Laxmi Das Vs State Of West Bengal & Ors

Court: Supreme Court Of India

Date of Decision: Jan. 21, 2025

Acts Referred: Code of Criminal Procedure, 1973 â€" Section 227
Indian Penal Code, 1860 â€" Section 34, 109, 306

Hon'ble Judges: B. V. Nagarathna, J; Satish Chandra Sharma, J

Bench: Division Bench

Advocate: Kunal Chatterji, Maitrayee Banerjee, Rohit Bansal, Mrinalini Mukherjee, Sanjeev Kaushik, Astha Sharma, Simranjeet Singh Rekhi, Shriya Mishra, M/S. PLR Chambers And Co., Subhasish Bhowmick, Manisha Pandey, Rahul Kushwaha, Shubhankar, M.k Rathor, Reegan S Bel, Pranshu Kaushal, Rakesh Kumar Tiwari

Final Decision: Allowed

Judgement

Satish Chandra Sharma, J

1. This appeal is preferred by the accused Appellant-Smt. Laxmi Das challenging the impugned order dated 13.06.2014 passed by the High Court at

Calcutta in Criminal Revisional Application, being CRR No. 1560 of 2012, along with an application for quashing, being CRAN No. 1946 of 2013. By

this order, the High Court has quashed the chargesheet as only against Dilip Das/Accused No. 3 and Subrata Das/Accused No. 2, while rejecting the

application preferred by the Appellant/Accused No. 4.

2. The facts germane to the present dispute are summarised as below:

2.1 Appellant is the mother of Babu Das/Accused No. 1, who was allegedly in a love affair with the deceased, Souma Pal. Dilip Das and Subrata Das

are the father and elder brother of Babu Das respectively (hereinafter collectively Ã¢â‚¬Å“the accusedÃ¢â‚¬). All four were initially accused of abetment of

suicide and charged under Sections 306 read with 34 of the Indian Penal Code, 1860 (hereinafter Ã¢â‚¬Å“IPCÃ¢â‚¬â€‹)

2.2Ã, Ã, OnÃ, 03.07.2008Ã, anÃ, unnaturalÃ, deathÃ, cameÃ, toÃ, be registered as the deceased was found dead in the placeÃ, betweenÃ, theÃ,

GariaÃ, RailwayÃ, StationÃ, and NarendrapurÃ, RailwayÃ, Station.Ã, ConsequentlyÃ, on 06.07.2008,Ã, anÃ, FIRÃ, cameÃ, toÃ, beÃ, filedÃ,

byÃ, the deceasedÃ¢â‚¬â„¢s uncle/Complainant alleging abetment of suicideÃ, againstÃ, theÃ, accused.Ã, TheÃ, Complainant alleged that the

deceasedÃ¢â‚¬â„¢s family was unhappy with the love affair between Babu Das and the deceased, and wanted her to focus on her studies. On account

ofÃ, this,Ã, theyÃ, requestedÃ, BabuÃ, DasÃ, andÃ, theÃ, other accused persons to help them put an end to the same, which they refused to do. It

is further alleged that the accused persons refused to cooperate in finding the deceased when she went missing.

2.3 Accordingly, a chargesheet came to be filed against the accused under Sections 306 and 109 read with 34 of the IPC. The investigation revealed

that about three to four years before the incident, the love affair between the deceased and Babu Das began. The deceasedÃ¢â‚¬â„¢s parents were

against the relationship and tried several times to break it off, while the accused persons encouraged the same. The post mortem report disclosed that

the death was caused by the effect of injuries on impact due to jumping in front of a train.

2.4 Several neighbours were examined, and accordingly their statements have come on record. The witnesses allege that a few days prior to the

incident there were altercations between the deceased and Babu Das, who refused to marry her. The allegation against the Appellant herein is that

she disapproved of her son/Babu Das marrying the deceased and insulted the deceased on account of the same.

3. After filing of the chargesheet, the accused persons preferred an application for discharge under Section 227 of the Code of Criminal Procedure,

1973 (hereinafter Ã¢â‚¬Å“CrPCÃ¢â‚¬) before the Trial Court. On 22.03.2012, the Trial Court rejected the application. Aggrieved, the Appellant along with

Dilip Das and Subrata Das preferred a revisional and a quashing application before the High Court at Calcutta. The High Court, vide the impugnedÃ,

order,Ã, dismissedÃ, theÃ, applicationÃ, preferredÃ, byÃ, the Appellant and refused to entertain the revision petition and the quashing application

qua her. However, the High Court allowed the quashing application preferred by Dilip Das and Subrata Das on the ground that there are no specific

allegations against them in the evidence on record. The operative part of the impugned order is as follows:

Ã¢â‚¬Å“So far as the petitioner no. 3 (the Appellant) is concerned I find there are prima facie materials against her. According to the witness Rejina Khatoon she was

told by the deceased Souma that when Souma told Babu and his mother, the petitioner no. 3 herein that she could not survive without Babu they told her that she

need not be alive and might die. Having regard to such statement there is nothing wrong in framing charge against her for an offence under Section 306 IPCÃ¢â‚¬â€‹

4. The primary ground taken by the Appellant is that the Appellant has committed no act against the deceased so as to instigate her to commit suicide.

In fact, even if the allegations of the Appellant disapproving of their marriage are taken to be true, it does not make out an offense under Section 306

IPC. Thus, the Appellant states that all allegations are frivolous and she had no role to play in the suicide.

5. On the other hand, the counsel for the respondent/State as well as the respondent/complainant submitted that there is a case made out against the

Appellant under Section 306 IPC from the evidence on record and the High Court has rightly dismissed the petition qua the Appellant.

6. We have carefully perused the record and heard the Learned counsels for the Appellant, the State and the Complainant.

7. Section 306 IPC is reproduced below for ready reference:

Ã¢â‚¬Å“306. Abetment of suicide. Ã¢â‚¬" If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either

description for a term which may extend to ten years, and shall also be liable to fine.Ã¢â‚¬â€‹

We must read Section 306 IPC with Section 107 IPC which defines Ã¢â‚¬ËœAbetmentÃ¢â‚¬â„¢; and it reads as below:

Ã¢â‚¬Å“107. Abetment of a thing. Ã¢â‚¬" A person abets the doing of a thing, whoÃ¢â‚¬

First.Ã¢â‚¬"Instigates any person to do that thing; or Secondly.Ã¢â‚¬"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.Ã¢â‚¬"Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.Ã¢â‚¬"A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or

procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.Ã¢â‚¬"Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby

facilitates the commission thereof, is said to aid the doing of that act.Ã¢â‚¬â€‹

8. When Section 306 IPC is read with Section 107 IPC, it is clear that there must be (i) direct or indirect instigation; (ii) in close proximity to the

commission of suicide; along with (iii) clear mens rea to abet the commission of suicide.

9. The Appellant has placed strong reliance upon the judgement in Rohini Sudarshan Gangurde v. State of Maharashtra and Another 2024 SCC

OnLine SC 1701, wherein this Court has interpreted Sections 306 and 107 IPC together and observed:

Ã¢â‚¬Å“8. Reading these sections together would indicate that there must be either an instigation, or an engagement or intentional aid to Ã¢â‚¬Ëœdoing of a thingÃ¢â‚¬â„¢.

When we apply these three criteria to Section 306, it means that the accused must have encouraged the person to commit suicide or engaged in conspiracy with

others to encourage the person to commit suicide or acted (or failed to act) intentionally to aid the person to commit suicide.

Ã¢â‚¬Â¦

13. After carefully considering the facts and evidence recorded by the courts below and the legal position established through statutory and judicial

pronouncements, we are of the view that there is no proximate link between the marital dispute in the marriage of deceased with appellant and the commission of

suicide. The prosecution has failed to collect any evidence to substantiate the allegations against the appellant. The appellant has not played any active role or

any positive or direct act to instigate or aid the deceased in committing suicide. Neither the statement of the complainant nor that of the colleagues of the

deceased as recorded by the Investigating Officer during investigation suggest any kind of instigation by the appellant to abet the commission of suicide. There is

no allegation against the appellant of suggesting the deceased to commit suicide at any time prior to the commission of suicide by her husband.Ã¢â‚¬‹

10. In Prakash and Others v. The State of Maharashtra and Another 2024 INSC 1020, this Court has further interpreted the offence as below:

Ã¢â‚¬Å“13. Section 306 of the IPC has two basic ingredients-first, an act of suicide by one person and second, the abetment to the said act by another person(s). In

order to sustain a charge under Section 306 of the IPC, it must necessarily be proved that the accused person has contributed to the suicide by the deceased by

some direct or indirect act. To prove such contribution or involvement, one of the three conditions outlined in Section 107 of the IPC has to be satisfied.

14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well-established. To attract the offence of abetment to

suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the

commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim

in such a position that he/she would have no other option but to commit suicide.Ã¢â‚¬‹

11. At this juncture, it is pertinent to refer to cases that define the act of Ã¢â‚¬Ëœinstigation Ã¢â‚¬â„¢. Accordingly, in Ramesh Kumar v. State of Chhattisgarh

(2001) 9 SCC 618, this Court observed:

Ã¢â‚¬Å“20. Instigation is to goad, urge forward, provoke, incite or encourage to do Ã¢â‚¬Å“an actÃ¢â‚¬. To satisfy the requirement of instigation though it is not necessary

that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable

certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a

continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation

may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.Ã¢â‚¬‹

12. Reliance is to be placed upon Pawan Kumar v. State of Himachal Pradesh (2017) 7 SCC 780, wherein the Supreme Court held:

Ã¢â‚¬Å“43. Keeping in view the aforesaid legal position, we are required to address whether there has been abetment in committing suicide. Be it clearly stated that

mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a

conviction in terms of Section 306 IPC is not sustainable. A casual remark that is likely to cause harassment in ordinary course of things will not come within the

purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for

the victim to put an end to life.Ã¢â‚¬â€‹

13. Upon a perusal of several aforementioned judicial pronouncements, we find ourselves unable to agree with the High Court and Trial Court. Even if

all evidence on record, including the chargesheet and the witness statements, are taken to be correct, there is not an iota of evidence against the

Appellant. We find that the acts of the Appellant are too remote and indirect to constitute the offense under Section 306 IPC. There is no allegation

against the Appellant of a nature that the deceased was left with no alternative but to commit the unfortunate act of committing suicide.

14. It is discerned from the record that the Appellant along with her family did not attempt to put any pressure on the deceased to end the relationship

between her and Babu Das. In fact, it was the deceasedÃ¢â‚¬â„¢s family that was unhappy with the relationship. Even if the Appellant expressed her

disapproval towards the marriage of Babu Das and the deceased, it does not rise to the level of direct or indirect instigation of abetting suicide.

Further, a remark such as asking the deceased to not be alive if she cannot live without marrying her lover will also not gain the status of abetment.

There needs to be a positive act that creates an environment where the deceased is pushed to an edge in order to sustain the charge of Section 306

IPC.

15. Accordingly, the impugned order is partly set aside to the extent that the charges against the Appellant herein were upheld by the High Court.

Accordingly, the proceedings in SC Case No. 5(8)10 of 2011 pending on the file of the learned Additional District Judge, Sealdah stands quashed qua

the Appellant/Smt. Laxmi Das only. We clarify that the present case is only confined to the Appellant/Smt. Laxmi Das, and the Trial Court is free to

proceed against the other accused person i.e. accused Babu Das in accordance with law.

16. The appeal is, accordingly, allowed.