

Serial No. 39

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- CrI R No. 21/2022

**Kunti Devi, Age 65 years
W/o Bishan Dass
R/o Chhan Ranga, Tehsil Hiranagar
Distt Kathua**

.....Appellant(s)/Petitioner(s)

Through: None.

Vs

**1. Neelam Devi
W/o Late Surinder Kumar
R/o Ghagwal, Tehsil Ghagwal,
District Samba.**

**2. Union Territory of J&K
Through Police Station,
Rajbagh,
District Kathua.**

..... Respondent(s)

Through: Mr. Dewakar Sharma, Dy. AG for R-1.
Mr. Jagpaul Singh, Advocate for R-2.

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

**ORDER
(18.04.2024)**

(ORAL)

01. This criminal revision petition filed by the mother of the deceased – Late Sh. Surinder Kumar is directed against an order dated 26.04.2022 [for short **“the impugned order”**] passed by the Ld. Principal Sessions Judge, Kathua [for short **“the trial court”**] in File no. 59/2021 titled – **“UT of J&K through P/S Rajbagh v/s Neelam Devi”** whereby the trial court has discharged the respondent No. 1/accused of offence under Section 306 IPC. Impugned order is assailed by the petitioner *inter alia* on the grounds that the trial

court has failed to appreciate the evidence on record and has drawn conclusions on mere conjectures and surmises.

- 02.** It is submitted that the trial court cannot, at the stage of framing of charge, enter into mini trial of the case and return finding on guilt or otherwise of the accused. The trial court should restrict itself to the evidence collected by the prosecution and find out as to whether there is a *prima facie* case for putting the accused on trial.
- 03.** It is further submitted that the trial court passed the impugned order ignoring the legal parameters laid down by the Hon'ble Supreme Court of India for framing of charge.
- 04.** *Per contra*, Mr. Jagpaal Singh learned counsel appearing for the respondent No. 1 submits that the trial court has appreciated the entire material placed on record in the shape of oral and documentary evidence and has rightly concluded that no case of abetment to suicide punishable under Section 306 IPC was made out against the respondent No. 1. The trial court has though found that the suicide committed by Late Sh. Surinder Kumar was as a result of the conduct of the respondent No. 1 yet there is nothing on record to show that such suicide was either instigated or aided by respondent No. 1 by any act or illegal omission.

- 05.** Having heard learned counsel for the respondent Nos. 1 & 2 and perused the material on record, I am of the considered opinion that the order impugned passed by the trial court is factually legal and in consonance with law.
- 06.** The prosecution case in brief is that the marriage between the respondent No. 1 and Late Sh. Surinder Kumar an employee of ITBP was solemnized on 08.03.2019 as per Hindu rites and customs. The relations of the two remained cordial for sometime, but later on both started quarreling with each other mostly on the issue of respondent No. 1 attending calls from unknown numbers during late midnight hours. Late Sh. Surinder Kumar, the husband of respondent No. 1 would always stop the respondent No. 1 from attending those calls but she would not listen to him. It is alleged that the respondent No. 1 even threaten the deceased to get him booked in a false case. This is stated to be the reason for the deceased – Sh. Surinder Kumar taking an extreme step of ending his life.
- 07.** The trial court has discussed the evidence collected by the prosecution and referred to the provisions of Section 306 IPC. It has rightly come to a conclusion that for commission of offence under Section 306 IPC there must be abetment by the accused to the commission of suicide and as defined

in Section 107 IPC, a person abets the doing of a thing under following three contingencies:-

i) Where he/she instigates any person to do that thing.

ii) He or she 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.

iii) He/she intentionally aids, by any act of illegal omission, the doing of that thing.

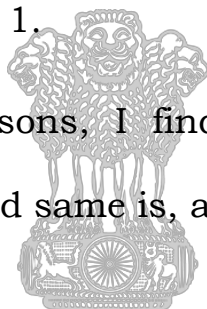
08. As is rightly concluded by the trial court that none of the aforesaid three things are stated to have happened in the case. The evidence collected by the prosecution taken to be correct on its face value would not indicate that the respondent No. 1 ever instigated the deceased to commit the suicide or intentionally aided the commission of the offence by any other act or illegal omission.

09. It is true that the deceased doubted the character of the respondent No. 1 who had been allegedly attending the phone calls from unknown numbers during mid-night hours. She had been doing so despite the fact that it was objected to by the deceased many a times. Such act or omission of the respondent No. 1 may be a cause or reason for the deceased to take his own life but certainly would not

fall within the ambit of abetment as defined in Section 107 IPC.

10. The trial court has discussed the case law on the issue elaborately in the order impugned and, therefore, I do not deem it necessary to repeat the same. It is a clear case where respondent No. 1 may, on the basis of evidence collected by the Investigating Officer, be held responsible for the extreme step of ending his own life taken by the deceased, yet it cannot be, by any stretch of reasoning, said that the suicide committed by the deceased was abetted by the respondent No. 1.

11. The aforesaid reasons, I find no merit in the criminal revision petition and same is, accordingly, **dismissed**.



सत्यमेव जयते

**(SANJEEV KUMAR)
JUDGE**

JAMMU

18.04.2024

Bunty

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No