
(2002) 03 MP CK 0061

In the Madhya Pradesh High Court

Case No : Criminal Revision No. 167 of 2002

Maresh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 11-03-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 107, 306

Citation : (2002) 3 MPHT 359 : (2003) 1 MPLJ 105

Hon'ble Judges : S.L. Kochar, J

Bench : Single Bench

Advocate : Viveksingh, for the Appellant; G. Desai, Dy. A.G., for the Respondent

Judgement

S.L. Kochar, J.

This revision has been filed by the applicant against the order of framing of charge dated 4-1-2002 passed by VIII Addl. Sessions Judge, Indore in Sessions Trial No. 768/2000 against the applicant for the offence u/s 306 of the Indian Penal Code.

The police of Police Station, Bhawarkua, Indore has filed a charge-sheet for the offence u/s 306 of the Indian Penal Code vide Crime No. 418/2000 against the applicant Maresh alleging that in the night intervening between 10th and 11th of April, 2000, between 2.00 and 6.00 AM, the deceased Shersingh had committed suicide inside his Hotel (Dhaba) by hanging leaving a death-note about his death. According to the said death-note as well as the statement of Mohammad Haroon Mohd. Iqbal, the applicant had taken money from the deceased Shersingh for getting him a plot at 311 I.P. Nagar, Indore Development Authority. It is further alleged that the deceased was harassed by the appellant and ultimately on 9-4-2000, he refused to give plot, resultantly the deceased Shersingh committed suicide by hanging, The matter was reported to the police on 11-4-2000 at 9.05 AM and after detailed investigation, the offence was registered on 22-6-2000 at 12.10 noon on the basis of the aforesaid facts.

After hearing the learned Counsel for the applicant as well as the State and also after perusing the complete copy of the charge-sheet, this Court is of the opinion that no prima facie case worth for framing charge is made out against the applicant for the offence u/s 306 of the Indian Penal Code.

There was a transaction between the deceased and the applicant and the applicant did not fulfil the promise or contract and on the basis of that there was a quarrel between the deceased and the applicant or the applicant ill-treated the deceased which resulted into suicide of the deceased would not be sufficient for fulfilling the ingredients of Section 306 of the Indian Penal Code, which reads as under :--

"Abetment to 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."

There is no evidence in the charge-sheet that the present applicant had taken the money and did not get the plot allotted in the name of deceased Shersingh with an intention to abet the commission of suicide. Because of the alleged dishonesty of the applicant, the deceased might have committed suicide and that should be a reason for him for commission of suicide, but the same are not fulfilling the required ingredients as per Section 107 of the Indian Penal Code, which reads as under :--

"Abetment of a thing.-- A person abets the doing of a thing, who-

Firstly-- Instigates any person to do what 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."

In the present case, there is no evidence to establish or indicate prima facie that the applicant-accused goaded or urged forward, provoked, incited or encouraged the deceased to commit suicide. Merely not fulfilment of the promise about getting the plot allotted from the Indore Development Authority would not be sufficient for fulfilling the required necessary ingredients for constituting the offence u/s 306 read with Section 107 of the Indian Penal Code.

This Court in *Vedprakash Tarachand Bhajji v. State of M.P.* (1995 MPLJ 458) and *Panchram Samaylal v. State of M.R* (1971 JUSN 80) has held as under :--

"The behaviour of the husband may be a cause for suicide of his wife, but that cannot be equated with abetment, which requires a positive step to be taken by a person to induce the commission of the offence. The evidence also makes it clear that Samaylal was absent from the village on the day the wife committed

suicide. The Court was satisfied that there was not an iota of evidence to sustain the charge u/s 306, IPC read with Section 34, IPC."

There is catina of judgments on the point.

In the case on hand, admittedly the applicant was not present at the time of commission of suicide and also not taken any positive step whereby the deceased may have committed suicide.

In the result, the order dated 4-1-2002 passed by the VIII Addl. Sessions Judge, Indore is hereby set aside and the applicant is directed to be discharged. If he is on bail, his bail bonds shall stand cancelled.