



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 566 OF 2020

BETWEEN:

THIMMARAJU

...PETITIONER

(BY SRI. RAGHAVENDRA GOWDA K., ADVOCATE)

AND:

THE STATE OF KARNATAKA
REPRESENTED BY SUB - INSPECTOR OF POLICE,
KALLAMBELLA POLICE STATION,
SIRA, TUMKUR.

REPRESENTED BY ITS S.P.P.,
KARNATAKA HIGH COURT BUILDINGS,
HIGH COURT,
BENGALURU - 560 001.

...RESPONDENT

(BY SMT. K.P.YASHODA, HCGP FOR R-1)



THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C. BY THE ADVOCATE FOR THE PETITIONER PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.34/2017 FOR THE OFFENCE PUNISHABLE UNDER SECTION 498(A) AND 306 R/W 34 OF IPC, PENDING ON THE FILE OF PRINCIPAL CIVIL JUDGE AND J.M.F.C., SIRA, TUMAKURU AND ETC.,

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court calling in question the proceedings in C.C.No.34 of 2017 registered for the offence punishable under Sections 498(A), 306 read with 34 of the Indian Penal Code.

2. Brief facts as projected by the prosecution are as follows:

A complaint comes to be registered by the mother of the deceased, wife of accused No.1 alleging that petitioner and accused No.1 are responsible for her death. Against accused No.1, the husband, the offence under Section 498(A) of IPC is laid and against the petitioner, the offence under Section 306 of IPC - abatement to suicide is laid. The police after investigation filed a charge-sheet for the



afore-quoted offences against both the accused. Filing of the charge-sheet against the petitioner for offence punishable under Sections 498(A) and 306 of IPC is what drives the petitioner to this Court in the subject petition.

3. Heard the learned counsel appearing for the petitioner and also the learned HCGP appearing for Respondent No.1.

4. The learned counsel representing the petitioner would submit that a perusal at the complaint or the summary of the charge-sheet would not indicate any ingredients of the offence punishable under Sections 306 of the IPC, which alone can be laid against the petitioner as the petitioner is the friend of the husband of the deceased. Therefore, the offence under Section 498(A) of IPC cannot even get attracted against the petitioner and for the offence punishable under Section 306 of IPC, there are no ingredients and therefore, seeks quashment of the entire proceedings.



5. The complainant though served on 07.06.2020 remains unrepresented.

6. The learned HCGP seeks to refute the submission of the learned counsel for the petitioner seeking to contend that the offence alleged is grave as it is the one punishable under Sections 306 of IPC and therefore, the petitioner has to come out clean in the trial. She would seek dismissal of the petition.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The issue that leads to registration of a crime is a complaint registered by the second respondent, the mother of the deceased. The deceased is the wife of accused No.1, the husband who is not before the Court. The complaint runs as follows:

“ಕಳ್ಳಂಬೆಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣಾ ಸಬ್‌ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ರವರಿಗೆ



ತುರುವೇಕರೆ ತಾಲ್ಲೂಕು ದಂಡಿನಶಿವರ ಹೋಬಳಿ, ಸಂಪಿಗೆ ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ, ಕುರುಬ ಜನಾಂಗದ, ಗಾರ್ಮೆಂಟ್‌ನಲ್ಲಿ ಕೆಲಸ ಮಾಡುವ ಸುಮಾರು 48 ವರ್ಷ ವಯಸ್ಸಿನ ನಾಗರಾಜುರವರ ಹೆಂಡತಿ ಸರೋಜ ಆದ ನಾನು ಟೈಪ್ ಮಾಡಿಸಿ ಕೊಟ್ಟ ದೂರು, ಏನಂದರೆ ನಮಗೆ ಇಬ್ಬರು ಹೆಣ್ಣುಮಕ್ಕಳಿದ್ದು, ಮೊದಲನೇ ಮಗಳು, ನಾಗರತ್ನ, ಈಕೆಯನ್ನು ಚಿಕ್ಕನಾಯಕನಹಳ್ಳಿ ವಾಸಿ ಆನಂದರವರಿಗೆ ಕೊಟ್ಟು ಮದುವೆ ಮಾಡಿದ್ದು ಅವರಿಗೆ ಇಬ್ಬರು ಹೆಣ್ಣು ಮಕ್ಕಳರುತ್ತಾರೆ. 2 ನೇ ಮಗಳು ಸುಧಾರಾಣಿ @ ಬೇಟಿ ಆಗಿದ್ದು ಈಕೆಯನ್ನು ಶಿಲಾ ತಾಲ್ಲೂಕು, ಕಳ್ಳಂಬೆಳ್ಳಿ ಹೋಬಳಿ, ಕಾಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ ವಾಸಿ ಅಂಜನಪ್ಪರವರ 2 ನೇ ಮಗ ಜಗದೀಶ ಎಂಬವನಿಗೆ ಈಗ್ಗೆ 11 ವರ್ಷಗಳ ಹಿಂದೆ ಕೊಟ್ಟು ಮದುವೆ ನನ್ನ ಅಳಿಯ ಮಗಳು ಮದುವೆಯಾದ ಸ್ವಲ್ಪ ವರ್ಷ ಕಾಳೇನಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಿದ್ದು, ಇವರಿಗೆ ಜೀವನ್ ಎಂಬ 10 ವರ್ಷದ ಮಗನಿದ್ದಾನೆ. ನನ್ನ ಆಳಿಯನಿಗೆ ಮೊದಲನಿಂದನೂ ನನ್ನ ಮಗಳು ಯಾರೊಂದಿಗಾದರೂ ಮಾತನಾಡಿದರೆ ಅನುಮಾನ ಪಡುವುದು ಅವರೊಂದಿಗೆ ಸಂಬಂಧ ಕಲ್ಪಿಸಿಕೊಂಡು ಆಕೆಯನ್ನು ಹೊಡೆಯುವುದು ಮಾನಸಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡುವುದು ಮಾಡುತ್ತಿದ್ದನು, ವಿಚಾರವಾಗಿ ನಾವು ಸಾಕಷ್ಟು ಬಾರಿ ನನ್ನ ಆಳಿಯನಿಗೆ ಬುದ್ಧಿ ಹೇಳಿದ್ದೆವು, ಆತನಿಗೆ ಮದ್ಯಪಾನ ಮಾಡುವ ಮತ್ತು ಇತರೆ ಕೆಟ್ಟ ಚಟಗಳನ್ನು ಯಾವಾಗಲೂ ಹಣಕ್ಕಾಗಿ ನನ್ನ ಮಗಳನ್ನು Hallo 21/1916 ಪೀಡಿಸುತ್ತಿದ್ದರಿಂದ ಮತ್ತು ಗ್ರಾಮದಲ್ಲ. ಅವರಿವರ ಮಾತು ಕೇಳಿ ನನ್ನ ಮಗಳ ಮೇಲೆ ಅನುಮಾನ ಪಡುತ್ತಿದ್ದರಿಂದ ನನ್ನ ಮಗಳು ಬೆಂಗಳೂರಿನಲ್ಲಿ ಏನಾದರೂ ಕೆಲಸ ಮಾಡೋ... ಎಂತ ನನ್ನ ಆಲಯ ಮಗನೊಂದಿಗೆ ಹೋಗಿದ್ದು, ೮ ವರ್ಷ ಬೆಂಗಳೂರಿನಲ್ಲಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿದ್ದರು, ನನ್ನ ಆಳಿಯ ಅಲ್ಲ ಕಟ್ಟವರ ಸಹವಾಸ ಮಾಡಿ ಕೆಟ್ಟ ಕೆಟ್ಟ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದರಿಂದ ಇದರಿಂದ ಮುಂದೆ ಮಗನ ಭವಿಷ್ಯ ಹಾಳಾಗುತ್ತಂತ ನನ್ನ ಮಗಳು ಈಗ್ಗೆ 1 ವರ್ಷದ ಹಿಂದೆ ಮತ್ತೆ ವಾಪಸ್ ಕಾಳೇನಹಳ್ಳಿಗೆ ಬಂದು ವಾಸವಿದ್ದರು, ಬಂದ ಮೇಲೂ ನನ್ನ ಆಯ ನನ್ನ ಮಗಳಿಗೆ ಕುಡಿದು ಬಂದು ಗಲಾಟೆ ಮಾಡುವುದು ಹಣ ಕೊಡು ಎಂತ ಪೀಡಿಸುವುದು ಮಾಡುತ್ತಿದ್ದನು, ಈ ಬಗ್ಗೆ ನಾವು ಸಾಕಷ್ಟು ಬಾರಿ ಬುದ್ಧಿ ಹೇಳಿ ತೀರ್ಮಾನ ಮಾಡಿದ್ದೆವು. ಈ ಮಧ್ಯೆ ಜಮೀನಿನಲ್ಲಿ ಪವರ್ ಲೈನ್ ಹಾಡು ಹೋದ ಹಣ 33 ಲಕ್ಷ ಬಂದಿದ್ದು ಈಹಣವನ್ನು ನನ್ನ ಅಳಿಯ ಮನೆಯಲ್ಲಿ ಯಾರಿಗೂ ಹೇಳದೇ ಕೇಳದೇ, ಖರ್ಚು ಮಾಡಿಕೊಂಡು ಉಳಿದ ಹಣವನ್ನು ಅದೇ ಗ್ರಾಮದ ಗೋವಿಂದಪ್ಪ, ಆತನ ಮಕ್ಕಳಾದ ತಿಮ್ಮರಾಜು ಮತ್ತು ರಂಗನಿಗೆ ಸಾಲವಾಗಿ ಕೊಟ್ಟಿದ್ದ, ನನ್ನ ಅಳಿಯನಿಗೆ ಕೆಟ್ಟ ಜನರ ಸಹವಾಸವಿದ್ದು ಏನೋ ಕೆಟ್ಟ ಕೆಲಸ ಮಾಡಿ ಹುಬ್ಬಳಿ ಪೊಲೀಸರಿಗೆ ಸಿಕ್ಕಿ: ಬಳ್ಳಾರಿ ಜೈಲಿನಲ್ಲಿ 3 ತಿಂಗಳು ಇದ್ದು ಈಗ್ಗೆ ಒಂದು ತಿಂಗಳ ಹಿಂದೆ ಮನೆಗೆ ಬಂದಿದ್ದ ದಿನಾಂಕ:19/10/2015 ರಂದು ಕಾಳೇನಹಳ್ಳಿ ಗ್ರಾಮಕ್ಕೆ ಕೊಟ್ಟಿರುವ ನನ್ನ ತಂಗಿಯಾದ ಮೀನಾಕ್ಷಮ್ಮ, ನನ್ನ ದೊಡ್ಡ ಅಳಿಯ ಆನಂದ ರವರಿಗೆ ಫೋನ್ ಮಾಡಿ ನಿನ್ನ ನಾದಿನಿ ಭೇಟಿ ರವರ ಗಂಡ ಜಗದೀಶ ತನಗೆ ಹಣ ಗೋವಿಂದಪ್ಪ ಮತ್ತು ಆತನ ಮಕ್ಕಳಿಗೆ ಕೊಟ್ಟಿದ್ದ ಹಣವನ್ನು ಕೇಳಲು ಹೋದಾಗ ಗೋವಿಂದಪ್ಪನ ಮಗ ತಿಮ್ಮರಾಜು ನಿನ್ನ



ಹೆಂಡತಿ ಸರಿ ಇಲ್ಲ ನಿನ್ನ ಮಗ ಯಾರಿಗೆ ಹುಟ್ಟಿದ್ದಾನೆಂತ ನಿನ್ನ ಹೆಂಡತಿಯನ್ನು ಕೇಳು ನಿನ್ನ ಹೆಂಡತಿ ಇನ್ನೂ ಬದುಕಿದ್ದಾಳೆ ಎಂದು ಬೈಯ್ಯು ನಿನ್ನ ಹೆಂಡತಿಯನ್ನು ಕರೆದುಕೊಂಡು ಬಾ ಹಣ ಕೊಡುತ್ತೇವೆ ಎಂದು ಹೇಳಿದಾಗ ಜಗದೀಶ ಮನೆಯ ಬಳಿ ಇದೇ ದಿನ ರಾತ್ರಿ 7- 30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಬಂದು ಬೇಜಿಗೆ ಬಾ ಗೋವಿಂದಪ್ಪನ ಮನೆ ಬಳಿ ಹೋಗಿ ಹಣ ಕೇಳೋಣ ನಿನ್ನ ಬಗ್ಗೆ ಇಲ್ಲ ಸಲ್ಲದಾಗಿ ಹೇಳಿ ಬೈಯ್ದಿರುತ್ತಾನೆ. ಎಂದು ಕರೆದಾಗ ಬೇಟೆ ಜಗದೀಶನನ್ನು ನೀನು ನನ್ನನ್ನು ಕೇಳಿ ಹಣ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ ನೀನೇ ಹೋಗಿ ಕೇಳಿಕೋ ಎಂದು ಹೇಳಿದಾಗ ಜಗದೀಶ ಬೇಬಿಗೆ ಮಗ ಜೀವನ್ ಎದುರಲ್ಲೇ ತಿಮ್ಮರಾಜು ನಿನ್ನ ಬಗ್ಗೆ ಹೇಳಿರುವುದು ಸತ್ಯ ನೀನು ಸೂಳೆಮುಂಡೆ, ನನಗೆ ಹುಟ್ಟಿದವನು ಜೀವನ್, ನೀನು ಸರಿ ಇಲ್ಲ ನೀನು ಎಲ್ಲಯಾದರೂ ಹೋಗಿ ಸಾಯಿ ಮುಂಡೆ ಇನ್ನೂ ಯಾಕೆ ಭೂಮಿ ಮೇಲೆ ಬದುಕಿದ್ದೀಯಾ ಎಂತ ಇತ್ಯಾದಿಯಾಗಿ ಬೈಯುತ್ತಾ ಕೈಗಳಿಂದ ಹೊಡೆದು ಕಾಲನಿಂದ ಹೊದ್ದು ಮನೆಯಿಂದ ಹೊರಟು ಹೋಗಿರುತ್ತಾನೆ, ಬೇಬಿ ಮನೆಯಲ್ಲಿ ಅಳುತ್ತಾ ತುಂಬಾ ಮನಸ್ಸಿಗೆ ಬೇಜಾರು ಮಾಡಿಕೊಂಡು ಕೂತಿದ್ದಳು. ನಾನು ಮನೆಗೆ ಹೋಗಿ ಬೇರಿಗೆ ಸಮಾಧಾನ ಹೇಳುತ್ತಿದ್ದಾಗ ಚಿಕ್ಕಮ್ಮ ನಾನು 1 ಇನ್ನು ಬದುಕಿರುವುದಿಲ್ಲ ಎಲ್ಲಯಾದರೂ ಹೋಗಿ ಸಾಯುತ್ತೇನೆ. ಇವರ ಹಿಂಸೆ ತಡೆಯುವುದರಲ್ಲಿ ಆಗುತ್ತಿಲ್ಲ. ನನ್ನ ಮೇಲೆ ಇಲ್ಲ ಸಲ್ಲದ ಆರೋಪವನ್ನು ನನ್ನ ಗಂಡನಿಗೆ ತಿಮ್ಮರಾಜು ಹೇಳಿರುತ್ತಾನೆ. ಆದ್ದರಿಂದ ನನ್ನ ಗಂಡ ಬಂದು ನನ್ನ ಮೇಲೆ ಈ ರೀತಿ ಗಲಾಟೆ ಮಾಡಿರುತ್ತಾನೆಂತ ಹೇಳಿದಾಗ ನಾನು ಬೇಬಿಗೆ ಮಗನಿದ್ದಾನೆ ಎಲ್ಲಯೂ ಹೋಗಬೇಡ ಮತ್ತು ಸಾಯುವ ಪ್ರಯತ್ನ ಮಾಡಬೇಡ ಎಂತ ಬುದ್ಧಿ ಹೇಳಿ ನಮ್ಮ ಮನೆಗೆ ವಾಪಸ್ ಬಂದಿರುತ್ತೇನೆ. ನಂತರ ಬೇಳೆ ಮನೆಯಿಂದ ಎಲ್ಲಗೋ ಹೋಗಿರುತ್ತಾಳೆ ಅಂತ ತಿಳಿಸಿದರು. ಎಂತ ನನ್ನ ದೊಡ್ಡ ಆಯ ಆನಂದ ನನಗೆ ಫೋನ್ ಮಾಡಿ ತಿಳಿಸಿದರು. ನಂತರ ನಾವು ನನ್ನ ಆಯ ಮತ್ತು ನಮ್ಮ ಮಗಳು ನಾಗರತ್ನ ಅದೇ ದಿನ ರಾತ್ರಿ ಕಾಳೇನಹಳ್ಳಿ ಗ್ರಾಮಕ್ಕೆ ಬಂದು ನನ್ನ ಮಗಳು ಬೇಟೆಯನ್ನು ಎಲ್ಲಾ ನೆಂಟರ ಮನೆಗಳಲ್ಲಿ ವಿಚಾರ ಮಾಡಿದರೂ, ನನ್ನ ಮಗಳು ಸಿಕ್ಕಿರಲಿಲ್ಲ. ಈ ದಿನ ಬೆಳಿಗ್ಗೆ 7-00 ಗಂಟೆಯಲ್ಲಿ ಕಾಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಗಿರಿಜಮ್ಮ ಕೋಂ ಜಯಣ್ಣರವರು ತೋಟದ ಬಾವಿಯಲ್ಲಿ ಸುಧಾರಾಣಿ @ ಬೇಬಿಯ ಶವ ತೇಲುತ್ತಿರುತ್ತೆ ಎಂತ ಅಂತ ತಿಳಿಸಿದರು, ತಕ್ಷಣ ನಾವು ಹೋಗಿ ನೋಡಲಾಗಿ ಸದರಿ ಮೃತದೇಹವು ನನ್ನ ಮಗಳು ಸುಧಾರಾಣಿ) ಬೇಬಿಯದಾಗಿತ್ತು, ನನ್ನ ಮಗಳ ಸಾವಿಗೆ ನನ್ನ ಆದ ಜಗದೀಶ ಮತ್ತು ಅದೇ ಗ್ರಾಮದ ವಾಸಿಯಾದ ತಿಮ್ಮರಾಜುರವರ 'ದುಷ್ಟೇರಣೆಯೇ ಕಾರಣವಾಗಿರುತ್ತೆ. ಸದರಿಯವರ ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂತ ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ. ಈ ವಿಚಾರವನ್ನು ನಮ್ಮ ಸಂಬಂಧಿಕರಿಗೆ ವಿಚಾರ ತಿಳಿಸಿ ಈಗ ತಡವಾಗಿ ಬಂದು ದೂರು ನೀಡಿರುತ್ತೇನೆ.

ತಮ್ಮ ವಿದೇಯಳು

800 498(A) 306, Rlw 34 lpe olsa



DOB:21/10/2016

ಸ್ಥಳ: ಕಳ್ಳಂಬೆಳ್ಳೆ

9. The police, after investigation have filed a charge-sheet against both the accused, the petitioner and the husband of the deceased. The summary of the charge-sheet as obtaining in Clause 17 reads a follows:

“17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ ದಿನಾಂಕ:19/10/2016 ರಂದು ರಾತ್ರಿ 7-30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ, ಶಿರಾ ತಾಲ್ಲೂಕ್ ಕಳ್ಳಂಬೆಳ್ಳೆ ಹೋಬಳಿ ಕಾಳೇನಹಳ್ಳಿಯ ಅಂಜಿನಪ್ಪ ಬಿನ್ ದೊಡ್ಡಯ್ಯ ರವರ ಜಮೀನಿನಲ್ಲಿರುವ ಆರೋಪಿ ಜಗದೀಶ ಮತ್ತು ಮೃತ ಸುಧಾರಾಣಿ ವಾಸವಿದ್ದ ಮನೆಯ ಮುಂದೆ ಈ ದೋಷಾರೋಪಣ ಪತ್ರ ಅಂಕಣ-12 ರಲ್ಲಿ, ಕಂಡ ಆರೋಪಿ-1 ಜಗದೀಶ ರವರು ಸಾಕ್ಷಿ-1 ರವರ ಮಗಳು ಮೃತ ಸುಧಾರಾಣಿ @ ಬೇಣ ರವರನ್ನು ಮದುವೆಯಾದಾಗಿನಿಂದಲೂ ಅನುಮಾನ ಪಟ್ಟು ಮೃತ ಬೇರೆ ಗಂಡಸರ ಜೊತೆ ಮಾತನಾಡಿದರೆ ಅನುಮಾನ ಪಡುವುದು ಅವರ ಜೊತೆ ಸಂಬಂಧ ಕಲ್ಪಿಸಿ ಹೊಡೆಯುವುದು ಬಡಿಯುವುದು ಹಾಗೂ ಮಾನಸಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡುತ್ತಾ, ಆರೋಪಿ-1 ರವರು ಆರೋಪಿ-2, ತಿಮ್ಮರಾಜು ಹಾಗೂ ಆತನ ಮನೆಯವರಿಗೆ ನೀಡಿದ್ದ ಸಾಲದ ಹಣವನ್ನು ದಿನಾಂಕ:19/10/2016 ರಂದು ಸಂಜೆ ಸುಮಾರು 6-30 ಗಂಟೆಯಲ್ಲಿ ಆರೋಪಿ-1 ರವರ ಮನೆಯ ಬಳಿ ಕಾಳೇನಹಳ್ಳಿಗೆ ಹಾದುಹೋಗುವ ರಸ್ತೆಯಲ್ಲಿ ಕೇಳಿದಾಗ ಆರೋಪಿ-2 ರವರು ಆರೋಪಿ-1 ರವರಿಗೆ ನಿನ್ನ ಹೆಂಡತಿ ಮೃತ ಸುಧಾರಾಣಿ ಸರಿಯಿಲ್ಲ, ನಿನ್ನ ಮಗ ಯಾರಿಗೆ ಹುಟ್ಟಾನಂತ ನೀನು ನಿನ್ನ ಹೆಂಡತಿಯನ್ನು ಕೇಳಿ ನಿನ್ನ ಹೆಂಡತಿ ಇನ್ನು ಬದುಕಿದ್ದಾಳೆ ಎಂದು ಮೃತೆಯ ಬಗ್ಗೆ ಇಲ್ಲಸಲ್ಲದನ್ನು ಹೇಳಿ ದುಪ್ ಪ್ರೇರಣೆ ಮಾಡಿದ್ದರಿಂದ ಆರೋಪಿ-1 ರವರು ತನ್ನ ವಾಸದ ಮನೆಯ ಮುಂದೆ ತನ್ನ ಹೆಂಡತಿ ಮೃತ ಸುಧಾರಾಣಿ ರವರನ್ನು ಸಾಕ್ಷಿ-5 ತನ್ನ ಮಗ ಜೀವನ್ ರವರ ಮುಂದೆ ಬಾ ಗೋವಿಂದಪ್ಪನ ಮನೆ ಬಳಿ ಹೋಗಿ ಹಣ ಕೇಳೋಣ, ನಿನ್ನ ಬಗ್ಗೆ ತಿಮ್ಮರಾಜು ಇಲ, ಸಲ್ಮದನ್ನು ಹೇಳಿ ಬೈದಿರುತ್ತಾನೆ ಎಂದು ಕರೆವಾಗ ಮೃತ ಸುಧಾರಾಣಿ ನೀನು ನನ್ನನ್ನು ಕೇಳಿ ಹಣ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ, ನೀನೇ ಹೋಗಿ ಕೇಳಿಕೋ ಎಂದು ಹೇಳಿದಾಗ ನೀನು ಸರಿಯಿಲ್ಲ ಆರೋಪಿ-2 ನಿನ್ನ ಬಗ್ಗೆ ಹೇಳಿರುವುದು ಸತ್ಯ ನೀನು ಸೂಳೆ ಮುಂಡೆ, ನನಗೆ ಹುಟ್ಟಿದವನಲ್ಲ, ಜೀವನ್, ನೀನು ಎಲೆಯಾದರೂ ಹೋಗಿ ಸಾಯಿ ಮುಂಡೆ ಇನ್ನು, ಏಕೆ ಭೂಮಿ ಮೇಲೆ ಬದುಕಿದ್ದೀಯಾ ಎಂದು ಇತ್ಯಾದಿಯಾಗಿ ಬೈದು ಮಾನಸಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡಿ, ಕೈಗಳಿಂದ



ಹೊಡೆದು ಕಾಲುಗಳಿಂದ ಹೊಜು ದೈಹಿಕ ಹಿಂಸೆ ನೀಡಿದ್ದರಿಂದ ಮೃತ ಸುಧಾರಾಣಿ ಮನನೊಂದು ದಿ:19/10/2016 ರಂದು ರಾತ್ರಿ 9-30 ಗಂಟೆಯ ನಂತರ ದಿ:21/10/2016 ರ ಬೆಳಿಗ್ಗೆ, 7-00 ಗಂಟೆಯ ಮಧ್ಯೆ ಯಾವುದೋ ಸಮಯದಲ್ಲಿ, ಬಾವಿಯ ನೀರಿಗೆ ಬಿದ್ದು ಮೃತಪಡಲು ಕಾರಣರಾಗಿರುತ್ತಾರೆಂತ ಆರೋಪಿತರ ವಿರುದ್ಧ ಆರೋಪವು ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟ ಮೇರೆಗೆ ಮೇಲ್ಕಂಡ ಕಲಂ ರೀತ್ಯಾ ಈ ದೋಷಾರೋಪಣ ಪತ್ರ.

18. ಫಿರ್ಯಾದಿಯ ಮೇಲೆ ನೋಟೀಸ್ ಜಾರಿ ಮಾಡಲಾಗಿದೆಯೇ : No DD: 09/12/2016 00:00:00

19, ವೃತ್ತನಿರೀಕ್ಷಕರ ಷರಾ ಮತ್ತು ನ್ಯಾಯಾಧೀಶರಿಗೆ ಕಳುಹಿಸಿದ ದಿನಾಂಕ :

Signature of the Investigating Office

ಸಹಿ/-

ಮೋಲನ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಕಳ್ಳಂಬೆಳ್ಳ ಮೋಲನ್ ಠಾಣ.

A perusal at the complaint and the charge-sheet and then being read in juxtaposition would clearly indicate that the allegation against the petitioner is that he had abutted commission of suicide of the daughter of the complainant, wife of accused No.1 making allegations on her character. Insofar as the offence under Section 498(A) of the IPC is concerned, they, at the outset, cannot be laid against the petitioner who is not a member of the family but only a friend of the accused No.1. The only offence therefore, is the one punishable under Section 306 of IPC. For an offence to become punishable under Section 306 of IPC,



the ingredients as obtaining under Section 107 of IPC is imperative. Section 107 of IPC deals with abatement. Any of the ingredients that are of Section 107 of IPC being present in a crime, then, it would become a matter of trial for the offence punishable under Section 306 of IPC.

10. A perusal at the complaint or the summary of the charge-sheet as obtaining in Column No.17 would not meet any of the ingredients that is necessary to prove an offence punishable under Section 306 of IPC. Abatement as is necessary for an offence under Section 306 of IPC is not present in the case at hand. Therefore, the trial, if permitted to be continued, it would definitely not end in conviction of the petitioner due to the lack of ingredients. Reference is being made to the judgment of the Apex Court in the case of **KANCHAN SHARMA Vs. STATE OF UTTAR PRADESH AND ANOTHER**¹, in the circumstances, becomes applicable. The Apex Court has held as follows:

¹ 2021 SCC Online SC 737



"9. Having heard learned counsel on both sides, we have perused the impugned order and other material placed on record. Except the self-serving statements of the complainant and other witnesses stating that deceased was in love with the appellant, there is no other material to show that appellant was maintaining any relation with the deceased. From the material placed on record it is clear that on the date of incident on 04.05.2018 deceased went to the house of the appellant and consumed poison by taking out from a small bottle which he has carried in his pocket. Merely because he consumed poison in front of the house of the appellant, that itself will not indicate any relation of the appellant with the deceased. 'Abetment' involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306, IPC. To proceed against any person for the offence under Section 306 IPC it requires an active act or direct act which led the deceased to commit suicide, seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide. There is nothing on record to show that appellant was maintaining relation with the deceased and further there is absolutely no material to allege that appellant abetted for suicide of the deceased within the meaning of Section 306, IPC. Even with regard to offence alleged under Section 3(2)(v) of the Act it is to be noticed that except vague and bald statement that the appellant and other family members abused deceased by uttering casteist words but there is nothing on record to show to attract any of the ingredients for the alleged offence also. This Court in the case of Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)¹ had an occasion to deal with the aspect of abetment. In the said case this Court has opined that there should be an intention to provoke, incite or encourage the doing of an act by the accused. Besides, the judgment also observed that each person's suicidability pattern is different from the other and each person has his own idea of self-esteem and self-respect. In the said judgment it is held that it is impossible to lay down any straightjacket formula dealing with the cases of suicide and each case has to be decided on the basis of its own facts and circumstances. In the case



of *Amalendu Pal @ Jhantu v. State of West Bengal*² in order to bring a case within the purview of Section 306, IPC this Court has held as under:

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC."

10. In the judgment in the case of *S.S. Chheena v. Vijay Kumar Mahajan*³ this Court reiterated the ingredients of offence of Section 306 IPC. Paragraph 25 of the judgment reads as under:

"25. 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. 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 that act must have been intended to push the deceased into such a position that he committed suicide."

11. In the judgment in the case of Rajiv Thapar v. Madan Lal Kapur⁴ this Court has considered the scope of the provision under Section 482, Cr.PC and has laid down the steps which should be followed by the High Court to determine the veracity of a prayer for quashing of proceedings in exercise of power under Section 482, Cr.PC. Paragraph 30 containing the four steps read as under:

"30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be



justifiably refuted by the prosecution/complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused.”

12. By applying the aforesaid ratio decided by this Court, we have carefully scrutinized the material on record and examined the facts of the case on hand. Except the statement that the deceased was in relation with the appellant, there is no material at all to show that appellant was maintaining any relation with the deceased. In fact, at earlier point of time when the deceased was stalking the appellant, the appellant along with her father went to the police station complained about the calls which were being made by the deceased to the appellant. Same is evident from the statement of S.I. Manoj Kumar recorded on 05.07.2018. In his statement recorded he has clearly deposed that the father along with the appellant went to the police post and complained against the deceased who was continuously calling the appellant and proposing that she should marry him with a threat that he will die otherwise. Having regard to such material placed on record and in absence of any material within the meaning of Section 107 of IPC, there is absolutely no basis to proceed against the appellant for the alleged offence under Section 306 IPC and Section 3(2)(v) of the Act. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever.



13. In view of the same, we are of the view that the High Court has committed error in rejecting the application filed by the appellant by merely recording a finding that in view of the factual disputes same cannot be decided in a petition under Section 482, Cr.PC."

(Emphasis supplied)

The same judgment is followed by the Apex Court even in 2023 in the case of **KASHIBAI VS. STATE OF KARNATAKA**² wherein the Apex Court considers the interplay between Sections 107 and 306 of IPC to hold that unless the ingredients of Section 107 of IPC are found, no offence under Section 306 of IPC can be laid. The Apex Court in the case of **KASHIBAI** has held as follows:

"8. From the bare reading of the said provisions, it clearly transpires that in order to convict a person for the offences under Section 306 IPC, the basic constituents of the offence namely where the death was suicidal and whether there was an abetment on the part of the accused as contemplated in Section 107 IPC have to be established.

9. In M. Mohan v. State Represented by the Deputy Superintendent of Police¹, this Court has elaborately dealt with the provisions contained in Section 306 read with Section 107 IPC, and after discussing various earlier decisions has observed as under:—

"41. This Court in SCC para 20 of Ramesh Kumar, [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] has examined different shades of the

² (2023) SCC Online SC 575



*meaning of "instigation". Para 20 reads as under :
(SCC p. 629)*

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. 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."

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.

42. In State of W.B. v. Orilal Jaiswal, [(1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that (SCC p. 90, para 17) the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance,



discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

43. *This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goadings". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.*

44. *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.*

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."*

10. In view of the above, it is quite clear that in order to bring the case within the purview of 'Abetment' under Section 107 IPC, there has to be an evidence with regard to the instigation, conspiracy or intentional aid on the part of the accused. For the purpose proving the charge under Section 306 IPC, also there has to be an evidence



with regard to the positive act on the part of the accused to instigate or aid to drive a person to commit suicide.”

(Emphasis supplied)

In the light of the afore-narrated facts, which are undisputed and the judgments of the Apex Court (*supra*), permitting further proceedings to continue against the petitioner would run foul of the judgments rendered by the Apex Court as quoted *supra* and result in miscarriage of justice.

11. For the aforesaid reasons, the following:

ORDER

- i) The petition is allowed.
- ii) The entire proceedings in C.C.No.34 of 2017 pending on the file of the Principal Civil Judge and JMFC, Sira, Tumkur are quashed, *qua* the petitioner – accused No.2.
- ii) It is made clear that the observations made in the course of the order is only for the purpose of consideration of the case of the petitioner-accused No.2 *qua* offence under



Section 306 of IPC. The findings will not be applicable to the accused No.1. The concerned Court shall not be swayed or bound by the observations made in the course of this order.

Sd/-
JUDGE

DH