

HIGH COURT OF MADHYA PRADESH AT JABALPUR

WP No. 11763/2018

Jabalpur : 20/6/2018

Shri Harsh Vardhan Singh, learned counsel for the petitioner.

Shri Subodh Kathar, learned GA for the respondent/State.

The petition under judgement has been filed by the real uncle of the deceased with a prayer that the respondents be directed to register an FIR against the Respondent No. 4, Mr. R.K. Mishra, the Principal of the Government Excellence Higher Secondary School, Kotma, Tahsil Kotma, District Annuppur (M.P.), for having abetted the suicide of the deceased, Kumari Ganga Sen, aged 15 years. The deceased is the daughter of Mr. Sanjay Sen. In the petition, it is stated that Kumari Ganga Sen was a student of class X, Government Excellence Higher Secondary School, Kotma.

2. The incident took place on 14-11-2017 (Children's Day). The deceased was returning home from school along with two of her classmates, when the Principal of the School, the Respondent No. 4 herein stated to have accosted the three of them and questioned them about leaving the school in

the afternoon. It is alleged that the respondent No. 4 scolded the deceased and also slapped and intimidated her. The nature of the intimidation has not been spelt out in the petition.

- 3.** Upon returning to her residence, the deceased is stated to have narrated the incident to the petitioner and his brother Sudhir Kumar Sen. The father of the deceased, Sanjay Sen was not at home as he had gone to Venketnagar and the mother of the deceased has gone to the farm. The deceased is stated to have committed suicide at her residence at about 5 P.M on 14-11-2017. The allegation of the petitioner is that the deceased acted thus, on account of the instigation by the Respondent No. 4. It is alleged that the act of Respondent No.4 in humiliating the deceased was done with the intention of inciting the minor girl to commit suicide.
- 4.** In paragraph 5.1 of the petition, it is averred that a report was lodged by the petitioner at police station Kotma on 14-11-2017. The same has been annexed as Annexure P/1 to the petition. This court has gone through the complaint made by the

petitioner herein, to the police. The same is a reiteration of what has been stated hereinabove. The complaint only states that the deceased committed suicide on account of the scolding and beating given to her by the Respondent No. 4, when the deceased was going back from school on 14-11-2017. It is pertinent to mention here that the complaint made to the police by the Petitioner, does not mention that the deceased was put into a van by the Respondent No.4 and taken back to school, where she was again beaten by the respondent No. 4 and humiliated there also.

- 5.** The complaint concludes by disclosing that the deceased committed suicide on account of the humiliation and beating given to her by the Respondent No.4. The police carried out the inquest proceedings and arrived at a conclusion that the deceased committed suicide by hanging. The post-mortem report of the deceased is Annexure P/5, in which the doctor has opined that the cause of death is asphyxia due to hanging which is ante-mortem in nature. The visual description of the body in the post mortem report does not reveal that there were any external

injuries, but for the ligature mark running around the neck caused by rope used for committing suicide. There are no internal injuries reported in the post-mortem report which would prima facie reflect that the deceased had not been subjected to such external force, that had injured any of her internal organs. The absence of any external injury on the body of the deceased would only mean that the deceased was either never subjected to violence (the allegation of the Respondent No.4 having slapped the deceased) or the force used was so minimal that it did not leave any sign on the body of the deceased.

6. The petitioner states that he is aggrieved by the inaction on the part of the police administration, as no fair investigation has been done by the Respondent No. 3, who is the Thana-in-charge of Police Station Kotma. Learned counsel for the Petitioner submits that the Principal ought not to have beaten the child and humiliated it and had he not done so, the child would have been alive today. As stated hereinabove, the post-mortem report does not reflect any external injury on the body of the deceased. Even if the allegations

levelled by the Petitioner that the respondent No.4, slapped the deceased and scolded her in front of her friends, are taken to be true, the question is whether the same can prima facie be appreciated as being an abetment to commit suicide?

7. Learned counsel for the Petitioner, after referring the provisions of Section 107 of IPC, has stated that the act of the Respondent No. 4 would come under the category of abetment by incitement. With the utmost respect to the proposition put forward by the Ld. Counsel for the petitioner, this court begs to differ. An act which constitutes a distinct offence by itself (an offence u/s. 323 in this case, if at all), cannot be construed as an act inciting another offence, which was never contemplated by the person to whom the original act is attributed to. Only such acts would be deemed to be an incitement, which by their very nature, whether by way of words spoken or otherwise, convey a clear and unambiguous direction to the person so incited, to act in a particular manner. Incitement, in the facts and circumstances of a case, may also mean the creation of such an environment around the

person so abetted, that he is compelled to act in a particular manner and no other, which the person so inciting/abetting intended or had the knowledge that the person so incited/abetted would act in that particular manner.

- 8.** Nowhere in this petition, has it been alleged, either directly or by necessary implication, that the Respondent No. 4 ever asked the deceased to commit suicide. It has also not been alleged that the Respondent No.4 has such knowledge, that his act would in all probability than not, compel the deceased to commit suicide. The allegation that the Respondent No.4 slapped the deceased, if at all true, only constitutes an offence Section 323 of IPC, which is a non-cognizable offence, where cognizance can only be taken on the basis of a complaint made under Section 200 Cr.P.C.
- 9.** The relief sought by the Petitioner has dangerous portents which could have wide ranging ramifications in the manner in which, education is imparted in this country. The Principal and teachers in a school don the mantle of a parent, during the time the child is in school. Like a

parent, who would, and is expected to admonish and chastise the child when the child errs with the intention of correcting the child, so is a Principal and teachers at school expected to admonish and chastise students when they transgress the discipline of the school. Of course, it goes without saying that the days of “spare the rod and spoil the child” are long gone by, the same does not mean that the Principal and teachers at school, languidly watch and ignore the acts of indiscipline and indiscretions of a child. Correction by way of admonishment and chastisement, as and when required, still remains a sacred duty of the those imparting education. Good education falls miserably short of meeting its avowed aims if the system of education fails to give back to the society, citizens of sterling quality who are law abiding in every manner and disciplined. Behind every person languishing in prison as a convict, are a man and woman who have failed as parents and a system of education that could not transcend the three “R’s”. Far more important than ensuring that students do well in the material world and arrive at important stations in

life, is to ensure that contemporary mores and values are drilled into the students consistently. Brilliance without integrity and character is a social and national liability rather than an asset. It is this that schools must emphasise on and in doing so, admonishment and chastisement may form an integral part of that exercise. Yes, in the process, it may be natural for the child to feel a sense of embarrassment and perhaps humiliation, but it is these very emotions that would prevent the child from repeating its mistake. If upon such chastisement, a child is extra ordinarily sensitive and takes the drastic step of committing suicide and if the Principal is expected to be prosecuted for an offence under Section 306 of IPC, nothing can imperil education more. If students are expected to grow up in an environment, where they know that they shall not be chastised or spoken harshly to for any and every transgression of theirs, which has the propensity of breaking the discipline of the school, the society may wind up having young delinquents who ultimately grow up without having fear of the law on account of the

free hand that they received during the schooling years.

10. From the narrative in the petition, it appears that the deceased was leaving school before the end of school hours and upon being so discovered in the act by the Respondent No.4, was allegedly slapped and admonished by the Respondent No.4. However, to hold that there must be an investigation against the Respondent No.4 for an offence u/s. 306 IPC based upon the above allegations is uncalled for. Such an investigation would expose the Respondent No.4 to an arrest and would send a loud message to all those involved in the imparting of education that there are perils of personal inconvenience and legal proceedings to be faced if students are admonished and chastised.
11. Thus, looking at the nature of the allegations, where there is a subsequent improvisation that the deceased was taken back to the school, in a van by the respondent No. 4, where she was again beaten is of suspicious authenticity and credence on account of the fact, that the first complaint that

