

(2023) 12 GUJ CK 0017

In the Gujarat High Court

Case No : R/Special Criminal Application (Quashing) No. 12272 Of 2022,
Criminal Misc.Application (For Stay) No. 1 Of 2023

Chandu Arjan Rudach

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 06-12-2023

Acts Referred:

Indian Penal Code, 1860 — Section 107, 114, 306
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 12 GUJ CK 0017

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : CJ Vin, Ashish M Dagli, Maithili Mehta

Final Decision : Dismissed

Judgement

Ilesh J. Vora, J

1. The applicants - accused have been arraigned as accused in the FIR being 11218009210775 of 2021 registered with Kamlabaug Police Station, for the offences punishable under Sections 306 and 114 of the Indian Penal Code. Pursuant to the FIR, chargesheet came to be filed, which has culminated into Sessions Case No. 48 of 2021 which is pending before the Sessions Court, Porbandar. The applicants by way of this quashing application under Section 482, seek to quash the criminal proceedings, mainly on the ground that, the ingredients of Section 107 i.e. abetment are missing and therefore, no case is made out for the alleged commission of suicide.

2. The brief facts giving rise to file present application are that, deceased Bharabhai Jodhabhai, committed a suicide by consuming poisonous substance. Before he could commit suicide, he had circulated video clip on the social media stating therein the cause of committing suicide. In the video clip the deceased made serious allegations against the applicants in relation to the harassment as by way of social media like whats-app and face book, they published defamatory

story and demanded Rs.1.5 crore from the deceased and if he failed to pay the amount, he will be falsely implicated in the criminal offences. The deceased was fed up with the story published by the accused in the social media, as a result, he committed a suicide.

3. In the aforesaid facts, learned counsel Mr. C.J. Vin has submitted that, the applicants have been falsely implicated in the alleged act of suicide. Before the incident, the accused Chandu Rudach was abducted by the deceased and his 3 brothers and was severely beaten up by them. The accused no. 1, stripped naked and was paraded in the market place. The FIR of the said incident being registered against the deceased and his 3 brothers and the Government by taking the serious note of the incident and considering the past history, initiated a proceedings under the provisions of preventive detention and they had been detained in the PASA also. In these background facts, it is submitted that, if the chargesheet case papers and allegations in the form of video clip accepted in its entirety, the abetment of the offence is not established and the papers lack the ingredients of the offence alleged. In the chargesheet case papers, nothing come on record that the accused have provoked incited or induced the deceased to commit the suicide and as such the accused having no intention to encourage the deceased to commit suicide and therefore, in absence of mens-ria on the part of the applicant, they cannot be held liable for the abetment of the suicide.

4. In view of the aforesaid contentions, learned counsel Mr. Vin has submitted that, the case is covered by the categories enumerated by the Apex Court in case of State of Haryana Vs. Bhajanlal (1992 supp. (1) SCC 335, and therefore, the case is made out for exercising inherent powers of this Court.

5. On the other hand, learned counsel Mr. Ashish Dagli and Ms. Maithili Mehta, learned Additional Public Prosecutor appearing for the respondents have jointly submitted that, the trial of the Sessions Case is at the advance stage and evidence of most of the material witnesses is over and trial may likely to be completed in a reasonable time. Referring to the chargesheet case papers, they submitted that, the uncontroverted allegations made against the applicants for abetment of suicide would prima-facie established the case against the applicants and at this stage, it cannot be said that, no case is made out for trial.

6. Having heard the learned counsel for the respective parties and on perusal of the case papers, this court is of the considered view that, pursuant to the registration of the FIR, the applicants were chargesheeted for the offence punishable under Section 306 of the Indian Penal Code and case was committed to the Court of Sessions and same is registered as Sessions Case No. 48 of 2021. The learned Sessions Court after framing the charge against the applicants, proceeded with the matter and as per the statement made by the learned counsel made by Mr. Dagli, the evidence of material witnesses is over. In such circumstances, this Court is of the considered view that this is not a fit case to exercise the powers under Section 482 of the Cr.P.C to quash the FIR and examine the truthfulness of the allegations or otherwise in relation to the

abetment of the suicide. In the interest of justice, it is necessary to direct the Sessions Court concerned to conclude the trial proceedings within period of 4 months from the date of this order.

7. In the result, with the aforesaid direction, this application stands dismissed.

8. In view of the order passed in main matter, no order in Cr.M.A. No. 1 of 2023 and is disposed of.