A.F.R.

Neutral Citation No. - 2023:AHC:227917

Court No. - 87

Case :- APPLICATION U/S 482 No. - 24303 of 2016

Applicant :- Ambesh Mani Tripathi
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Anoop Trivedi,Abhinav Gaur,Mohd. Rashid Siddiqui
Counsel for Opposite Party :- G.A.,B.B.Upadhyay,Pradhumn Kumar Pandey,Vikram Bahadur Singh

Hon'ble Neeraj Tiwari,J.

1. Heard Sri Anoop Trivedi, learned senior counsel assisted by Sri Om Narayan Tripathi and Sri Abhinav Gaur, learned counsel for the applicant, learned AGA and Sri Vikram Bahadur Singh, learned counsel for opposite party no. 2.

2. Sri Vikram Bahadur Singh, learned counsel for opposite party no. 2 informed that during the pendency of this application, opposite party no. 2 died, therefore, he may be permitted to implead his wife as opposite party no. 2 in the capacity of victim for which learned counsel for the applicant has no objection.

3. Accordingly, Sri Vikram Bahadur Singh, learned counsel for opposite party no. 2 is permitted to implead “Sheela Pandey” as opposite party no. 2 after deleting the name of Ashok Kumar Pandey in the array of opposite party no. 2 during the course of the day.

4. The present 482 Cr.P.C. application has been filed to quash the charge sheet dated 29.06.2016 as well as entire proceeding of Case No. 3522 of 2016, arising out of case crime no. 129/2016, under Section 306 I.P.C. read with Section 3/4 D.P. Act, P.S. Bhelu Pur, District Varanasi, pending before A.C.J.M., Court No. III, Varanasi.

5. Learned counsel for the applicant submitted that as per FIR version itself, it is apparently clear that marriage of applicant was settled with daughter of opposite party no. 2, but for some reason, same could not be solemnized. As per prosecution story, applicant has

refused to solemnize the marriage. He next submitted that in light of Section 306 I.P.C., in case, version stated in the FIR is treated to be correct, no case is made out for abetment of suicide. A suicide note has also been recovered in which deceased only stated that due to denial of marriage, she committed suicide and for that, applicant has no concern and not responsible. He next submitted that statement of father, sister, uncle and mother of deceased was also recorded and except in the statement of mother, there is no allegation against the applicant except denial of marriage. Mother, in her statement, alleged for demand of dowry. He next submitted that statement of mother is not getting support from the statement of her own family members and deceased, therefore, no reliance can be placed upon that.

6. He next submitted that denial of marriage may not come within the category of abetment of suicide in light of Section 306 I.P.C. read with Section 107 I.P.C. In support of his contention, he has placed reliance upon the judgment of Apex Court as well as High Courts in the matters of ***Ramesh Kumar Vs. State of Chattisgarh; (2001) 9 Supreme Court Cases 618, V. Shankaraiah Vs. State of A.P., Hyderabad; 2002 0 Supreme (AP) 186, Madan Mohan Singh Vs. State of Gujrat and another; (2010) 8 Supreme Court Cases 628, State of Kerala and others Vs. S. Unnikrishnan Nair and others; (2015) 9 Supreme Court Cases 639, M. Arjunan Vs. State Represented By its Inspector of Police; (2019) 3 Supreme Court Cases 315, Pradeep Kumar Tank Vs. State of U.P. and another*** passed in Application U/S 482 No. 10015 of 2006 decided on 29.03.2019, ***Kanchan Sharma Vs. State of U.P. and another*** passed in Criminal Appeal No. 1022 of 2021 decided on 17.09.2021, ***Geo Varghese Vs. The State of Rajasthan and another*** passed in Criminal Appeal No. 1164 of 2021 decided on 05.10.2021 and ***M. Maryson Vs. State rep by Inspector of Police (Law and Order) and another*** passed in Crl. O.P. No. 11502 of 2016 decided on 25.11.2021.

7. Sri Vikram Bahadur Singh, learned counsel for opposite party no. 2 opposed the submission made by learned counsel for the applicant and submitted that refusal of marriage due to demand of dowry comes within the category of abetment, therefore, it may be

treated as offence under Section 306 I.P.C., but he could not dispute other facts mentioned in dying declaration and statement of family members of the deceased.

8. I have considered the rival submissions made by learned counsel for the parties and perused the record as well as judgments relied upon.

9. Facts of the case are almost undisputed. Learned counsel for the applicant has not disputed any document upon which reliance has been placed by State as well as opposite party no. 2 and all are parts of case diary. Suicide note is very relevant document and also part of case diary. The same is being reproduced herein below;

> "आज तक हमेशा सोचती थी अगर मुझे अन्तिम सन्देश देना हो तो क्या दूंगी। सोचा न था कभी ऐसा होगा सोचती थी लोग मरने से पहले बहुत डरे हुए होते है। पर आज लग रहा है ऐसा बिल्कूल नहीं होता बल्कि डर एकदम खत्म हो जाता है।
>
> मम्मी, पापा, चाचा, चाची, बाबा, मन्नू, निधि, तन्नू हम आप लोगो को बहुत प्यार करते है। पर इसका मतलब ये नहीं कि हम बार परेशान करें। दो महिने से आप लोग कितने खुश है कि मेरी सगाई 9 को है जब आप लोग को पता लगेगा की जिस लडके को आप लोगों ने मेरे लिए चुना था वो मुझें पसन्द नहीं करता और शादी तोड रहा है आप लोगों पर क्या बितेगी। हम सच कह रहे है हम खुद को कभी माफ नहीं कर पाएंगे। इसके बाद।
>
> *Love you all*
> *Sorry*
> *Swasti*
> *Mr. Ambesh thanks for showing the real image*
>
> किसी ने मुझे ऐसा करने के लिए नहीं कहा है। मैं अपनी मरजी से ऐसा कर रही हूँ। अम्बेश जी का भी इससे कोई मतलब नहीं है उन्होनें अपनी बात कही। "

10. From the perusal of suicide note, it is apparent that after denial of marriage by applicant, deceased committed suicide and for that, applicant has no concern. Like that in the statement of father, sister and uncle, there is no allegation against the applicant which comes within the category of abetment of suicide except denial of marriage. Mother of deceased, now, opposite party no. 2 has levelled allegation of demand of dowry, which has not been accepted by the Trial Court as no summoning order has been issued under the provision of Dowry Prohibition Act and that has also not been challenged. Further, statement of mother is not getting support either from suicide note or from the statement of other family members. Therefore, same cannot be relied.

11. Now coming to the legal provision of Section 306 I.P.C., which is quoted below;

> *"If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*"

12. While looking into Section 306 I.P.C., it has to be seen along with Section 107 I.P.C. The same is quoted below;

> ***107. Abetment of a thing****- A person abets the doing of a thing, who-*
>
> *First.- Instigates any person to do that thing; or*
>
> *Secondly,- 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; or*
>
> *Thirdly.- Intentionally aids, by any act or illegal omission, the doing of that thing.*
>
> *Explanation 1.- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."*

13. Facts of the case are not getting support from perusal of Section 306 I.P.C. read with 107 I.P.C. to term it as offence in Section 306 I.P.C. In fact, in light of facts of the case as well as provision of Section 306 I.P.C. read with 107 I.P.C., no case is made out for abetment of suicide.

14. I have also perused the judgment relied upon learned counsel for the applicant. Similar issue was before the Apex Court in the matter of ***Ramesh Kumar (supra).*** Relevant paragraphs are quoted below;

> *“10. Section 306 IPC provides that if any person commits suicide, whoever abets the commission of such suicide, shall be liable to be punished. The ingredients of abetment are set out in Section 306 of IPC which reads as under:*
>
> *"707. Abetment of a thing - A person abets the doing of a thing, who- First- Instigate any person to do that thing; or Secondly.- 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; or Thirdly.- Intentionally aids, by any act or illegal omission, the doing of that thing."*
>
> *11. There is no direct evidence adduced of the accused-appellant having abetted Seema into committing suicide. The prosecution has relied on Section 113-A of Evidence Act which reads as under :-*
>
> *113A. Presumption as to abetment of suicide by a married woman.- When the question is whether the commission of suicide by a woman had been abetted by her or any relative of her husband and*

it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

……

……..

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.

21. In State of West Bangal v. Orilal Jaiswal and Anr., [1994] 1 SCC 73, this Court has cautioned that 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 the life by committing suicde. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences 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.

22. Section 498-A and 306 IPC are independent and constitute different offences. Though depending on the facts and circumstances of an individual case, subjecting a woman to cruelty may amount to an offence under Section 498-A IPC and may also, if a course of conduct amounting to cruelty is established leaving no other option for the woman except to commit suicide, amount to abetment to commit suicide. However, merely because an accused has been held liable to be punished under Section 498-A IPC it does not follow that on the same evidence he must also and necessarily be held guilty of having abetted the commission of suicide by the woman concerned. Evidential value of the two writings contained in diary Article A is that of dying declarations. On the principle underlying admissibility of dying declaration in evidence that truth sits on the lips of a dying person and the Court can convict an accused on the basis of such declaration where it inspires full confidence, there is no reason why the same principle should not be applied when such a dying declaration speaking of the cause of death exonerates the accused unless there is material available to form an opinion that the deceased while making such statement was trying to conceal the truth either having been persuaded to do so or because of sentiments for her husband. The writing on page 11 of diary (Article A) clearly states that the cause for committing suicide was her own feeling ashamed of her own faults. She categorically declares - none to be held responsible or harassed for her committing suicide. The writing on page 12 of diary (Article A) clearly suggests that some time earlier also she had expressed her wish to commit suicide to her husband and the husband had taken a

promise from her that she would not do so. On the date of the incident, the husband probably told the deceased that she was free to go wherever she wished and wanted to go and this revived the earlier impulse of the deceased for committing suicide. The dying declaration Exbt. P/10 corroborates the inference flowing from the two writings contained in the diary and as stated hereinabove. The conduct of the accused trying to put off the fire and taking his wife to hospital also improbabilises the theory of his having abetted suicide."

15. Similar matter was again before Andhra Pradesh High Court in the matter of ***V. Shankaraiah (supra)***. Relevant paragraphs are quoted below;

"4. 'Abetment' in Section 306 IPC has to be understood with reference to its definition given in Section 107 I.P.C. While considering the scope of Section 107 IPC the Supreme Court in C.B.I. K VS. V.C.SHUKLA, observed, in Para 50 at Page 1423 as follows:

"...a person abets the doing of a thing when he does any of the acts mentioned in the following three clauses.

(i) instigates that person to do that thing.

(ii) engages with one or more other person or persons in any conspiracy for the doing of that things.

(iii) Intentionally aids, by any act or illegal omission, the doing of that thing.

So far as the first two clauses are concerned it is not necessary that the offence instigated should have been committed. For understanding the word 'aid' in the third clause it would be advantageous to see Explanation 2 in Section 107 IPC, which reads thus:

"Whoever, either prior to or at the time of the commission of the act, does anything in order to facilitate the commission thereof, is said to aid the doing of that act"

It is thus clear that under the third clause when a person abets by aiding, the act so aided should have been committed in order to make such aiding an offence....."

Clauses (i) and (ii) extracted above do not apply to this case because no 'instigation' by or 'conspiracy' between the petitioner and the other accused is alleged by the prosecution. The third clause also is not attracted because no 'aid' was given by the petitioner to the deceased when she committed suicide. Aiding suicide by a person can only be by positive acts of assisting in procuring the material required for suicide, like a person supplying rope or other material for hanging, when a person expresses his desires to commit suicide by hanging, or supplying weapon or material like drugs, poison, etc., when the person intending to commit suicide asks such aid, or if a person suggest the modes in which suicide can be committed like jumping into a river, lake or well, etc., to a person who intends to commit suicide.

5. In SIA RAM VS. STATE OF U.P., the Supreme Court held that in order to constitute abetment, the abettor must be shown to have intentionally aided the commission of the crime. It is clearly held that mere proof that the crime could not have been committed without the interposition of the alleged abettor is not enough compliance with the requirement of Section 107 IPC. Various High Courts have taken a view that merely because a person committed suicide by feeling

insulted or humiliated, due to the comments or utterances made by the accused, the accused cannot be said to be guilty of an offence under Section 306 IPC. In DEVRAJ VS. STATE OF H.P., a partner in a firm committed suicide due to the other partners [accused] taking away large sums of money out of partnership fund for various purposes and their not rendering an account to the deceased, and for not permitting the deceased utilizing the profits. The other partners in the firm, who are accused of an offence under Section 306 IPC for the suicide of the deceased, were held to be not guilty of such offence. In ALKA GREWAL VS. STATE OF M.P., the woman was held to be not guilty of an offence under Section 306 IPC, for her husband committing suicide, after feeling insulted and humiliated due to her immoral conduct. The Court specifically held that though she may be the cause for suicide of her husband, she cannot be said to have abetted his suicide. In STATE OF GUJARAT VS. PRADYUMAN RAMANLAL MEHTA, the publishers and others responsible for publication of a defamatory article are held to be not guilty an offence under Section 306 IPC, for the defamed persons suicide on feeling humiliated due to the defamatory publication. V.ADINARAYANA VS. STATE OF A.P. , is a case where a woman committed suicide when the accused threatened her that he would reveal her illicit connection to her husband. The accused was held to have not committed an offence under Section 306 of IPC. The Supreme Court in MAHENDRA SINGH VS. STATE OF M.P. , held that merely because the deceased woman stated in her dying declaration that she was harassed by the accused, the accused cannot be held guilty of an offence under Section 306 IPC.

6. It should be noted that 'Suicide' is not an offence, obviously because the person that committed suicide is not available to undergo the trial and punishment,offences under Sections 306 and 309 IPC respectively. From a reading of the old case law under Section 306 IPC., it can be seen that Section 306 was intended to cover cases of people instigating a Hindu Widow to commit 'Sati' i.e., wife burning herself in the funeral pyre of her husband, which was prevalent at that time. When suicides by married women, due to harassment by their husbands and in-laws increased in an alarming proportion in the Country, obviously finding that the provisions in the IPC is not covering such suicides, the Parliament stepped in 1983 and introduced Section 498A in IPC and Section 113A in the Evidence Act, enabling courts to draw a presumption of abetment to commit suicide by the wife, if the husband and his relatives subjected her to cruelty within 7 years of her marriage. Subsequently, Section 304B IPC and Section 113B of Evidence Act also were introduced. Therefore, now, in the case a married woman commits suicide, within 7 years of her marriage due to harassment by her husband or his relatives, by virtue of Section 113A of Evidence Act only Section 306 would come into operation, but not otherwise."

16. Apex Court has again taken the same view in the matter of ***Madan Mohan Singh (supra).*** Relevant paragraphs are quoted below;

"10. We are convinced that there is absolutely nothing in this suicide note or the FIR which would even distantly be viewed as an offence much less under Section 306, IPC. We could not find anything in the FIR or in the so-called suicide note which could be suggested as abetment to commit suicide. In such matters there must be an allegation that the accused had instigated the deceased to commit suicide or secondly, had engaged with some other person in a conspiracy and lastly, that the accused had in any way aided any act

or illegal omission to bring about the suicide.

11. In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide note, it cannot be said that the accused ever intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this.

12. In order to bring out an offence under Section 306, IPC specific abetment as contemplated by Section 107, IPC on the part of the accused with an intention to bring out the suicide of the concerned person as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306, IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306, IPC either in the FIR or in the so-called suicide note.

13. It is absurd to even think that a superior officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Section 306, IPC, much more material is required. The Courts have to be extremely careful as the main person is not available for cross- examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant/accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in Netai Dutta v. State of W.B. 2005 (2) SCC 659, this Court had quashed the proceedings initiated against the accused.

……...

16. Insofar as Section 294(b) IPC is concerned, we could not find a single word in the FIR or even in the so-called suicide note. Insofar as Section 306 IPC is concerned, even at the cost of repetition, we may say that merely because a person had a grudge against his superior officer and committed suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under Section 306 IPC. It will still fall short of a proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant/accused to the effect that he had intended or engineered the suicide of the concerned person by his acts, words etc. When we put the present FIR on this test, it falls short.

17. We have already explained that the baseless and irrelevant allegations could not be used as a basis for prosecution for a serious offence under Section 306 IPC. Similarly, we have already considered Section 294(b) IPC also. We have not been able to find anything. Under such circumstances, where the FIR itself does not have any material or is not capable of being viewed as having

material for offence under Sections 306 and 294(b) IPC, as per the law laid down by this Court in State of Haryana and Ors. v. Bhajan Lal and Ors. 1992 Suppl. 1 SCC 335, it would be only proper to quash the FIR and the further proceedings."

17. Further, the same issue was dealt by the Apex Court in the matter of ***State of Kerala and others (supra).*** Relevant paragraphs are quoted below;

"9. To appreciate the rivalised submissions in the obtaining factual matrix, it is necessary to understand the concept of abatement as enshrined in Section 107 Indian Penal Code. The said provision reads as follows:

107. A person abets the doing of a thing, who-

First-Instigates any person to do that thing; or

Secondly-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; or

Thirdly-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2-Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

10. The aforesaid provision was interpreted in Kishori Lal v. State of M.P. (2007) 10 SCC 797 by a two-Judge Bench and the discussion therein is to the following effect:

Section 107 Indian Penal Code defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in Indian Penal Code. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. "Abetted" in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.

11. In Amalendu Pal v. State of West Bengal (2010) 1 SCC 707 dealing with expression of abetment the Court observed:

The expression "abetment" has been defined Under Section 107 Indian Penal Code which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause Firstly or to do anything as stated in clauses Secondly or Thirdly of Section 107

Indian Penal Code. Section 109 Indian Penal Code provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence. Learned Counsel for the Respondent State, however, clearly stated before us that it would be a case where clause Thirdly of Section 107 Indian Penal Code only would be attracted. According to him, a case of abetment of suicide is made out as provided for Under Section 107 Indian Penal Code.

12. As we find from the narration of facts and the material brought on record in the case at hand, it is the suicide note which forms the fulcrum of the allegations and for proper appreciation of the same, we have reproduced it hereinbefore. On a plain reading of the same, it is difficult to hold that there has been any abetment by the Respondents. The note, except saying that the Respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else. The Respondents were inferior in rank and it is surprising that such a thing could happen. That apart, the allegation is really vague. It also baffles reason, for the department had made him the head of the investigating team and the High Court had reposed complete faith in him and granted him the liberty to move the court, in such a situation, there was no warrant to feel cheated and to be put in trouble by the officers belonging to the lower rank. That apart, he has also put the blame on the Chief Judicial Magistrate by stating that he had put pressure on him. He has also made the allegation against the Advocate.

13. In Netai Dutta (supra), a two-Judge Bench, while dealing with the concept of abetment Under Section 107 Indian Penal Code and, especially, in the context of suicide note, had to say this:

In the suicide note, except referring to the name of the Appellant at two places, there is no reference of any act or incidence whereby the Appellant herein is alleged to have committed any wilful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the Appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.

Apart from the suicide note, there is no allegation made by the complainant that the Appellant herein in any way was harassing his brother, Pranab Kumar Nag. The case registered against the Appellant is without any factual foundation. The contents of the alleged suicide note do not in any way make out the offence against the Appellant. The prosecution initiated against the Appellant would only result in sheer harassment to the Appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the First Information Report against the Appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the Appellant herein. We find that this is a fit case where the extraordinary power Under Section 482 of the Code of Criminal Procedure is to be invoked. We quash the criminal proceedings initiated against the Appellant and accordingly allow the appeal.

14. In M. Mohan (supra), while dealing with the abatement, the Court has observed thus:

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 are clear that in order to convict a person Under

Section 306 Indian Penal Code 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.

15. As far as Praveen Pradhan (supra), is concerned, Mr. Rao, has emphatically relied on it for the purpose that the Court had declined to quash the F.I.R. as there was a suicide note. Mr. Rao has drawn out attention to paragraph 10 of the judgment, wherein the suicide note has been reproduced. The Court in the said case has referred to certain authorities with regard to Section 107 Indian Penal Code and opined as under:

"18. In fact, from the above discussion it is apparent that instigation has to be gathered from the circumstances of a particular case. No straight-jacket formula can be laid down to find out as to whether in a particular case there has been instigation which force the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Therefore, in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed suicide. More so, while dealing with an application for quashing of the proceedings, a court cannot form a firm opinion, rather a tentative view that would evoke the presumption referred to Under Section 228 Code of Criminal Procedure.

19. Thus, the case is required to be considered in the light of aforesaid settled legal propositions. In the instant case, alleged harassment had not been a casual feature, rather remained a matter of persistent harassment. It is not a case of a driver; or a man having an illicit relationship with a married woman, knowing that she also had another paramour; and therefore, cannot be compared to the situation of the deceased in the instant case, who was a qualified graduate engineer and still suffered persistent harassment and humiliation and additionally, also had to endure continuous illegal demands made by the Appellant, upon non-fulfillment of which, he would be mercilessly harassed by the Appellant for a prolonged period of time. He had also been forced to work continuously for a long durations in the factory, vis-à-vis other employees which often even entered to 16-17 hours at a stretch. Such harassment, coupled with the utterance of words to the effect, that, "had there been any other person in his place, he would have certainly committed suicide" is what makes the present case distinct from the aforementioned cases considering the facts and circumstances of the present case, we do not think it is a case which requires any interference by this Court as regards the impugned judgment and order of the High Court.

16. We have quoted in extenso from the said judgment and we have no hesitation in stating that the suicide note therein was quite different, and the Court did think it appropriate to quash the proceedings because of the tenor and nature of the suicide note. Thus, the said decision is distinguishable regard being had to the factual score exposited therein.

17. Coming to the case at hand, as we have stated earlier, the suicide note really does not state about any continuous conduct of harassment and, in any case, the facts and circumstances are quite different. In such a situation, we are disposed to think that the High Court is justified in quashing the proceeding, for it is an accepted position in law that where no prima facie case is made out against the accused, then the High Court is obliged in law to exercise the

jurisdiction under Section 482 of the Code and quash the proceedings."

18. Apex Court has again considered the essential ingredients of the offence Under Section 306 I.P.C. in the matter of ***M. Arjunan (supra).*** Relevant paragraph is quoted below;

"7. The essential ingredients of the offence Under Section 306 Indian Penal Code 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 Indian Penal Code."

19. Similar issue was also before this Court with regard to offence under Section 306 I.P.C. in the matter of ***Pradeep Kumar Tank (supra)***. Relevant paragraphs are quoted below;

"I have also perused the judgment, which is also subject matter of appeal before the Apex Court in the matter of Section 306 IPC. The Court has taken conscious view and clearly stated that there must be active role by an act of instigation by the accused for making out the case under Section 306 IPC and ultimately appeal was allowed and conviction & sentence of appellant was set aside.

Relevant paragraph Nos. 7 to 9 of the judgment of Rajesh (Supra) are quoted hereinbelow:-

"7. It is necessary to refer to Section 306 IPC and Section 107 IPC which reads as under:

"306. Abetment of suicide.--If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

107. Abetment of a thing- A person abets the doing of a thing, who-First.- Instigates any person to do that thing; or

Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing; or

Secondly,- 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; or

Thirdly.- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

8. Conviction under Section 306 IPC is not sustainable 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. 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. (See Amalendu Pal alias Jhantu v. State of West Bengal).

9. The term instigation under Section 107 IPC has been explained in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) as follows: "16. Speaking for the three-Judge Bench in Ramesh Kumar case [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088], R.C. Lahoti, J. (as His Lordship then was) said that 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 by suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. 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 to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

17. Thus, to constitute "instigation", a person who instigates another has to provoke incite, urge or encourage the doing of an act by the other by "goading" or "urging forward". The dictionary meaning of the word "goad" is " a thing that stimulates someone into action; provoke to action or reaction" (see concise Oxford English Dictionary) " to keep irrigating or annoying somebody until he reacts" (see Oxford Advanced Learner's Dictionary, 7th Edn.)."

The facts of the present case is squarely getting support by the judgment of Apex Court whereas it is very much clear that there is no active role played by the appellant, which attracts the provision of Section 306 IPC."

20. Again, Apex Court has considered the similar issue in the matter of ***Kanchan Sharma (supra).*** Relevant paragraphs are quoted below;

"9. Having heard learned counsel on both sides, we have perused the impugned order and other material placed on record. Except the selfserving 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) (2009) 16 SCC 605 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 selfesteem and selfrespect. 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 (2010) 1 SCC 707 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."

In the judgment in the case of S.S. Chheena v. Vijay Kumar Mahajan & Anr. (2010) 12 SCC 190 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."

In the judgment in the case of Rajiv Thapar & Ors. v. Madan Lal Kapur (2013) 3 SCC 330 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."

10. 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.

11. 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."

21. Similar issue was again before Apex Court in the matter of ***Geo Varghese (supra).*** Relevant paragraphs are quoted below;

“18. In a recent pronouncement, a two-Judge Bench of this Court in the case of Arnab Manoranjan Goswami v. State of Maharashtra and Ors. (2021) 2 SCC 427, while considering the co-relation of Section 107 Indian Penal Code with Section 306 Indian Penal Code has observed as under:

“47. The above decision thus arose in a situation where the High Court had declined to entertain a petition for quashing an FIR Under Section 482 of the Code of Criminal Procedure. However, it nonetheless directed the investigating agency not to arrest the Accused during the pendency of the investigation. This was held to be impermissible by this Court. On the other hand, this Court clarified that the High Court if it thinks fit, having regard to the parameters for quashing and the self restraint imposed by law, has the jurisdiction to quash the investigation -and may pass appropriate interim orders as thought apposite in law. Clearly therefore, the High Court in the present case has misdirected itself in declining to enquire prima facie on a petition for quashing whether the parameters in the exercise of that jurisdiction have been duly established and if so whether a case for the grant of interim bail has been made out. The settled principles which have been consistently reiterated since the judgment of this Court in State of Haryana v. Bhajan Lal (Bhajan Lal) 1992 Supp. 1 SCC 335 include a situation where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the Accused. This legal position was recently reiterated in a decision by a two-judge Bench of this Court in Kamal Shivaji Pokarnekar v. State of Maharashtra (2019) 14 SCC 350.

48. The striking aspect of the impugned judgment of the High Court spanning over fifty-six pages is the absence of any evaluation even prima facie of the most basic issue. The High Court, in other words, failed to apply its mind to a fundamental issue which needed to be considered while dealing with a petition for quashing Under Article 226 of the Constitution or Section 482 of the Code of Criminal Procedure. The High Court, by its judgment dated 9 November 2020, has instead allowed the petition for quashing to stand over for hearing a month later, and therefore declined to allow the Appellant's prayer for interim bail and relegated him to the remedy Under Section 439 of the Code of Criminal Procedure. In the meantime, liberty has been the casualty. The High Court having failed to evaluate prima facie whether the allegations in the FIR, taken as they stand, bring the case within the fold of Section 306 read with Section 34 of the Indian Penal Code, this Court is now called upon to perform the task.”

19. In the case of M. Arjunan v. State, Represented by its Inspector of Police (2019) 3 SCC 315, a two-Judge Bench of this Court has expounded the ingredients of Section 306 Indian Penal Code in the following words:

“The essential ingredients of the offence Under Section 306 Indian Penal Code 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 IPC.”

20. At this stage, we may also refer to another recent judgment of a two-Judge Bench of this Court in the case of Ude Singh and Ors. v. State of Haryana (2019) 17 SCC 301, which elucidated on the

essential ingredients of the offence Under Section 306 Indian Penal Code in the following words:

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the Accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the Accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of Accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the Accused guilty of abetment of suicide. But, on the other hand, if the Accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 Indian Penal Code. If the Accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the Accused may be held guilty of abetment of suicide. The question of mens rea on the part of the Accused in such cases would be examined with reference to the actual acts and deeds of the Accused and if the acts and deeds are only of such nature where the Accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the Accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the Accused and the deceased."

21. We may also refer to a two-Judge Bench judgment of this Court in the case of Narayan Malhari Thorat v. Vinayak Deorao Bhagat and Anr. (2019) 13 SCC 598, wherein the judgment rendered by the High Court quashing the FIR Under Section 482 was set aside. In the said case, an FIR was registered Under Section 306 Indian Penal Code stating that the son and daughter-in-law were teachers in a Zila Parishad School where the Accused was also a teacher used to make frequent calls on the mobile of the daughter-in-law, and used to harass her. Despite the efforts of the son of the informant in trying to make the Accused see reason and stop calling, the Accused continued with his activity. On 09.02.2015, there was a verbal altercation between the son of the informant and the Accused and on 12.02.2015, he committed suicide leaving a note stating that his family life has been ruined by the Accused who should not be pardoned and should be hanged. Under Section 482 Code of

Criminal Procedure, a petition was filed by the Accused challenging the FIR, which was allowed by the High Court and thereafter, was challenged before this Court. The appeal was allowed by this Court and made the following observations:

"We now consider the facts of the present case. There are definite allegations that the first Respondent would keep on calling the wife of the victim on her mobile and keep harassing her which allegations are supported by the statements of the mother and the wife of the victim recorded during investigation. The record shows that 3-4 days prior to the suicide there was an altercation between the victim and the first Respondent. In the light of these facts, coupled with the fact that the suicide note made definite allegation against first Respondent, the High Court was not justified in entering into question whether the first Respondent had the requisite intention to aid or instigate or abate the commission of suicide. At this juncture when the investigation was yet to be completed and charge-sheet, if any, was yet to be filed, the High Court ought not to have gone into the aspect whether there was requisite mental element or intention on part of the Respondent."

In the above quoted observations of this Court, there is a clear indication that there was a specific averment in the FIR that the Respondent had continuously harassed the spouse of the victim and did not rectify his conduct despite being objected by the victim. Thus, as a matter of fact he had actively facilitated in the commission of suicide.

22. What is required to constitute an alleged abetment of suicide Under Section 306 Indian Penal Code is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the Accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the Accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the Accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the Accused and the psyche of the deceased."

22. Madras High Court has also considered the similar issue in the matter of ***M. Maryson (supra)***. Relevant paragraphs are quoted below;

"9. From a perusal of the suicide notes, absolutely no offence, much less an offence under Section 306 I.P.C. in made out. In the above said suicide notes nothing there to suggest that the petitioner has instigated the deceased to commit suicide. To bring the case within the ambit of Section 306 I.P.C., there must be materials to show that, the persons who is stated to have abetted the commission of suicide has played an active role in instigating and facilitate the commission of suicide. Mere harassment without any mens rea which lead to the suicide would not amount to an offence under Section 306 I.P.C.

10. That apart, perusal of other materials namely the statement of the mother of the deceased and his friends, it could be seen that the petitioner only said to have insisted the deceased to get the car repaired properly, which at any rate cannot be considered that the petitioner has intentionally aided and abetted the deceased to

commit suicide. The Hon'ble Supreme Court in S.S. Chheena Vs. Vijay Kumar Mahajan and another reported in (2011) 1 MLJ (Crl) 547 (SC) has held as follows:

"28. 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. Recently the Hon'ble Supreme Court in Shabbir Hussain Vs. The State of Madhya Pradesh and Ors. dated 26.07.2021 in Special Leave to Appeal (Crl.) No. 7284/2017 has held as follows:

"In order to bring a case within the provision 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 instigating or by doing a certain act to facilitate the commission of suicide.

Mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC [Amalendu Pal v. State of West Bengal (2010) 1 SCC 707].

Abetment by a person is when a person instigates another to do something. Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no option except to commit suicide. [Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605]."

12. In the instant case, the materials available on record did not indicate that the petitioner has intentionally abetted the deceased to commit suicide and no prima facie offence under Section 306 I.P.C. is made out. In these circumstance, continuing the criminal case before the trial Court is only an abuse of process of law and therefore, the criminal proceedings in S.C. No. 118 of 2016 pending on the file of the learned VII Additional Sessions Judge, Chennai is liable to be quashed and accordingly the same is quashed."

23. Section 107 I.P.C. read with Section 306 I.P.C. is very much clear for abement of a thing. Instigation is the first condition, second condition is engagement of one or more persons in any conspiracy and further an act or illegal omission in pursuance of conspiracy and the third thing is intention to do by any act or illegal omission. All these legal ingredients are fully missing in this case. In fact, only denial of marriage not coupled with any other fact does not come within the purview of abement as defined in Section 107 I.P.C., therefore, it would not be an offence under Section 306 I.P.C.

24. Judgments of Apex Court as well as many other Courts referred herein above after considering the provisions of Section 107

I.P.C. read with Section 306 I.P.C. has taken the consistent view about abetment of suicide, which are supporting the case of applicant.

25. Therefore, under such facts and circumstances of the case as well as law discussed above, proceeding of Case No. 3522 of 2016, arising out of case crime no. 129/2016, under Section 306 I.P.C. read with Section 3/4 D.P. Act, P.S. Bhelu Pur, District Varanasi, pending before A.C.J.M., Court No. III, Varanasi is hereby quashed and application is **allowed**.

26. No order as to costs.

Order Date :- 1.12.2023
Arvind

Digitally signed by :-
ARVIND KUMAR GUPTA
High Court of Judicature at Allahabad