

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.1522 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Sandeep Kothari, learned counsel for the applicant. Mr. V.K. Gemini, learned Deputy Advocate General for the State. The instant C482 Application has been preferred by the applicant, who is being tried for the offence under Section 306 of the IPC to be read with Section 506 of the IPC in Criminal Case No.474 of 2021, "State Vs. Gopiram" before the Court of Judicial Magistrate, Vikasnagar, District Dehradun. Precisely, the challenge which has been given by the present applicant is to the entire proceedings, as well as to the order of summoning dated 05.08.2021. Primarily, the argument of the learned counsel for the applicant is confined from the following perspectives:- First, that after submission of the chargesheet by the Investigating Officer, being Chargesheet No.52 of 2021 dated 28.05.2021, since further investigating has been directed to be conducted by the Magistrate, he contends that, that itself will create a doubt with regards

		to the propriety of the observations made in the first chargesheet, on the basis of which, the summoning order has been issued by the Judicial Magistrate. The tenacity of the argument of the learned counsel for the applicant is as if, because of the fact that the Court of Judicial Magistrate has directed a further investigation that will not tantamount to be read, as a fresh investigation which is required to be conducted with regards to the set of allegations, because the order of further investigation is nothing but an addition to investigation to fill in certain lacunae or vacuum, which are prevailing in the observations made in the first chargesheet which has been left to be considered, which is permissible under law. Apart from it, the stage till the further investigation is going on, that in itself cannot be a reason to keep the proceedings in abeyance by putting a challenge to the chargesheet, contending therein that no finality could be attached to the chargesheet because of the reason that further investigation has been directed to be carried. This argument is not acceptable, for the reason being, that even if, further investigation has been directed (though not a subject matter of present C482 Application), if any
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		supplementary chargesheet is submitted by the Investigating Officer, that would be in addition to the chargehseet already submitted, but it will not be a substitute to the chargesheet already submitted by the Investigating Officer. Thus, may be because the further investigation has been directed, that will not mitigate the instant proceedings drawn, on the basis of the Chargesheet No.52 of 2021 dated 28.05.2021, because that will be having its exclusive legal existence, based on which, the proceedings of the criminal case has been drawn against the present applicant. Secondly, he submits that there is no direct nexus of involvement of the present applicant in commission of offence. As far as the said argument is concerned about there being an impossibility of any direct nexus of the present applicant in commission of the offence under Section 306 of the IPC or not, apart from that, it is exclusively a matter which is to be gone into by the trial Court after appreciation of the evidence. But so far as the relativity of the present applicant to be involved in commission of offence under Section 306 of the IPC is concerned, it could be apparently made out from the suicide note of the deceased dated 27.01.2020, wherein he has specifically mentioned that he has been duressed and
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		tortured by the owner of the company- Ramkumar and Gopiram i.e. the applicant herein, who was duessing upon him to deposit Rs.50,000/-. The said suicide note, since it specifically assigns a role to the present applicant about duress being exerted on the deceased, which has caused a mental torture, it is always a state of mind of an individual, which may lead to such consequences and instrumentality of the applicant upto what extent it had contributing to the offences under Section 306 of the IPC has to be determined by the trial Court, on the basis of the statement, recorded in the suicide note. Thirdly, it has been argued that there is no direct nexus of the present applicant in commission of offence because he was simply a Manager in the company, which was owned by Mr. Ramkumar. In order to deal with the argument, that the owner of the establishment is not the actual person who gets the work executed on spot, this Court observed that it is always the Managerial cadre employee which ensures the functioning of the staff and, in case if there is any lacuna found in their functioning, which happened to be in the case at hand, where the allegation was levelled against the deceased, that there was
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		certain aluminium foil, which was found to be stolen, it's upon the directions of the owner, that the applicant has functioned as a Manager for extracting the amount of the loss suffered by the Company that itself will show a direct nexus and instrumentality of the owner and Manager applicant herein for abetting the deceased to commit suicide. Since all the matter is still to be scrutinized before the trial Court after appreciation of evidence and upto what level the applicant was instrumental in committing an act of abetment, and since it entails the appreciation of evidence, this Court is not inclined to interfere in this C482 Application and the same is, accordingly, dismissed. (Sharad Kumar Sharma, J.) 22.08.2023 Sukhbant
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