

Manoj Vs State Of Chhattisgarh, Through The District Magistrate

Court: Chhattisgarh High Court

Date of Decision: Nov. 5, 2020

Acts Referred: Indian Penal Code, 1860 " Section 34, 107, 306
 Code Of Criminal Procedure, 1973 " Section 313, 437

Hon'ble Judges: Gautam Chourdiya, J

Bench: Single Bench

Advocate: Sunil Sahu, Rahul Jha

Final Decision: Allowed

Judgement

Conviction,Sentence

Under Section 306 of Indian Penal Code (for short

'IPC')", "R.I. for three years and pay a fine of Rs.100/-, in

default of payment to further undergo R.I. for

seven days

12. Now this Court has to see whether the harassment meted out by the appellant to the deceased was of such a nature tantamounting to abetment as,

defined under Section 107 of IPC leaving the deceased with no other option except to put an end to her life by committing suicide.,

13. In order to bring home the charge under Section 306 of IPC against the accused, the prosecution is first required to prove that there was abetment",

on the part of the accused as defined under Section 107 of IPC which compelled the deceased to commit suicide. Section 107 of IPC reads as under:-,

“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 any 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."

14. It is observed by the Supreme Court in Gangula Mohan Reddy v. State of Andhra Pradesh, AIR 2010 SC 327 as under:",

"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 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.Ã¢â¬â¢,

15. In M. Mohan v. State Represented By The Deputy Superintendent of Police, (2011) 3 SCC 626, the Supreme Court, by the following observation,"

has clearly held that in order to convict a person under Section 306 IPC there has to be clear mens rea to commit the offence;

Ã¢â¬â¢45. The intention of the legislature and the ratio of the cases decided by this Court are 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/she committed suicide.Ã¢â¬â¢,

16. PW-1 Beniram has stated that the mother of the deceased told him that the deceased was complaining of pain in her stomach and the treatment,

was going on and he has no knowledge about dispute between the appellant and the deceased. PW-1 admitted in para-8 that deceased never,

complained against the appellant regarding any dispute with her in her lifetime.,

17. PW-2 Rajesh has admitted in para-5 that he had never seen any dispute between the appellant and the deceased, nor the deceased had",

complained that the appellant and co-accused were harassing or beating her.,

18. PW-3 Pavitra Satnami and PW-4 Jamuna Bai, father and mother of the deceased, have stated that appellant Manoj was having a good relation",

with the deceased and both were living very well and happily. PW-3 has admitted in para-7 that the deceased had never complained against the,

appellant.,

19. PW-5 Dhansingh has admitted in para-6 that the deceased had never stated that she was upset on account of quarrel committed by her husband,

(appellant) and co-accused (father-in-law) with her.,

20. PW-7 Ariflal Pathak, SDM, has only prepared the inquest report in presence of witnesses and he has stated in his deposition that when he asked",

about the death of the deceased from the witnesses, they stated that husband and father-in-law of the deceased were habitual to liquor and both of",

them used to quarrel with each other. Whenever the deceased intervened in the dispute between the appellant and his father (co-accused), they used",

to quarrel with the deceased and that the appellant used to beat the deceased. Both appellant and co-accused were suspecting the character of the,

deceased.,

21. Therefore, in view of the above evidence, it is clear that PW-1, PW-2, PW-3, PW-4 and PW-5 have not supported the prosecution case and they",

have been declared hostile by the prosecution and the evidence of PW-7 has no value at this stage.,

22. In the instant case, the death of deceased Kavita Mehar admittedly took place within four years of her marriage, but there is no direct evidence",

against the appellant that he was treating the deceased with cruelty except that the appellant was habitual to consume liquor, he used to quarrel with",

the deceased and suspect her character. Therefore, it cannot be said that the appellant had treated his wife (deceased) with cruelty and abetted her to",

commit suicide. However, from close scrutiny of the entire evidence oral and documentary available on record, this Court finds that there was no",

instigation or intention or mens rea on the part of the accused/appellant constituting abetment as defined under 107 of IPC leaving the deceased with,

no other option but to embrace death. As such the ingredients necessary for attracting for the offence under Section 306 of IPC are missing in this,

case. Though the manner in which the incident occurred raises suspicion against the appellant but it is well settled principle of law that graver the,

offence is, higher is the degree of proof and the suspicion howsoever strong, cannot take the place of proof. In this case, the prosecution has failed to",

prove guilt of the appellant beyond all reasonable doubt and being so, the benefit of doubt has to be credited to the appellant, thereby entitling him for",

acquittal of the charge.,

23. On the basis of aforesaid discussions, keeping in view the above cited judgments of the Hon'ble Supreme Court, the conviction of the appellant",

under Section 306 of IPC cannot be sustained in the absence of any evidence to show that the deceased committed suicide because of abetment,

given by the appellant. Hence, the conviction of the appellant under Section 306 of IPC is liable to be set aside and he is entitled to be acquitted of the",

said charge.,

24. In the result, the appeal is allowed. Conviction and sentence imposed on the appellant under Section 306 of IPC are set aside and he is acquitted",

of the said charge. The appellant is reported to be on bail, therefore, his bail bonds shall remain in force for a period of six months from today in view",

of the provisions of Section 437 of Cr.P.C.,