

(2002) 02 AP CK 0097

In the Andhra Pradesh High Court

Case No : Criminal Revision Case No. 222 of 2000

Neelam @ Bendila Lachaiah and Another

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 27-02-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 107, 109, 306

Citation : (2002) 2 ALT(Cri) 186 : (2002) 1 APLJ 291 : (2003) 2 DMC 268

Hon'ble Judges : Gopala Krishna Tamada, J

Bench : Single Bench

Advocate : M. Raja Malla Reddy, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Gopala Krishna Tamada, J.—The petitioners herein were tried as A-1 and A-2 in S.C. No. 98 of 1996 by the learned Assistant Sessions Judge, Peddapalli, for the offence punishable u/s 306 I.P.C. After examining the evidence of P.Ws.1 to 11 and Exs.P-1 to P-9, the learned Assistant Sessions Judge held the petitioners guilty of the offence punishable u/s 306 I.P.C. and accordingly sentenced each of them to undergo rigorous imprisonment for a period of one year and also to pay a fine of Rs.500/- in default to suffer simple imprisonment for a period of one month each. In appeal, the learned Sessions Judge, confirmed the same.

2. The case of the prosecution is that the deceased by name Gondeti Rajaiah along with his wife Rajamma (P.W.2) and father-in-law of the deceased by name Ramaiah (P.W.4) went to Rajampet village to attend the marriage of the daughter of one Neeli Kommuramma. The said marriage took place on 12-5-1995 at the house of Neeli Komuramma in Rajampet village. On the date of marriage, some unknown offenders committed theft of Rs.2,000/- in the house of Neeli Komuramma. In this connection, the petitioners were called for enquiries for detecting the theft. Accordingly, Neeli Komuramma requested the 1st petitioner to detect the theft by supplying "Mantharam Biyyam". The 1st petitioner

administered "Mantharam Biyyam" to the deceased and some other persons. The petitioners constantly humiliated the deceased holding that the deceased committed theft of Rs.2,000/- in the house of Neeli Komuramma in the marriage function. Due to this humiliation, the deceased went to Kammarikhanpet village and consumed Endosulfan pesticide poison and committed suicide. On 14-5-1995, P.W.1 went to the police station and gave a complaint, basing on which the police registered a case and investigated into. After completion of investigation, the police filed charge sheet.

3. In order to prove the guilt of the accused, the prosecution examined P.Ws.1 to 11 and got marked Exs.P-1 to P-9. On a consideration of the entire evidence on record, the trial court found the petitioners guilty of the offences with which he was charged and accordingly convicted and sentenced them as aforementioned.

4. The learned counsel for the petitioners Mr. Rajamalla Reddy strenuously contended that the ingredients of Section 306 I.P.C. are not made out in this case. He contended that the mere allegation of provocation itself would not amount to abetment and that there must be some positive act which should drive the person to commit suicide, which is lacking in this case and as such, the petitioners are entitled to acquittal.

5. Heard the learned Public Prosecutor.

6. No doubt, it is true that P.Ws.1 to 4 have clearly stated that the deceased died due to the humiliation given by the accused persons and it is also true that the deceased committed suicide. But, in my considered view, that allegation alone is not sufficient to hold that the petitioners have abetted the deceased to commit suicide, an offence which is punishable u/s 306 I.P.C.

7. Section 107 I.P.C. defines "abetment" of an offence. It is necessary to extract the said provision hereunder which reads thus:

" 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.

Explanation 1 - A person who, by wilful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration :A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B

abets, by instigation the apprehension of C.

Explanation 2 - Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act. "

8. From a reading of Section 107, it is clear that a person must have been instigated by another person to do a particular thing. Similarly, a person shall intentionally aid the other person in doing of a thing (in the instant case, suicide). The case of the prosecution according to the evidence of P.Ws.1 to 4 is that on suspicion, "Manthra Biyyam" was administered by the petitioners on the deceased and the theft was detected. Subsequently, they made him naked. This had happened in Rajampet village on 12-5-1998, whereas the deceased committed suicide at 8.00 P.M. on 13-5-1995 in Kammarikhanpet village. From the evidence of P.Ws.1 to 4, it is clear that there was some humiliation to the deceased. But, it cannot be said that the said humiliation caused by the petitioners amounts to instigation which prompted the deceased to commit suicide or that the petitioners have intentionally aided the deceased in committing suicide. Therefore, it is difficult to hold that the petitioners have abetted the commission of suicide by the deceased in this case. In similar circumstances, following the view of the apex court reported in *Shriram v. State of Uttar Pradesh*¹, a learned single Judge of this court in a case reported in *V. Adinarayana v. State of Andhra Pradesh*² held at paragraph 7 thus:

" The judgments of the Supreme Court referred to above are quite clear as to the requirements to constitute abetment of suicide. The learned counsel for the petitioners/accused submitted that even though threatening words were used by the petitioners/accused, those words are not sufficient to be described as instigating in the commission of the offence. I accept the contention. Therefore, I am of the view that no case is made out for the offence punishable u/s 306 read with Sec. 109 I.P.C. The accused are entitled to be acquitted. They are acquitted. They are accordingly acquitted. "

9. In the light of the above discussion and also the judgment of this court, I hold that the evidence on record is not sufficient to hold that the petitioners have committed the offence punishable u/s 306 I.P.C. Therefore, the petitioners are entitled for acquittal.

10. In the result, the criminal revision case is allowed and the judgments of both the courts below are set aside. The petitioners are acquitted of the charge framed for the offence punishable u/s 306 I.P.C. Their bail bonds shall stand cancelled.