ABC 2019 (I) 152 SC
ACQUITTAL & BAIL CASES

SUPREME COURT OF INDIA

(R. Banumathi & Indira Banerjee, JJ.)

Criminal Appeal No(s). 1550 of 2018
(Arising out of SLP(Crl.)No.382 of 2016)
(From Madras High Court)
Decided on 4 December, 2018

M. ARJUNAN ***- Appellant(s).***

Versus

THE STATE REP. BY ITS INSPECTOR OF POLICE - Respondent(s).

Law Covered:- ***(A) Indian Penal Code, 1860 — Section 306 — Abetment to suicide — Suicide note & Oral evidence — Prosecution based on — Held, the suicide note only shows that the deceased was subjected to pressure for payment and was facing the financial difficulty — nothing to indicate that there was instigation by the appellant-accused — Considered view — not sufficient evidence to establish that the suicide was directly linked to the instigation or abetment — Acquittal. (Para 7 & 9)***

(B) Indian Penal Code, 1860 — Section 306 — Abetment to suicide — Essential ingredients — (i) the abetment — (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. (Para 8)

(C) Indian Penal Code, 1860 — Section 306 — Abetment to suicide — Committing suicide due to use of abusive language by accused — Allegation of —Held, there should be evidence capable of suggesting that the accused intended by act to instigate the deceased to commit suicide — The act of the accused insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. (Para 8)

Facts:- *The case of the prosecution is that the appellant-accused advanced a sum of `.80,000/- by way of debt to the deceased and to that effect he obtained a promissory note. The appellant-accused demanded Rs.50,000/- towards the interest and another Rs.50,000/- towards principal amount. In the presence of some witnesses, the deceased stated that he would discharge the entire loan amount; but he was not able to keep up his promise. Due to the alleged torture by the appellant-accused, the deceased committed suicide*

and left suicide note stating that he is unable to repay the loan and taking the extreme step.

Upon consideration of oral evidence and suicide note the Trial Court convicted and sentenced the accused u/s 306 I.P.C. which was upheld by the High Court however, reducing the sentence imposed. Honourable Apex Court acquitted the accused.

Law of relief:- ***The act of the accused insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide.***

Held:- On perusal of suicide note (M.O.1), it is seen that in M.O.1 the deceased has written about the financial difficulties faced by him and his inability to meet the financial crunch and also his inability to repay the same. The tenor of M.O.1 only shows that the deceased was subjected to pressure for payment and was facing the financial difficulty. In M.O.1 (letter) there is nothing to indicate that there was instigation by the appellant-accused which had driven the deceased to take the extreme step of committing suicide. (Para-7)

The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C. (Para-8)

Counsel:- ***For Appellant(s):*** *Mr. Vikash Singh, Adv.*

For Respondent(s): *Mr. M. Yogesh Kanna, Adv.*

JUDGMENT

BANUMATHI, J.: - 1. Leave granted.

2. This appeal arises out of judgment of the High Court of Judicature at Madras in Criminal Appeal No.375 of 2007 dated 7 th September, 2015 in and by which the High Court affirmed the conviction of the appellant-accused under Section 306 I.P.C. and reduced the sentence of imprisonment of the appellant from three years to three months.

February 2019

3. Case of the prosecution is that on 2nd December, 2001, the appellant-accused advanced a sum of Rs.80,000/- by way of debt to the deceased, by name – Rajagopal, and to that effect he obtained a promissory note. On 7 th December, 2002, the appellant-accused demanded Rs.50,000/- towards the interest and another Rs.50,000/- towards principal amount. On 21st June, 2003, in the presence of some witnesses, the deceased stated that he would discharge the entire loan amount; but he was not able to keep up his promise. Due to the alleged torture by the appellant-accused, on 21st June, 2003 at about 11:50 p.m. the deceased committed suicide. The deceased is said to have left suicide note (M.O.1) stating that he is unable to repay the loan and taking the extreme step.

4. Upon consideration of oral evidence and suicide note (M.O.1), the Trial Court held that the prosecution has established the guilt of the accused under Section 306 I.P.C. and sentenced him to undergo rigorous imprisonment for three years and also imposed fine of Rs.500/-.

5. In the appeal filed by the appellant-accused, the High Court held that the receipt of money and the execution of the promissory note and the alleged torture committed by the appellant has been proved by the prosecution. Referring to the evidence of PW-1 to PW-5, who are the wife, daughters and the sons of the deceased, and also suicide note (M.O.1), the High Court has held that the prosecution has clearly established the guilt of the appellant-accused under Section 306 I.P.C. and on those findings affirmed the conviction of the appellant- accused; but reduced the sentence of imprisonment, as aforesaid in para '2'.

6. We have heard Mr. S. Hari Haran, learned counsel appearing for the appellant, and Mr. M. Yogesh Kanna, learned counsel appearing for the respondent-State of Tamil Nadu and also perused the impugned judgment and the evidence/materials on record.

7. As pointed out by the High Court, of course PW-1 to PW-5 have spoken about the borrowing of money by the deceased and also the execution of the promissory note. The sheet anchor of the prosecution's case to prove the guilt of the accused is the suicide note (M.O.1)-written by the deceased. On perusal of suicide note (M.O.1), it is seen that in M.O.1 the deceased has written about the financial difficulties faced by him and his inability to meet the financial crunch

and also his inability to repay the same. The tenor of M.O.1 only shows that the deceased was subjected to pressure for payment and was facing the financial difficulty. In M.O.1 (letter) there is nothing to indicate that there was instigation by the appellant-accused which had driven the deceased to take the extreme step of committing suicide.

8. The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C.

9. In our considered view, in the case at hand, M.O.1-letter and the oral evidence of PW-1 to PW-5, would not be sufficient to establish that the suicide by the deceased was directly linked to the instigation or abetment by the appellant- deceased. Having advanced the money to the deceased, the appellant-accused might have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 I.P.C. From the evidence brought on record and in the facts and circumstances of the case, in our view the ingredients of Section 306 I.P.C. are not established and the conviction of the appellant-accused under Section 306 I.P.C. cannot be sustained.

10. In the result, the impugned order is set aside and the appeal is allowed.

Result:- Appeal allowed.
