and set aside. This Cri. Misc. Application is accordingly allowed.