

MADAN MOHAN SINGH

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v.

STATE OF GUJARAT AND ANR.
(Criminal Appeal No. 1291 of 2008)

AUGUST 17, 2010

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[V.S. SIRPURKAR AND CYRIAC JOSEPH, JJ.]

Penal Code, 1860 – ss. 306 and 294(b) – Driver employed in a project, found dead – Purported suicide note in which deceased stated that he was being harassed and rebuked by his officer – FIR – Prosecution of officer for offences punishable u/ss.306 and 294(b) – Challenge to – Held: On facts, the origin itself of the suicide note was suspicious – Even otherwise, no nexus or proximity found between the so-called suicide and any of the alleged acts on the part of the officer – The allegations made could not reasonably be viewed as suggesting that the officer had intended or engineered the suicide of the deceased by his acts and words – The FIR itself did not have any material nor could it be viewed as having material for offence under ss.306 and 294(b) – FIR and further proceedings accordingly quashed.

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Penal Code, 1860 – s.306 – Prosecution under – Requirement of specific abetment as contemplated by s.107 on the part of the accused, with an intention to bring out the suicide of the person concerned as a result of that abetment – Held: The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for the offence u/s.306.

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The complainant's husband, who was employed in a Microwave project as a driver, was found dead in a vehicle. Twenty four days thereafter the FIR was lodged, wherein reference was made to a purported suicide note

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A written by the deceased. The complainant alleged that the
deceased's superior (appellant) used to tell his private
errands to the deceased, which he did not do, and
consequently the appellant had bias against the
deceased, and insulted him in front of the staff several
B times and because of this, the deceased got depressed
and committed suicide.

Prosecution was initiated against the appellant for
offences punishable under Sections 306 and 294(b), IPC.
C He filed petition under Section 482 CrPC which was
dismissed by the High Court.

The appellant contended before the Supreme Court
that even if the suicide note is accepted as it is, alongwith
the FIR, no ingredients of Sections 306 and 294(b) IPC
D could be spelt out from the same.

Allowing the appeal, the Court

HELD:1.1. The so-called suicide note was signed on
4.2.2008, wherein the complainant's husband (the
E deceased) had complained about the stale incidents
dated 15.10.2007 to 19.10.2007. A number of days
thereafter, he was found dead 23.2.2008. It is claimed by
the complainant that she got a call from the Gujarat High
Court informing her that a suicide note was found and
F that she should search for such note in her house,
subsequent to which she claimed to have found the
suicide note, bearing the signature of her husband (the
deceased), thus bringing the origin of the alleged suicide
note under the cloud of suspicion. [Para 7] [358-F-H]

G 1.2. As regards the suicide note, which is a document
of about 15 pages, all that can be said is that it is an
anguish expressed by the driver who felt that his boss
(the accused) had wronged him. The suicide note and the
H FIR cannot be depicted as expressing anything

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intentional on the part of the accused that the deceased might commit suicide. There is nothing in the FIR or in the so-called suicide note which could be suggested as abetment to commit suicide. It is clear from a microscopic examination of the suicide note that it is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. From the so-called suicide note, it cannot be inferred that the appellant ever intended that the driver under him, i.e. the complainant's husband, should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the appellant changed the duty of the driver or that the appellant asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the appellant intended or knew that the driver should commit suicide because of this. In order to bring out an offence under Section 306, IPC, specific abetment as contemplated by Section 107, IPC on the part of the accused, with an intention to bring out the suicide of the concerned person as a result of that abetment, is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for the offence under Section 306, IPC. [Paras 8, 10] [360-F-G; 359-B-H]

1.3. There is no nexus between the so-called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In prosecution under Section 306, IPC, much more material is required. The courts have to be extremely careful as the main person is not available for cross-examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the

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A appellant/accused to face the trial. The appellant, who is serving in a responsible post, would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. [Para 9] [360-B-E]

B *Netai Dutta v. State of W.B.* 2005 (2) SCC 659 – relied on.

2. It is trite law now that where there is some material alleged in the FIR, then such FIR and the ensuing proceedings should not be quashed under Section 482 Cr.P.C. However, in the instant case, insofar as Section 294(b) IPC is concerned, there was not a single word in the FIR or even in the so-called suicide note. Insofar as Section 306 IPC is concerned, merely because a person had a grudge against his superior officer and committed suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under Section 306 IPC. It will still fall short of a proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant/accused to the effect that he had intended or engineered the suicide of the concerned person by his acts, words etc. When the present FIR is put on this test, it falls short. The baseless and irrelevant allegations could not be used as a basis for prosecution for a serious offence under Section 306 IPC. Similarly, after considering Section 294 (b) IPC also, nothing has been found. Under such circumstances, where the FIR itself does not have any material or is not capable of being viewed as having material for offence under Sections 306 and 294(b) IPC, it would be only proper to quash the FIR and the further proceedings. The High Court erred in not quashing the proceedings. The petition filed by the appellant under s.482 CrPC is allowed. [Paras 11, 12] [360-H; 361-A-G]

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State of Haryana & Ors. v. Bhajan Lal & Ors. 1992 Suppl. 1 SCC 335 – relied on. A

Case Law Reference:

2005 (2) SCC 659 relied on Para 9

1992 Suppl.1 SCC 335 relied on Para 12 B

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1291 of 2008.

WITH C

CRL. MP No. 12749 of 2008.

From the Judgment & Order dated 08.07.2008 of the High Court of Gujarat in Crl. Misc. App. No. 5086 of 2008.

K.T.S. Tulsi, Priyanka Agarwal, Niraj Gupta, Hemantika Wahi,, Nachiketa Joshi (for Minakshi Vij) for the appearing parties. D

The Judgment of the Court was delivered by E

V.S. SIRPURKAR, J. 1. The accused who faces prosecution for offences under Section 306 and 294(b) of the Indian Penal Code (IPC) comes up before us being aggrieved by the High Court judgment by which his petition under Section 482 Cr.P.C. was dismissed. In that petition the accused/ appellant had challenged the First Information Report (FIR) registered as C.R. No. 166 of 2008 at Naranpura Police Station. F

2. The said FIR is a long document which has been filed by one Harshida Ben, widow of Deepakbhai Krishnalal Joshi. It is apparent from the said report that she was married to Deepakbhai Krishnalal Joshi serving in Ahmedabad Bharat Sanchar Nigam Ltd. as a driver in the Microwave Project Department. He had undergone a heart bypass surgery in the G H

A year 2002 and he was asked by the doctor to avoid lifting heavy weights. She further stated that the appellant, Madan Mohan Singh was working as a D.E.T. and her husband who was driving a Tata Sumo car was working under Madan Mohan Singh (accused herein). She then complained that Madan Mohan Singh used to tell his private errands to her husband and was harassing him. Though Madan Mohan Singh was transferred, yet he kept on continuously using her husband. In the year 2007, Madam Mohan Singh came back on transfer in the Microwave Project as D.E.T. It is alleged that on the day when Madan Mohan Singh joined, he told her husband to keep the keys of the vehicle on the table. However, according to her, her husband did not listen to that and took back the key on account of which Madan Mohan Singh had become angry and had threatened her husband of suspending him. He also rebuked her husband that if he did not listen to him, he would create difficulties for her husband. Madan Mohan Singh said to her husband as how he is still alive inspite of the insults. It is then contended that on 21.2.2008, her husband left at 10'O Clock as per rules with tiffin but did not return back in the evening and, therefore, his search was taken by his son Jatin from his colleagues like Raji Saheb and his absence was reported to the police on 22.2.2008 and 23.2.2008. Ultimately, she came to know that her husband's body was lying in the dead condition in the vehicle No. GJ 1 G 3472 at Kiran Park opposite Gayatri Hospital, New Vadaj. She also suggested further that a telephone call had come from Gujarat High Court informing her that there was a Xerox copy of the suicide note. Lastly, it is stated that during the period between 2003 to 21.2.2008 the Head of the department D.E.T. Project was entrusting his house work to her husband but her husband had not done the work entrusted to him and, therefore, he had bias against her husband and insulted him in front of the staff several times and because of this her husband got depressed and committed suicide.

H 3. This First Information Report was filed and registered

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on 17.3.2008 i.e. after the 24 days of the death of her husband. It is this report which is challenged suggesting that even if the whole report is accepted as it is, it did not disclose any offence much less the offences under Sections 306 and 294, IPC. Since, the Gujarat High Court did not agree and dismissed the petition; the appellant is before us now.

4. Shri K.T.S. Tulsi, learned Senior Advocate took us through the FIR in which there is reference to a suicide note allegedly written by the deceased, a Xerox copy of which was produced by the complainant. The copy of that suicide note was filed before us. It seems to be a letter dated 4.2.2008 written to the Chief General Manager, Telecom Project. It is a huge complaint in which the incident dated 15.10.2007 was mentioned when allegedly the appellant asked the driver to keep the keys of the vehicle on the table and not to take away them. There is also a complaint against the working style of the Madan Mohan Singh by the driver. There is one significant sentence *I was put under mental tension by M.M. Singh. Without any concrete proof and evidence I was put under insulting position due to which I began to feel resentment and insult and I came under depression.*

5. The further complaint in that so-called suicide note appears to be that the driver was not given a fixed vehicle though all the drivers were given fixed vehicles to drive. There is also a complaint against one Raghunathan suggesting that he misled the DGM and had given him a very bad vehicle to drive. By way of example, it was pointed out that the keys of the vehicle were taken in the absence of Incharge, M.K. Sovangya without giving any reasons verbally. Then he was not given any charge of the vehicle and running log book. Thirdly, he was sent the transfer order by post. The attendance of the office staff was not maintained and he was transferred and the vehicle was given to a regular labour. There is also a complaint about the salary of 15 days which was deducted by Madan Mohan Singh. A fair inquiry was sought for by the said driver. It

A was suggested that his retirement date was 25.12.2012 and salary should be recovered from Madan Mohan Singh as he had harassed him without giving any concrete reason. It is then suggested in the followings words:

B I am going to commit suicide due to his functioning style. Alone M.M. Singh, D.E.T. Microwave Project is responsible for my death. I pray humbly to the officers of the department that you should not cooperate as human being to defend M.M. Singh. M.M. Singh has acted in breach of discipline disregarding the norms of discipline. I humbly request the Enquiry Officer that my wife and son may not be harassed. My life has been ruined by M.M. Singh.”

D 6. This huge note is addressed to inquiry officer, Chief General Manager and also to the Chief Justice. The biggest complaint against the accused is that he had changed the duty of this driver from one car to another though no other driver was ever transferred. Again and again, the deceased has insisted that the only person responsible for his suicide was Madan Mohan Singh.

F 7. We have gone through the suicide note though it is not yet on record. Shri Tulsi pointed out that even if this suicide note is accepted as it is, along with the FIR, no ingredients of Sections 306 and 294 (b), IPC could be spelt out from the same. We have gone through the whole FIR as well as the so-called suicide note which seems to have been signed on 4.2.2008 wherein he had complained about the stale incidents dated 15.10.2007 to 19.10.2007. It seems that it is 17 days after that, that he was found dead 23.2.2008. It is claimed by his wife Harshida Ben that she got a call from the Gujarat High Court informing her that a suicide note was found and that she should search for such note in her house subsequent to which she claimed to have found the suicide note bearing the signature of the deceased, thus bringing the origin of alleged suicide note under the cloud of suspicion.

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8. It is on this that Shri Tulsi contended that all this is absolutely absurd. If a person writes a suicide note on 4.2.2008, he had no business to send the suicide note to High Court and keep a copy thereof in the house. Learned Senior Counsel said that even if all this is accepted as it is, there is nothing to suggest that the appellant has committed any offence or that any offence could be spelt out from the said suicide note or the FIR much less offence under Sections 306 and 294, IPC. We are convinced that there is absolutely nothing in this suicide note or the FIR which would even distantly be viewed as an offence much less under Section 306, IPC. We could not find anything in the FIR or in the so-called suicide note which could be suggested as abetment to commit suicide. In such matters there must be an allegation that the accused had instigated the deceased to commit suicide or secondly, had engaged with some other person in a conspiracy and lastly, that the accused had in any way aided any act or illegal omission to bring about the suicide. In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide note, it cannot be said that the accused ever intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this. In order to bring out an offence under Section 306, IPC specific abetment as contemplated by Section 107, IPC on the part of the accused with an intention to bring out the suicide of the concerned person as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306, IPC. We are of the clear opinion that there

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A is no question of there being any material for offence under Section 306, IPC either in the FIR or in the so-called suicide note.

B 9. It is absurd to even think that a superior officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Section 306, IPC, much more material is required. The Courts have to be extremely careful as the main person is not available for cross-examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant/accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in *Netaji Dutta Vs. State of W.B.* [2005 (2) SCC 659], this Court had quashed the proceedings initiated against the accused.

F 10. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are allowed to continue on such basis, it will be difficult for every superior officer even to work.

H 11. It was tried to be contended by the learned counsel appearing on behalf of the complainant that at this stage, we should not go into the merits of the FIR or the said suicide note. It is trite law now that where there is some material alleged in

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the FIR, then such FIR and the ensuing proceedings should not be quashed under Section 482 Cr.P.C. It is for this reason that we very closely examined the FIR to see whether it amounts to a proper complaint for the offence under Sections 306 and 294(b) IPC. Insofar as Section 294(b) IPC is concerned, we could not find a single word in the FIR or even in the so-called suicide note. Insofar as Section 306 IPC is concerned, even at the cost of repetition, we may say that merely because a person had a grudge against his superior officer and committed suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under Section 306 IPC. It will still fall short of a proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant/accused to the effect that he had intended or engineered the suicide of the concerned person by his acts, words etc. When we put the present FIR on this test, it falls short. We have already explained that the baseless and irrelevant allegations could not be used as a basis for prosecution for a serious offence under Section 306 IPC. Similarly, we have already considered Section 294 (b) IPC also. We have not been able to find anything. Under such circumstances, where the FIR itself does not have any material or is not capable of being viewed as having material for offence under Sections 306 and 294(b) IPC, as per the law laid down by this Court in *State of Haryana & Ors. Vs. Bhajan Lal & Ors.* [1992 Suppl. 1 SCC 335], it would be only proper to quash the FIR and the further proceedings.

12. For all these reasons, we are of the clear opinion that the High Court erred in not quashing the proceedings. Allowing this appeal, we set aside the order of the High Court and allowing the petition under Section 482 Cr.P.C. filed by the appellant/accused, the questioned proceedings are quashed.

B.B.B

Appeal allowed.