

recommended by the Naib Tehsildar, Tehsildar and the SDM Nakodar. It was, in such circumstances, the mantle of responsibility has fallen upon the private-respondent and the petitioner has been denied the same.

5. It is settled principle that choice of the Collector at the grassroots is not to be interfered with until it is perverse or arbitrary. Under Rule 15 of the Punjab Land Revenue Act, 1887 also, service to the Nation is an important aspect which has been duly kept in consideration. The private-respondent is a retired Subedar from the Indian Army and the fact that he had been unanimously elected as a Member of the Panchayat are valid factors which weighed with the Collector, apart from the interaction which was done with the petitioner and the private-respondent by the Collector. As many as 8 applications had been received and various candidates had withdrawn in favour of the contesting parties and eventually, only 3 persons were in the zone of consideration. The candidate-Gulzar Masih who was less educated, did not own any land in his name and having house of 4 marlas, was also duly considered. In such circumstances, the well reasoned order passed by the Collector does not warrant any interference by this Court, keeping in view the settled principle that the procedure of appointment is to be kept in mind and this Court is not to consider the merits and demerits of the candidates, which even otherwise, weigh in favour of the private-respondent No.4.

6. Resultantly, in view of the above discussion, the present writ petition is dismissed in limine.

Petition dismissed.

SUPREME COURT OF INDIA

Before: R. Banumathi & Indira Banerjee, JJ.

Criminal Appeal No(s). 1550 of 2018

Decided on: 04.12.2018

(Arising out of SLP(Crl.) No.382 of 2016)

M. Arjunan

Appellant

Versus

The State Rep. by its Inspector of Police

Respondents

Indian Penal Code, 1860 (45 of 1860), Section 306 – Abetment to commit suicide – Insulting/Abusing the deceased – Effect of -- 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)

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 7th 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.

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 7th 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.

Appeal allowed.

SUPREME COURT OF INDIA

Before: Dr Dhananjaya Y Chandrachud & MR Shah, JJ.

Civil Appeal No. 11885 of 2018

Decided on: 07.12.2018

(@ S.L.P. (C) No. 32577 of 2016)

New India Assurance Company Limited

Appellant

Versus

Rajeshwar Sharma and ors.

Respondents

Alongwith

*Civil Appeal No. 11886 of 2018 (@ Special Leave Petition (C) No. 32381/2018
@ CC No. 5127 of 2017)*

Rajeshwar Sharma and anr. V. New India Assurance Co Ltd and anr.

Insurance claim -- Destruction of property by order of Municipal corporation -- Exclusion clause in insurance policy -- Where the destruction of the property has been caused "by order of the government or any lawfully constituted authority" -- There can be no dispute about the position that the Municipal Corporation is indeed a lawfully constituted authority, being a statutory authority -- No dispute about the fundamental position that the demolition was carried out by the Municipal Corporation -- No manner of doubt that the exclusion under the policy of insurance was attracted.

(Para 14)