

(2008) 03 AHC CK 0081
In the Allahabad High Court

Rajendra Singh and Others	Vs	APPELLANT
State of UP and Others		RESPONDENT

Date of Decision : 29-03-2008

Acts Referred:

Constitution of India, 1950 — Article 21, 51A
Penal Code, 1860 (IPC) — Section 107, 306, 309

Citation : (2008) 105 RD 143

Hon'ble Judges : Amar Saran, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amar Saran, J.—Heard learned Counsel for the applicants and learned AGA.

2. This application has been filed for quashing of the criminal proceedings in Case No. 11118 of 2007 (State v. Smt. Siya Devi and Ors.) u/s 309/306 IPC, PS Tajganj, Agra, pending in the Court of CJM, Agra.

3. The allegations in the FIR, lodged on 6.3.2007 at 6 p.m. by SHO, Rajesh Kumar Dwivedi, PS Tajganj, Agra, was that on receiving information that a woman was about to take samadhi in village Ghaghupura, PS Tajganj, the police party rushed there and found the applicant Smt. Siya Devi sitting with folded hands in a pit 4 ft. x 4 ft. and her relatives (which included the applicant Mahendra, her husband and her behnoi Rajendra Singh covering her with mud which had reached her chest level by then. In spite of strong protests by the applicants and other relatives the police pulled out Smt. Siya Devi from the pit. The applicants were taken into custody and were subsequently released on bail.

4. The learned Counsel suggested that the incident was concocted as the applicants Mahendra and Siya Devi's daughter Kumari Rita was to be married on 1.5.07 and her mother was unlikely to try and commit suicide by taking samadhi at this stage. In my view there was no reason for the police to have graphically given such details in the FIR if no such incident had ensued.

5. Alternatively the learned Counsel vehemently contends that it is a woman's inalienable right to take samadhi and the act was being done for a religious purpose.

6. The argument of the learned Counsel for the applicants is a queer one which seeks to justify a course of conduct akin to the medieval and obnoxious practice by which women were encouraged and abetted to commit sati or to otherwise take their lives and it was justified as a religious act. The Courts do not and cannot countenance or condone such illegal activities and must take drastic measures to put an end to such inhuman practices whenever they come to light.

7. A similar argument that commission of suicide was sanctioned and even considered meritorious for hermits and others by Manu and our scriptures was examined and repelled by the Constitutional Bench of the Apex Court in *Gian Kaur v. State of Punjab* AIR 1996 SC 946 when it was considering the correctness of the earlier two Judge decision in *P. Rathinam/Nagbhusan Patnaik Vs. Union of India* and another, which had held that the offence u/s 309 IPC, for attempting to commit suicide was unconstitutional being violative of Article 21, as right to life was not merely a right to live an animal existence, and no one could be forced to live. Overruling the two Judge decision in *P. Rathinam*, the Constitutional bench in *Gian Kaur's* case observed that right to life could never include the right not to live. "The 'right to die', if any, is inherently inconsistent with the 'right to life' as is 'death with life'" (*Gian Kaur*, para 20)

8. Another argument raised by learned Counsel for the petitioner that no offence u/s 306 IPC is disclosed against the husband and behnoi of the woman because admittedly the woman did not die as she was taken out from the pit prior to her being covered under the mud. There is no force in this submission, because even if no offence u/s 306 IPC is disclosed, it cannot be said that on the prosecution allegations there was no attempt to commit suicide by Sheela Devi which is punishable u/s 309 IPC or that an offence of abetment of the suicide attempt which is punishable u/s 309 read with Section 107 IPC was not made out against the other applicants.

9. I therefore find absolutely no ground to quash the proceedings or the charge-sheet in this case, as such orders would tantamount to encouraging obscurantist superstitions which have been outlawed centuries back but they are again becoming rampant and are rearing their ugly heads. Television channels and the press media in order to improve their TRPs (television rating points) or readership have also unfortunately begun to repeatedly project such incidents of superstitious practices as miracles, such as people worshipping snakes whom they regard as re-incarnations of relations in past lives or people drinking sea water which is suddenly claimed to have turned sweet, or offering milk to Gods who have developed a thirst for it on one day, that a demonstration effect is generated which makes people more prone to irrational and superstitious behaviour instead of instilling a rational scientific temper in them which is invoked by Article 51A(h) of the Constitution of India, and is also the need of the

hour.

10. There is therefore no force in this application and it is summarily rejected.