courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 08/09/2026

(2018) 04 MP CK 0017

In the Madhya Pradesh High Court

Case No : Criminal Appeal No.2753 OF 2017

Shama Parveen Beg And Another — APPELLANT

Vs

State Of Madhya Pradesh & Another — RESPONDENT

Date of Decision : 05-04-2018

Acts Referred:

Schedule Castes & Schedule Tribes (Prevention of Atrocities) Act, 1989 — Section 3(1)(r) , 14A
Code Of Criminal Procedure, 1973 — Section 161
Indian Penal Code, 1860 — Section 107, 306

Citation : (2018) 04 MP CK 0017

Hon'ble Judges : J.P. GUPTA, J

Bench : Single Bench

Advocate : Manish Datt, Rahul Sharma, Jeevanlal Ahirwar, Rajesh Tiwari

Final Decision : Allowed

Judgement

1. This appeal under Section 14-A of the Schedule Castes & Schedule Tribes (Prevention of Atrocities) Act, 1989 has been preferred by the

appellants assailing the order dated 5.7.2017 passed by the Special Sessions Judge, SC/ST (Prevention of Atrocities) Act, 1989Â in S.C. No. 40/2007

whereby the charges have been framed against the appellants forÂ commission of offence under Section 306 of the IPC and Section 3(1)(r) of the

SC/ST (Prevention of Atrocities) Act, 1989.

2. InÂ brief, the relevant facts of the case are that at the relevant time the appellant No.1 was working asÂ Principal and appellant No.2 was

working as Head Master in the J.P.V. School, where the deceased Haribabu was working as a Peon. It is alleged that on 28.11.2016 Haribabu

committed suicide by hanging himself on 28.11.2016 in the school premises and from the body of the deceased, one suicide note was recovered in

which the deceased stated that he was harassed by the appellants who forced him to work beyond his capacity against the rules and they used to

abuse him with derogatory remarks by referring to his caste (chamar) and due to the aforesaid harassment and humiliation he committed suicide. It is

also evident that one MaheshÂ Parjapati, who was Choukidar in the school, had borrowed Rs.50,000/- from the deceased and did not return the

money.

3. On the information by the brother of the deceased Rambabu, an FIR at crime No.781/2016 was registered in the Police Station Kotwali district

DamohÂ During the investigation, relatives of the deceased disclosed the fact that the deceased was constantly complaining about the harassment

and misbehaviourÂ by the appellants. After completion of the investigation, charge-sheet has been filed against the appellants and one co-accused

Mahesh Prajapati. The learned Special Judge,Â SC/ST (Prevention of Atrocities) Act, had discharged co-accused Mahesh and framed the charges

against the appellants, as mentioned above.

4. The aforesaid order of framing of the charges has been assailedÂ by the appellants on the ground that the learned trial Court has not applied its

mind and has mechanically framed the charges. In the charge-sheet, there is no material available against the appellants to frame the aforesaid

charges. If the entire allegations levelled against the appellants are assumed to be correct, then also necessary ingredients to constitute the abetment

to commit suicide is not attracted. There is no material on record to indicate that the appellants in any way goaded, urged or provoked the deceased to

take steps to commit suicide and there is no admissible evidence for arriving at the conclusion that the appellants abused or defamed the deceased

byÂ referring to his caste. The deceased during his life time had never reported any kind of allegations or whispering to anyone in order to alleged

that the present appellants are causing mental harassment to the deceased. After the death of the deceased, patently false, frivolous and vexatious

allegations have been made against the appellants. There isÂ lack of necessary ingredient required for constituting the offence for abetment of

suicide.

5. In the circumstances, the charges framed against the appellants are completely illegal, incorrect and improper. It is further submitted that the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…

learned trial Court has failed to discharge his duties in the right perspective and judiciously. At the time of framing of the charges, the Court below has

to consider the material with a view to find out as to whether there is a ground for prosecuting the accused for committing the offence or whether the

charge is groundless and for this limited purpose, the Court may shift the evidence as it cannot be expected even at this stage to accept the

prosecution story as gospel truth even if it is opposed to common sense or the broad probabilities of the case. Hence, the impugned order is required to

be set aside as it resulted in great prejudice and injustice to the appellants and they be discharged.

6. On the other hand learned Govt. Advocate and thelearned counsel for the respondent No.2 submitted from the material available and the charge-

sheet that, it is prima facie established that the deceased committed suicide on account of misbehavour and harassment given by the appellants and

also abused the deceased in the school premises during the duty hours, by referring to his caste . Hence, learned trial Court has not committed any

error in framing of the charges. Therefore, the appeal is liable to be dismissed.

7. Having considered the contentions of the learned counsel for the parties and on perusal of the record, it is found that the prosecution case is based

on the suicide note found from the body of the deceased. It will be appropriate to quote the suicide note :-

vkt fnukad 28-11-2016 dks esa bu O;fDr;ksa ls rax vkdj viuh tku ns jgk gwaA eq>s ijsâ??kku djus okys lekt esa fNis iM+s fy[ks vkradh gSA ftudk

uke gSA 1- Jhefr ,l-ih-csx fizalhiy ts-ih-oh- Ldwy

2- Jherh ljLofr fcYFkjs iz/kku v/;kid neksg ts-ih-oh-dek-â??kkyk neksg D;ksafd buds }kjk ckj ckj eq>s nfyr oxZ dk vksj pekj â??kCnksa ls izrkfM+r

fd;k tkrk Fkk ,oa vU; izdz.kksa esa Qalkus dh /kedh nh tkrh FkhA egsâ??k iztkifr dks eSaus 50000=00 ipkl gtkj :i;s m/kkj [ksrh ds fy, fn;s FksA tks

okil ugha dj jgk FkkA uksV%&esjs ifjokj dk /;ku j[kuk esjs 2 csVs ,oa 3 csfV;ka gSaA

gLrk{kj gjhckcw vgjcky

ts-ih-oh- ek/;fed 'kkyk

Â¼Hk`R;Â½

Â 28-11-2016

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…

8. So far as theÂ witnesses are concerned, mother of the deceased Kesar Bai and brother Rambabu, and wife Parvati Bai have stated that the

deceased constantly made complaints regarding the behaviour of the appellants and compelled him to do extra work beyond his capacity. On holidays

also he was compelled to work and stated that the appellants called him by referring to his caste. Other witnesses Harinarayan, N.L. Ahirwar and

Kamla Bai and Manoj have stated that on 28.11.2016 deceased committed suicide in the premises of the school. Kamla Bai has also stated that

appellants abused the deceased and compelled him to do more work and on account of pressure of work and derogatory behaviour of the appellants,

the deceased committed suicide. Now the question is whether the aforesaid material is sufficient to prosecute the appellants for commission of the

offence punishable under the aforesaid provisions.

9. Learned counsel for the appellants has contended that even the aforesaid facts and circumstances are assumed to be true then also in view of the

provisions of Section 107 read with Section 306 of the IPC, no offence of abetment to commit suicide is made out. He has placed reliance on the

judgment of the Apex Court in the case of Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh [AIR 2002 SC 1998] relevant paragraphs are

mentioned as under:-

7. Section 107 IPC defines abetment to mean that a person abets the doing of a thing if he firstly, 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.

8. Before we advert further, at this stage we may notice a few decisions of this Court, relevant for the purpose of disposal of this case.

9. In Swamy Prahaladdas v. State of M.P. [1995 Supp (3) SCC 438 : 1995 SCC (Cri) 943] the appellant was charged for an offence under Section

306 IPC on the ground that the appellant during the quarrel is said to have remarked to the deceased â??to go and dieâ?. This Court was of the view

that mere words uttered by the accused to the deceased â??to go and dieâ? were not even prima facie enough to instigate the deceased to commit

suicide.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…

10. InÂ Mahendra Singh Â v.Â State of M.P.Â [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] the appellant was charged for an offence under

Section 306 IPC basically based upon the dying declaration of the deceased, which reads as under:

â??My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband

Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die

by burning.â??

11. This Court, considering the definition of â??abetmentâ? under Section 107 IPC, found that the charge and conviction of the appellant for an

offence under Section 306 is not sustainable merely on the allegation of harassment of the deceased. This Court further held that neither of the

ingredients of abetment are attracted on the statement of the deceased

12. InÂ Ramesh Kumar Â v.Â State of ChhattisgarhÂ [(2001) 9 SCC 618] this Court was considering the charge framed and the conviction for an

offence under Section 306 IPC on the basis of dying declaration recorded by an Executive Magistrate, in which she had stated that previously there

had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she

could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set herself on fire. Acquitting the accused this

Court said:

â??A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to

the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the

society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a

given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the

offence of suicide should be found guilty.â??

12. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the

direct result of the quarrel that had taken place on 25-7-1998 wherein it is

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…

alleged that the appellant had used abusive language and had reportedly told

the deceased â??to go and dieâ?. For this, courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 CrPC

when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with

filthy words. The statement of Shashi Bhushan, recorded under Section 161 CrPC is annexed as Annexure P-3 to this appeal and going through the

statement, we find that he has not stated that the deceased had told him that the appellant had asked him â??to go and dieâ?. Even if we accept the

prosecution story that the appellant did tell the deceased â??to go and dieâ?, that itself does not constitute the ingredient of â??instigationâ?. The

word â??instigateâ? denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea, therefore, is

the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or on the spur of the moment cannot be taken to

be uttered with mens rea. It is in a fit of anger and emotion.

Â Further reliance has been made on the judgment of the Apex Court in Gangula Mohan Reddy vs. State of Andhra Pradesh [AIR 2010 SC 327] the

relevant paragraphs are reproduced below :-

18. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-today

life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

19. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)[(2009) 16 SCC 605 : (2009) 11 Scale 24] had an occasion to deal with this

aspect of abetment. The Court dealt with the dictionary meaning of the words â?? instigationâ?? and â??goadingâ??. The Court opined that there should

be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each

person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases.

Each case has to be decided on the basis of its own facts and circumstances.

20. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of

the accused to instigate or aid in committing suicide, conviction cannot be

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…

sustained.

21. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC

there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no

option and this act must have been intended to push the deceased into such a position that he committed suicide.

10. In the present case alleged act of abusing and taking extra work from the deceased, cannot be equated into the abetment the deceased to commit

suicide. On the fateful day of the incident, no such act had taken place which can be considered to be proximate cause of the incident. If higher

officer compels his subordinate to do extra work, which is unbearable, then he has other several options and it cannot be said that he had no other

option except to commit suicide. Therefore, the appellants cannot be held responsible for the suicide of the deceased, as there is no mens reaÂ to

abet the deceased for commission of suicide. The deceased in a fit of depression committed suicide. Hence, they cannot be prosecuted for

commission of offence punishable under Section 306 of the IPC.

11. Similarly, so far as commission of offence punishableunder Section 3(1)(r) ofÂ SC/ST (Prevention of Atrocities) Act is concerned, in this regard

statements of Ram Babu, Kesar Bai and Parvati Bai comes in the purview of hearsay evidence and Kamla Bai has simply said that the appellants

used to abuse the deceased without disclosing the actual words of abusive language. The averments in the suicide note with regard to calling the

deceased by referring to his caste is also not admissible in evidence because, as prima facie no offence under Section 306 of the IPC is made out,

then the suicide note cannot be read as evidence in the absence of question of death of the deceased.

12. In view of the aforesaid discussions, it is crystal clear that prima facie there are no reasonable ingredients available to constitute the offence

punishable under Section 306 of the IPC and Section 3(1)(r) of theÂ SC/ST (Prevention of Atrocities) Act and the appellants cannot be prosecuted

on the basis of material available in the charge-sheet. Hence, this appeal is allowed and the impugned order dated 5.7.2017 with regard to framing of

the aforesaid charges is set aside and the appellants/accused are also discharged

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…

from the aforesaid offences.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/shama-parveen-beg-and-another-…