

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4683 OF 2021

1) Girish Shantilal Shah,	]	
Aged 61 years, Occ. Business,	]	
Residing at Plot No. 24, Ruikar Colony,	]	
Kolhapur, District Kolhapur.	]	<u>...Petitioner.</u>

Versus

1) The State of Maharashtra,	]	
(At the instance of Juna Rajwada Police	]	
Station, District Kolhapur.	]	
2) Mr. Ravindra Pandurang Giribuva	]	<u>...Respondents.</u>
R/at Savarde, Taluka-Panala, District-	]	
Kolhapur.	]	

Mr. D.V. Sutar a/w Ms. Shruti Ghodake, for Petitioner.

Mrs. S. N. Deshmukh, A.P.P, for Respondent No.1 – State.

Mr. Nagesh Chavan i/b Mr. Prashant D. Patil, for Respondent No. 2.

<u>Coram</u>	:	M. S. Karnik & Ajit B. Kadethankar, JJ.
<u>Date</u>	:	November 14, 2025.

ORAL JUDGMENT (PER : AJIT B. KADETHANKAR, J.)

(1) Heard Mr. Sutar, learned Counsel for the Petitioner, Mrs. Deshmukh, learned APP for the Respondent No. 1-State and Mr. Chavan for the Respondent No. 2.

(2) At the instance of the parties, the Petition is heard finally and being disposed of accordingly.

(3) SUBJECT MATTER:

(3.1) The Petitioner, who is charged of abating the suicide of one Aatish Ravindra Giribuwa, has preferred this Petition praying to quash the crime registered against him as Crime No. 229 of 2019 registered at Juna Rajwada Police Station, District-Kolhapur, as also the Charge-Sheet u/s 306, 324, 506 and 201 of Indian Penal Code, 1860 (for short "**IPC**") which has culminated into trial as Sessions Case No.11 of 2020.

(3.2) At this juncture, Mr. Sutar, Id. Counsel for the Petitioner would submit that the Petitioner restricts the Petition to the extent of the charge leveled against him u/s 306 of Indian Penal Code. For the sake of convenience, we refer the parties as to their factual status.

(4) FACTS IN BRIEF:

(4.1) One Aatish Ravindra Giribuwa lodged a Complaint on 7th June, 2019 at about 12.36 at Juna Rajwada Police Station against the Petitioner following which, offenses u/s 324 and 506 of IPC were registered against the petitioner.

(4.2) The sum and substance of the Complaint was that,

(4.2.1) The informant i.e. deceased Aatish Ravindra Giribuwa was serving as site supervisor under the Petitioner. The Petitioner is a Building Constructor by profession and having ongoing construction at 100 ft. road, Sangli where the deceased Aatish was working as site Supervisor.

(4.2.2) On 6th June 2019, at about 7.30 pm., the Petitioner called the Informant-Aatish at his office at Kolhapur. Both of them discussed on accounting of the expenditure. The Petitioner allegedly held the Informant-Aatish responsible for loss of Rs. 60,000/-.

(4.2.3) Deceased Aatish agreed his lapse and assured to reimburse the loss amount of Rs. 60,000/- to the Petitioner. However the Petitioner then escalated the amount of loss to Rs. 1,00,000/-, over which a discordance occurred in between both of them. The deceased further complained that the Petitioner assaulted him with hockey stick and threatened to the life of Aatish's family.

(4.2.4) Informant Aatish further narrated that under the apprehension of being re-beaten and of the threat, he consumed the pesticide that he was carrying in his sack for its use in his farm. The Informant further submitted that immediately on ingestion of the pesticide, the Petitioner and the other employees in the office shifted him to hospital.

(4.2.5) On the basis of the statement of deceased Aatish the First Information Report (for short **"FIR"** for the sake of convenience) came to be registered under Section 324 and 506 of IPC on 7th June, 2019, against the Petitioner.

(5) On 8th June, 2019, the Informant- Aatish unfortunately died. On 8th June, 2019, the police recorded the statements of Aatish's brother namely Omkar Ravindra Giribuwa, father -namely Ravindra Pandurang Giribuwa, Mother -namely Ranjana Ravindra Giribuwa and uncle - namely Bapuso Pandurang Giribuwa. These persons narrated the same story that was explained by the deceased Aatish while recording his complaint. However they averted that the Petitioner was responsible for the death of Aatish. On the next day, the police also recorded statements of Aatish's sister -namely Yashshree Hemant Gosavi and brother-in-law Hemant Baban Gosavi who also offered statements on the same line.

(6) The Investigating Officer conducted investigation by recording various statements, collected the documents and filed Charge-Sheet u/s 306, 324, 201 and 506 of Indian Penal Code against the Petitioner on 18th November, 2019. Consequently the case was committed to the Ld. Sessions Court, Kolhapur and was numbered as Sessions Case No. 11 of 2020. It is thus challenging the Charge-sheet, present Petition is filed by the Accused/Petitioner seeking dismissal of the charge-sheet at pre-trial stage, at-least to the extent of the charge under Section 306 of the Indian Penal Code.

(7) Petitioner's Argument:-

(7.1) Mr. Sutar, learned Counsel for the Petitioner would submit that from the plain reading of the Complaint that was lodged by the deceased Aatish himself, no case of abetment to suicide could be seen. He would further submit that deceased Aatish himself consumed the poison/pesticide under apprehension that he would be re-beaten.

(7.2) He would further submit that the story of abetment of suicide is later developed by the statements dated 8th September, 2019 and 9th September, 2019 which were collected from the relatives of deceased Aatish. He would further submit that its a clear case where prosecution under Section 306 of Indian Penal Code is nothing but an abuse of law. That if offense itself is not made out from the Complaint itself, the Petitioner/Accused must not be made to undergo the entire trial for such offense which is not at all made out from the plain reading of the Complainant.

(7.3) Mr. Sutar further submits that the Charge Sheet also doesn't show any offense against the Petitioner to abate the suicide. That, the basis of the Charge Sheet is the complaint that was filed by the deceased Aatish. The investigation that was conducted pursuant to the complaint could not demonstrate a noticeable case u/s 306 of the Indian Penal Code.

(7.4) Mr. Sutar, Id. Counsel for the Petitioner lastly adds that statements gathered from the witnesses cannot make by themselves an offense in the original Complaint that was filed by the deceased Aatish himself.

(7.5) With this, Mr. Sutar for Petitioner would submit that Petition may be allowed at-least to the extent of offense under Section 306 of IPC.

(8) Respondent's arguments:-

(8.1) Mrs. Deshmukh, Id. Assistant Public Prosecutor would however object the Petition. She would submit that the offence registered against the Petitioner is serious one wherein an innocent person has lost his life. She would further submit that the prosecution is absolutely hopeful that a positive case u/s 306 of Indian Penal Code could be established during the trial before the Id. Sessions Court. She would further submit that it would be impermissible for the Petitioner to request to look into other documents except Complaint, and that in view of this Petition is liable to be dismissed. Last, but not the least Mrs. Deshmukh, APP would submit that Petitioner could gain acquittal only if prosecution fails to make out a case after leading evidence.

(8.2) Mrs. Deshmukh would place reliance on the Charge Sheet and submit that there is sufficient material on record to show prima facie case against the Petitioner u/s 306 of Indian Penal Code.

CONSIDERATIONS AND OBSERVATIONS:

(9) Present proceeding is filed u/a 226 of the Constitution of India r/w Section 482 of the Criminal Procedure Code (for short 'Cr.PC' for the sake of convenience) seeking termination of the charge and prosecution before the Petitioner undergoes the Trial itself. In the sense, this is a Petition wherein the Petitioner seeks exoneration Pre-Trial.

(10) Hence, it would be necessary to look into the principles under which such a recourse would be permissible to the Petitioner to seek such Pre-Trial acquittal.

(11) For that it would be beneficial to refer to the observations made by the Hon'ble Apex Court in land mark case of ***State of Haryana v. Bhajan Lal***¹. In the said case after considering various relevant provisions under the Criminal Procedure Code at its Chapter-XIV as also by analyzing then prevailing case laws on the issues, the Hon'ble Supreme Court discussed the power of High Court u/a 226 of the Constitution of India r/w Section 482 of CRPC to exercise its extraordinary jurisdiction to prevent abuse of process of law or otherwise to secure the ends of justice.

1 [1992 Supp (1) SCC 335]

(12) The relevant portion from the said Judgment is reproduced as follows.

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/ or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

(13) In the light of above, we deem it appropriate to frame two points for our consideration i.e.

(i) Whether the complaint and the material post investigation as they are, make out an offence u/s 306 of Indian Penal Code against the Petitioner?

(ii) Whether continuation of the Trial against the Petitioner would serve the purpose of 'justice' or would constitute abuse of process?

(14) Now we deal with the points framed by us for consideration. Both the points are interlinked and need to be discussed together.

(15) In order to examine whether the Petitioner could make out any case under either of the above seven instances as described in **Bhajan Lal** (supra), we are required to go through the contents of the Complaint dated 7th June, 2019 that was filed by the deceased Aatish himself.

(16) With the able assistance of both the Id. Counsels representing the parties we have minutely gone through the contents of the Complaint dated 7th June, 2019. The Complainant/deceased Aatish recorded his Complaint that over an issue of quantum of the reimbursement of loss, he was beaten by the Petitioner with hockey stick and was threatened to life of his family. That thereafter under the

apprehension that he would be re-assaulted, in frightened state of mind he [deceased Aatish] consumed the pesticide which he was naturally carrying for the purpose of its utilization in his farm.

(17) It is obvious that the statement recorded by the deceased himself was a natural statement instantly disclosing the very true fact and incidence that occurred in between the Petitioner and himself.

(18) What we find is that deceased Aatish accepted that he had caused some loss to the Petitioner and that he would reimburse the same. However later the Petitioner escalated the loss from Rs. 60,000/- to Rs. 1,00,000/- where disagreement arose between the parties. For now let's agree that the Petitioner beat the deceased with hockey-stick and threatened to cause harm to his family if Aatish fails to make good of the loss to him. However, it was the fear of being re-beaten that tempted Aatish to consume the pesticide. Its worth to note that natural possession of pesticide with the deceased Aatish is also explained by him only.

(19) In the Complaint, deceased Aatish voluntarily stated that he was carrying the said pesticide for its use in his farm. Now two different terms i.e. 'apprehension' and 'instigation/abatement' need to be examined as the 'states of minds' qua acts of both the parties. Mere apprehension in the mind of the deceased may be of a result of any act of the accused, however that itself is not sufficient to charge the

accused for an offence of Section 306 of Indian Penal Code. Section 306 necessarily requires to look into the alleged offending act of the accused in terms of Section 107 of the Indian Penal Code which reads as follows:

"Section 107: Abatement 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 willful misrepresentation, or by willful 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."

(20) Going clearly by the contents of the complaint, commission of physical assault by the Petitioner on the deceased and threat to cause danger to deceased's family, doesn't suggest that the Petitioner abated the deceased to commit suicide, nor remotely reveals the component of 'mens rea' in tempting, constraining or leaving the deceased with no choice other than to commit suicide.

(21) As we observed above, as 'apprehension' is a state of deceased's mind, 'abatement or instigation' is also required to be seen as a state

of accused's mind which must be backed by the basic principle of "mens rea" to make out a case u/s 306 of Indian Penal Code. At later part of our discussion, we shall refer to the fiat containing guiding the principles laid down by the Hon. Supreme Court to identify the component of abatement, and an act with mens rea to constitute abatement u/s 107 of the Indian Penal Code.

(22) After the deceased Aatish accepted his lapse for Rs. 60,000/-, the further controversial addition of Rs. 40,000/- by the Petitioner is the cause behind the unfortunate incidence.

(23) Ms. Deshmukh, Ld. Asst. Public Prosecutor tried to convince us that mere act of the Petitioner in carrying Aatish to hospital won't constitute his innocence to grant him the relief as is prayed. We do not have reasons to disagree with such argument. The Petitioner would certainly not be justified in threatening the deceased as was complained nor would stand innocent by carrying Aatish to hospital itself. Such Pre-Trial termination of prosecution, is to be judged from the recitals of the complaint if they fail to make out any offence as alleged. So far as Charge sheet is concerned, the investigation product would be a hurdle for the accused only if the contents of complaint is corroborated by the investigation which constitutes the offence.

(24) For want of any accusation in the complaint by the deceased Aatish against the Petitioner, we do not fathom Ld. APP's argument

that deceased Aatish was left with no choice than to commit suicide by the act on behalf of the Petitioner. Its difficult to comprehend with Prosecutions' contention that the threat extended by the Petitioner would convince any prudent mind that it instigated or tempted Aatish to commit suicide. We have absolutely no doubt in our minds that the deceased was nowhere even suggested by the Petitioner in any terms which tempted/instigated, constrained him to commit suicide that too with mens rea behind such instigation.

(25) The Complaint, if taken as it is, would at the most reveal that there was some dispute in between an employer and employee over quantum of the loss sustained by the employer due to employee's lapse/fault. So far as the assault and the alleged threat are concerned those were extended by the Petitioner requiring the deceased to escalate the quantum of agreed loss of Rs. 60,000/- to Rs. 1,00,000/-. As is observed supra, it was the frightened state of mind of the deceased Aatish or the sensitive state of mind of deceased Aatish, under which he consumed the pesticide.

(26) At this juncture, it would be beneficial to refer the observations made by the Hon'ble Supreme Court in some land mark cases. In the case wherein Accused remarked the deceased "**go and die**", and the deceased thereafter committed suicide the Hon'ble Supreme Court observed in the case of ***Swamy Prahaladdas vs. State of M.P. and another,***² as under :

² [1995 Supp (3) SCC 438]

".... Those words are casual nature which are often employed in the heat of moment between quarreling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite means rea on the assumption that these words would be carried out in all events...."

(27) Re-iterating the law laid down in case of **Swamy Prahaladdas vs. State of M.P. and another** (supra) the Hon'ble Supreme Court in the latest case of **Ayyub & Ors vs. State of Uttar Pradesh & Anr³** laid down definite guiding observations. In this case the High Court of Judicature at Allahabad had dismissed Petition of the Petitioner therein/Accused under Section 482 of CRPC. The Hon'ble Supreme Court however, while allowing the Pre-Trial termination of the Prosecution of the Petitioner therein has observed as follows:

"19. By a long line of judgments, this Court has reiterated that in order to make 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 about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC [See Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See Amalendu Pal @ Jhantu vs. State of West Bengal, (2010) 1 SCC 707 and M. Mohan vs. State, (2011) 3 SCC 626 and Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618].

20. These principles have been reiterated recently by this Court in Mahendra Awase vs. The State of Madhya Pradesh, 2025 INSC 76

3 2025 INSC 168

21. We find none of the ingredients required in law to make out a case under Section 306 IPC to be even remotely mentioned in the charge-sheet or are being borne out from the material on record. The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased Tanu with no other alternative but to put an end to her life. The surrounding circumstances, particularly the prior lodgment of the FIR by the first appellant against the family of Tanu for the death of his son Ziaul Rahman, does indicate an element of desperation on the part of the respondent no. 2 to somehow implicate the appellants. Reliance of statements recorded under Section 161 Cr.P.C. belatedly on 07.11.2022, 08.11.2022 and 22.11.2022, only reinforces out suspicion viz. one-sided, partial and inimical investigation. Under these circumstances, proceeding with the trial against the appellants in the charge-sheet as filed will be a gross abuse of process."

(28) In the case in hand the contents of the First Information Report do not in itself indicate such Act of the Petitioner that led the deceased Aatish to commit suicide leaving him no option but to commit suicide. Even accepting that the Petitioner has beaten the deceased and has threatened his family that itself cannot be termed as an abetment to suicide. We have also gone through the Chargesheet and the investigation material. They do not create any situation where its desirable that the Petitioner must undergo the Trial.

(29) Its advantageous for us to refer the observations made by the Hon'ble Supreme Court in another case known as ***Shenbagavalli & Ors vs. The Inspector of Police, Kancheepuram District & Anr⁴***

4 2025 INSC 607

"15. Section 306 requires a person having committed suicide as a first requirement but for abetment of such commission, which is essential, the ingredients must be found in Section 107 IPC. The requirement of abetment under Section 107 IPC is instigation, secondly engagement by himself or with other person in any conspiracy for doing such thing or act or a legal omission in pursuance to that conspiracy and thirdly intentionally aids by any act or an illegal omission of doing that thing. In large number of judgments of this Court it stands established that the essential ingredients of the offense under Section 306 IPC are (i) the abetment; (ii) intention of the accused to aid and instigate or abet the deceased to commit suicide. Merely because the act of an accused is highly insulting to the deceased by using abusive language would not by itself constitute abetment of suicide. There should be evidence suggesting that the accused intended by such act to instigate the deceased to commit suicide. (M. Arjunan V. State represented by its inspector of Police⁵)

*16. Similarly, in the case of **Ude Singh and Others V. State of Haryana**⁶, it has been observed in para 16 as follows:*

"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

⁵ (2019) 3 SCC 315

⁶ (2019) 17 SCC 301

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 the 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 IPC. 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."

17. These being the essential ingredients for the offence of abetment to suicide, and the said ingredients having not been fulfilled, the further continuation of proceedings would not be sustainable. The other evidence such as statements, sought to be relied upon by the prosecution, apart from the suicide note, does not in any manner advance the case of the prosecution,

particularly when the foundation of the case is the suicide note itself. With the very element of abetment conspicuously absent from the allegations made in the FIR which is primarily based upon the suicide note, the essential requirements for constituting an offence under Section 306 IPC remain unfulfilled. As such, the continuation of the criminal proceedings initiated against the Appellants would amount to an abuse of the process of law. The Court cannot permit such proceedings to degenerate into instruments of harassment or unjust prosecution.

*18. The Court would not hesitate to exercise its extraordinary powers which are inherent to quash such proceedings when it comes to fore, and the court is satisfied that allowing the proceedings to continue would be an abuse of process of Court or that the ends of the justice require that the proceedings ought to be quashed. Reference in this regard may be made to the Judgment of this Court in **Geo Varghese V. State of Rajasthan and Others**⁷.*

19. In the light of the above findings, when offence under Section 306 itself is not being made out continuance of the proceedings against the Appellants cannot be permitted."

(30) Mr. Sutar, Id. Counsel for the Petitioner, then referred to another pronouncement by the Hon'ble Supreme Court in the case of **M. Mohan v. State represented by the Deputy Superintendent of Police**⁸ He would further submit that observations by the Hon'ble Supreme Court at its paragraph nos. 36 to 49, 65 and 68 would demonstrate how Petitioner's case is fit for granting him Pre-Trial termination of prosecution for offence under Section 306 of IPC. The relevant portion in the case of **M. Mohan v. State** (supra) are reproduced as follows.

⁷ (2021) 19 SCC 144

⁸ [2011] 3 SCC 626

"36. We would like to deal with the concept of "abetment". Section 306 of the Code deals with "abetment of suicide" 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.

37. The word "suicide" in itself is nowhere defined in the Penal Code, however, its meaning and import is well known and requires no explanation. "Sui" means "self" and "cide" means "killing", thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

38. In our country, while suicide itself is not an offence considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 IPC.

39. "Abetment of a thing" has been defined under Section 107 of the Code. We deem it appropriate to reproduce Section 107, which reads as under:

**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 aides, by any act or illegal omission, the doing of that thing."

Explanation 2 which has been inserted along with Section 107 reads as under:

Explanation 2.-Whoever, either prior to or at the time of the 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."

40. The learned counsel also placed reliance on yet another judgment of this Court in *Ramesh Kumar v. State of Chhattisgarh* [(2001) 9 SCC 618], in which a three- Judge Bench of this Court had an occasion to deal with the case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered "you are free to do whatever you wish and go wherever you like". Thereafter, the wife of the appellant Ramesh Kumar committed suicide.

41. This Court in SCC para 20 of *Ramesh Kumar* [(2001) 9 SCC 618] has examined different shades of the meaning of "instigation". Para 20 reads as under: (SCC p. 629)

"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.

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.

42. In *State of W. B. v. Orilal Jaiswal* [(1994) 1 SCC 73], this Court has cautioned that (SCC p. 90, para 17) 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 her life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to

which the victim belonged and such petulance, discord and difference 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.

43. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. 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.

45. 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 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 this act must have been intended to push the deceased into such a position that he/she committed suicide.

46. In V.P. Shrivastava v. Indian Explosives Ltd. [(2010) 10 SCC 361] this Court has held that when prima facie no case is made out against the accused, then the High Court ought to have exercised the jurisdiction under Section 482 CrPC and quashed the complaint.

47. In a recent judgment of this Court in Madan Mohan Singh v. State of Gujarat [(2010) 8 SCC 628], this Court quashed the conviction under Section 306 IPC on the ground that the allegations were irrelevant and baseless and observed that the High Court was in error in not quashing the proceedings.

48. *In the instant case, what to talk of instances of instigation, there are even no allegations against the appellants. There is also no proximate link between the incident of 14-1-2005 when the deceased was denied permission to use the Qualis car with the factum of suicide which had taken place on 18-1-2005. Undoubtedly, the deceased had died because of hanging. The deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. In a joint family, instances of this kind are not very uncommon. Human sensitivity of each individual differs from person to person. Each individual has his own idea of self-esteem and self-respect. Different people behave differently in the same situation. It is unfortunate that such an episode of suicide had taken place in the family. But the question that remains to be answered is whether the appellants can be connected with that unfortunate incident in any manner?*

49. *On a careful perusal of the entire material on record and the law, which has been declared by this Court, we can safely arrive at the conclusion that the appellants are not even remotely connected with the offence under Section 306 IPC. It may be relevant to mention that criminal proceedings against the husband of the deceased Anandraj (A-1) and Easwari (A-3) are pending adjudication.*

65. *This Court in Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122] observed thus: (SCC p. 128, para 8)*

"8. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

68. In the light of the settled legal position, in our considered opinion, the High Court was not justified in rejecting the petition filed by the appellants under Section 482 CrPC for quashing the charges under Section 306 IPC against them. The High Court ought to have quashed the proceedings so that the appellants who were not remotely connected with the offence under Section 306 IPC should not have been compelled to face the rigmaroles of a criminal trial. As a result, the charges under Section 306 IPC against the appellants are quashed."

(31) Last but not the least, we find it profitable to refer what the Hon'ble Supreme Court observed while dealing with a case of abetment of suicide based on suicide note which contained an apprehension, observed as follows:

*"23. We have minutely perused the suicide note (reproduced supra) which clearly shows that the deceased was frustrated on account of work pressure and was apprehensive of various random factors unconnected to his official duties. He was also feeling the pressure of working in two different districts. However, such apprehensions expressed in the suicide note, by no stretch of imagination, can be considered sufficient to attribute to the appellant, an act or omission constituting the elements of abetment to commit suicide. The facts of the case at hand are almost identical to the case of **Netai Dutta** (supra). Thus, we have no hesitation in holding that the necessary ingredients of the offence of abetment to commit suicide are not made out from the chargesheet and hence allowing prosecution of the appellant is grossly illegal for the offences punishable under Section 306 IPC and Section 3(2)(v) of the SC/ST Act tantamounts to gross abuse of process to law."*

(32) These observations are made by the Hon'ble Supreme Court in the case of ***Prabhat Kumar Mishra @ Prabhat Mishra vs. The State of Uttar Pradesh & Anr***⁹. The view expressed by the Hon'ble Supreme Court in the cases cited above can also be seen in the cases of ***Geo Varghese V. State of Rajasthan and Another*** (supra).

(33) As such in view of the various case laws referred above, the contents of the relevant provisions attracted in the present case and the Complaint that was filed by deceased Aatish on 7th June, 2019, we are of the considered view that the complaint does not make out any case against the Petitioner at-least under Section 306 of Indian Penal Code.

(34) We agree with the submissions of the Id. Asst. Public Prosecutor Ms. S. N. Deshmukh that while dealing with Petition seeking quashing of FIR/Charge-sheet, the Court has only to look into the contents of the Complaint and not more than that. What is seen from the present complaint is, that there is absolutely no whisper of any instigation or abetment by the Petitioner to the deceased Aatish to commit suicide, or such a case where due to an Act of the Petitioner the Complainant/deceased Aatish was left with no other option than to commit suicide.

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(35) We take a note that deceased Aatish's father namely Ravindra Giribuwa filed an affidavit through Ld. Advocate Shri Nagesh Chavan in the proceeding stating that the case be closed. The affidavit depicts the deponent has expressed that due to overage he is unable to attend the court proceedings that hence he is no more interested in prosecuting the case further. May it be, we have dealt with the present petition on its own merit and by applying our judicial minds as is expressed herein.

(36) Therefore, we are satisfied that in the given circumstances allowing the proceedings to continue against the Petitioner for offence triable u/s 306 of Indian Penal Code, would be an abuse of process of Court; and that the ends of justice would require that the proceedings ought to be quashed. Hence in the light of the above findings, when offence under Section 306 itself is not being made out, continuation of the proceedings would be impermissible under the law as has been observed by the Hon'ble Supreme Court in the fiat of its judgments.

(37) In the light of above, we pass following order:

::ORDER::

- A)** Writ Petition stands partly allowed;
- B)** The Charge-sheet in Crime No. 229 of 2019 registered at Juna Rajwada Police Station, District-Kolhapur, and being dealt in Sessions Case No.11 of 2020 in the Court of the Ld. Sessions Judge, Kolhapur for charges u/s 306, 324, 506 and 201 Indian Penal Code, stands quashed and set aside to the extent of prosecution against the Petitioner u/s 306 of Indian Penal Code;
- C)** Trial for rest of the offences against the Petitioner shall proceed uninfluenced by the observations made in our judgment, and would be dealt on its own merit;
- D)** Order accordingly.

(38) Writ Petition stands disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

TALLE
SHUBHAM
ASHOKRAO

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by TALLE
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