

(1985) 03 DEL CK 0023
In the Delhi High Court
Case No : Criminal Appeal No. 187 of 1983

State	Vs	APPELLANT
Sanjay Kumar Bhatia		RESPONDENT

Date of Decision : 29-03-1985

Acts Referred:

Citation : (1986) 10 DRJ 31

Hon'ble Judges : Rajinder Sachar, J; M. Sharief-ud-din, J

Bench : Division Bench

Advocate : R.P. Lao and R.K. Naseem, for the Appellant;

Judgement

Rajinder Sachar, J.

(1) We have explained in connected case CrI. R. 126/84 the law and have sent back the cases for trial. Though we held that the view of law taken by the Magistrate is erroneous we do not intend sending back this matter for trial. The reason is that this is a charge sheet for attempting to commit suicide u/s 309 Indian Penal Code. A young man has allegedly tried to commit suicide presumably because of over emotionalism. It is ironic that Section 309 Indian Penal Code still continues to be on our Penal Code. The result is that a young boy driven to such frustration so as to seek one's own life would have escaped human punishment if he had succeeded but is to be bounded by the police, because attempt has failed. Strange paradox that in the age of votaries of Euthanasia, suicide should be criminally punishable. Instead of the society hanging its head in shame that there should be such social strains that a young man (the hope of tomorrow, should be driven to suicide compounds its inadequacy by treating the boy as a criminal. Instead of sending the young boy to psychiatric clinic it gleefully sends him to mingle with criminals, as if trying its best to see that in future he does fall foul of the punitive sections of the Penal Code. The continuance of Section 309 Indian Penal Code is an anachronism unworthy of a humane society like ours. Medical clinics for such social misfits certainly but police and prison never. The very idea is revolting. This concept seeks to meet the challenge of social strains

of modern urban and competitive economy by ruthless suppression of mere symptoms this attempt can only result in failure. Need is for humane civilise I and socially oriented and conscious penology .. Many penal offences are the off-shoots of an unjust society and socially decadent outlook of love between young people being frustrated by false consideration of caste, community or social pretentions. No wonder so long as society refuses to face this reality its exercise machinery will invoke the provision like 300 Indian Penal Code which has no justification to continue to remain on the statute book.

(2) In this case the accused is said to have attempted to commit suicide on 5th October, 1981 by consuming tik twenty. Challan was put in on 4th June, 1982. In this case atleast we find no reason as to why the investigation could not be completed within a period of six months. The accused was arrested on 5th October, 1981. No investigation was to be done excepting to find out what he had consumed. A person does not consume tik twenty for any other excepting for one reason. There was no special reason as to why the prosecution should be allowed to continue its investigation beyond a period of six months. This is a fit case in which had the Magistrate been moved he would have refused permission. As such there is no course but to stop the investigation. The respondent has passed through enough of misery, arrested in October, 1981, challan put on 4th June, 1982, evidence of Public Witness -1 was recorded only on 5th April, 1983. We see no justification to put the respondent through any further misery at the hands of the Courts. He has had sufficient traumatic experience and we, Therefore, refuse to disturb the finding of the trial court acquitting the respondent. This appeal, Therefore, will be dismissed.