

**HIGH COURT OF TRIPURA
A G A R T A L A**

Crl. Petn. No.39 of 2025

1. **Sri Sekhar Chowhan,**
S/O Lt. Moti Lal Chowhan, aged about 64 years.
2. **Smt Kathakali Chowhan,**
D/O Sri Sekhar Chowhan, aged about 27 years.
Both are resident of flat 3B, Roodraksh Kamalkali, T.G. Road,
Krishnanagar, P.O. Agartala, P.S West Agartala, Dist West Tripura, Pin
799001

..... **Petitioner(s)**

- V e r s u s -

1. **The State of Tripura**
Represented by its Secretary, Home Department, Govt. of Tripura, P.O.
Secretariat, P.S. New Capital Complex, Dist. West Tripura, Pin 799010.

.....**Respondent(s)**

2. **Sri Ajit Sarkar,**
S/O Lt. Sachindra Sarkar, resident of Vill Santi Pali, P.O. Amarapur, P.S.
Birganj, Dist. Gomati Tripura, Pin 799101, Aged about 69 years.

.....**Proforma Respondent(s)**

For the Petitioner(s)	:	Mr. Arijit Bhowmik, Advocate.
For the Respondent(s)	:	Mr. Rajib Saha, Addl. P.P.
Date of hearing	:	26th November, 2025.
Date of delivery of Judgment & Order	:	30th January, 2026.

Whether fit for reporting :

YES	NO
√	

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

The petitioners have approached this Court under Section 482 of the Criminal Procedure Code, 1973 (corresponding to Section 528 of BNSS, 2023) for quashing the proceeding against them which is pending in the Court of learned Additional Sessions Judge, West Tripura, Agartala (Court No.4) vide case No. ST (T-2) 19 of 2025 under Section 306/34 of Indian Penal Code, on the ground of settlement between the parties and also that there are no prima facie materials against both the petitioners under Section 306 IPC.

[2] The respondent No.2 lodged one written FIR at Ranir Bazar police station on 07.01.2024 alleging that his son Biswajit Sarkar was murdered by both the petitioners though it was informed to him (the informant) that he had committed suicide. It were also alleged that the petitioner No.2 who is the daughter of petitioner No.1 was given marriage with deceased Biswajit Sarkar in the year 2021 and since then, the couple used to reside in a rented house at Ranir Bazar. By profession, petitioner No.2 is a model and she would remain busy in her such avocation and therefore, the deceased and other family members of the informant would object to it. On 05.01.2024, the petitioner No.1 informed the informant and his wife at around 6.00 am that the deceased had suffered cerebral stroke and was admitted at Ranir Bazar hospital. When they were going towards Ranir Bazar, again the petitioner No.1 informed him that his son was declared dead at GBP hospital and already post mortem examination was also completed. Thereafter, they reached at GBP hospital and when enquiring about the matter, the family member of the petitioners started giving different replies. They also noticed swelling on the head of the dead body and therefore, it appeared to them that their son was murdered.

[3] The police authority registered the case as Ranir Bazar PS case No.1 of 2024 under Section 302/34 of IPC and on completion of investigation laid the charge sheet under Section 306/34 IPC. The autopsy surgeon after the post mortem gave the opinion that the cause of death was asphyxia as a result of hanging which, if not otherwise proved, was suicidal in nature.

[4] The respondent No.2 was duly notified but he did not appear in this case. A copy of one memorandum of settlement is submitted on behalf of the petitioners, arrived at between them and said informant Ajit Sarkar, wherein informant has stated that he has no objection if the above said criminal case is compounded or quashed by the Court. It is also further stated therein that after his son committed suicide, at the spur of moment, he lodged the FIR due to misunderstanding and he has no grievance against the petitioners. He also does not want to further proceed with the said case.

[5] Mr. Arijit Bhowmik, learned counsel for the petitioners argues that only the statements of the landlady and the domestic helper of the deceased are relevant and there are no prima facie materials against both the petitioners to frame charge under Section 306 IPC and if the said criminal proceeding is

allowed to proceed, it will only be abuse of process of the Court. Learned counsel also submits that though Section 306 IPC is not compoundable, however, there is no legal bar in quashing the same for want of materials.

[6] Mr. Bhowmik, learned counsel relies on **Swamy Prahaladdas vs. State of M.P. and another, (1995) Supp (3) SCC 438**. In said case one married woman had two paramours, one was the deceased and the other was the appellant before the Hon'ble Supreme Court. There was sexual jealousy between the said two persons and deceased was also a married person. On the relevant date, all the said three persons had quarrel and during that course, the appellant had remarked to the deceased to go and die. It was also the allegation that thereafter deceased went home in dejected mood and committed suicide. In that contexts, the Apex Court observed that those words were casual in nature which are often employed in the heat of moment between the quarrelling people and nothing serious was expected to follow thereafter. It was also observed that said act did not reflect the requisite mens rea on the assumption that those words would be carried out in all events and moreover the deceased had plenty of time to weigh the pros and cons of the act by which he ultimately ended his life. In that circumstance, the proceeding was quashed by the Hon'ble Supreme Court.

[7] Mr. Bhowmik, learned counsel also refers to the decision of the Hon'ble Supreme Court in the case of **Shiji alias Pappu and others vs. Radhika and another; (2011) 10 SCC 705**, and the relevant paragraph Nos.17 and 18 are extracted below:

“17. It is manifest that simply because an offence is not compoundable under Section 320 CrPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 CrPC. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 CrPC on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 CrPC are not for that purpose controlled by Section 320 CrPC.

18. Having said so, we must hasten to add that the plenitude of the power under Section 482 CrPC by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.”

[8] In *Narinder Singh and others vs. State of Punjab and another; (2014) 6 SCC 466*, as relied on by Mr. Bhowmik, learned counsel, the following parameters were laid down by the Hon’ble Supreme Court while distinguishing the intents of Section 482 and 320 of Criminal Procedure Code, as to when and how such inherent power is to be invoked. The relevant paragraph No.29 is extracted hereunder:

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity

or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to

decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

[9] As a matter of further reference, Mr. Bhowmik, learned counsel also refers to a decision of a Coordinate Bench of this Court in case of **Smt. Sangita Sangma vs. the State of Tripura and another**; Crl. Petn. No.10 of 2023 decided on 05.07.2023 wherein the Court in a case of consensual physical relationship quashed the criminal proceeding registered under Section 376/417/506 of IPC observing that predominantly the issue was civil in nature and the complaint was raised by the petitioner due to the breach of promise of marriage and accordingly, the proceeding was quashed.

[10] Mr. Rajib Saha, learned Addl. P.P., however, submits that there are prima facie materials against both the accused petitioners to frame charge against them under Section 306 IPC and he refers to the relevant statements of witnesses Ajit Sarkar (informant), Smriti Kanya Bishnu Chowdhury (mother of the deceased) and one Pradip Sarkar (colleague of the deceased) as recorded by the investigating officer under Section 161 Cr.P.C.

[11] Learned Addl. P.P. also relies on a decision of Hon'ble Supreme Court in case of **Daxaben vs. State of Gujarat and others; (2022) 16 SCC 117**. In the said case, in the FIR it was alleged that the deceased made phone calls to the accused persons asking them to return his money but they did not and the accused had cheated the deceased of an amount of Rs.2,35,73,200 leaving him into acute financial crunch and, therefore, he committed suicide. In paragraph No.48, it was observed by the Apex Court that in exercise of power under Section 482 Cr.P.C., the Court does not examine the correctness of the allegation in the complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence. It was also observed further at paragraph No.49 that just on the ground of settlement a criminal proceeding cannot be nipped in the bud under Section 482 Cr.P.C. At paragraph No.50, it was further observed that the offence under Section 306 IPC being a heinous and serious offence cannot be

quashed on the basis of a financial settlement with the informant, surviving spouse, parents, children, guardians and others. In the said case, the principle laid down in **Narinder Singh (Supra)** was also reiterated. References of many other earlier decisions including **Parbatbhai Aahir vs. State of Gujarat; (2017) 9 SCC 641**, **State of M.P. vs. Laxmi Narayan; (2019) 5 SCC 688** were also made therein.

[12] In **Parbatbhai Aahir (Supra)**, it was observed that while the inherent power of High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court. In said case, it was also further observed that in case of any heinous and grievous offences, the criminal proceeding cannot be quashed merely on the ground that the parties have settled the dispute as same would have a serious impact in the society. High Court may quash the criminal proceeding if in view of the compromise between the disputants, possibility of conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice. In **Laxmi Narayan (Supra)**, the Apex Court observed that though Section 307 IPC falls within the category of heinous and serious offences, the proceeding cannot be quashed merely on the ground of settlement between the parties. However, High Court would not rest its decision merely because there is mention of Section 307 in the FIR or the charge is framed under said provision, and it would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. It was further observed that the decision of **Narinder Singh (Supra)** should be read harmoniously.

[13] Now, the merit of the present petition is being examined in the light of the principles as laid down by the Hon'ble Supreme Court in the above said and other decisions.

[14] This case is relating to the provision of Section 306 IPC and therefore, settlement of the matter by the parties will not have any effect on the continuation of the proceeding. However, on perusal of the materials as collected by the investigating officer during investigation, it appears that the profession of the petitioner No.2 is modelling and concerning that she used to

stay outside the State for 4/5 days at a stretch in different spells and concerning that issue there was discord between the deceased and her.

[15] The house owner of the rented house of the deceased namely, Mantosh Das simply stated that he had found both the deceased and his wife quarrelling with each other but reason of such quarrels was not known to him. The informant in his statement similarly stated that despite objection from the side of the deceased and his family members, the petitioner No.2 continued with her profession of modelling. On the relevant date of incident, the petitioner No.1 informed the wife of the informant that the deceased suffered cerebral stroke and was admitted in Ranir Bazar hospital. They immediately proceeded towards Ranir Bazar from Amarpur but after sometime, the petitioner No.1 again informed them that their son was declared dead from the GBP hospital. On arrival at GBP hospital, on their query, inconsistent replies were given from the side of the petitioners but seeing the dead body it appeared to him that it was a case of murder as there was swelling on his head. It is also stated by him that during cremation of the deceased, the petitioners did not attend the same and even the petitioner No.2 also did not attend the post death ritual at Amarpur. The wife of the informant namely, Smriti Kanya Bishnu Chowdhury also gave similar statements to the investigating officer. She further stated that the petitioner No.1 also gave pressure on her son to construct a house and petitioner No.2 would also demand costly gold ornaments, wearing apparels which the deceased could not meet and there would be quarrel between the couple when petitioner No.2 would return from Kolkata after staying there for 5/6 days for modelling purpose. According to this witness, due to mental torture done upon her son day after day, her son ultimately committed suicide by hanging.

[16] One domestic helper namely, Shipra Das also simply stated that on return of the petitioner No.2 from outside states, there would be quarrel between the couple but reason of such quarrel was not known to her. She also stated that sometimes the petitioner No.2 also took the deceased with her while she would go outside the State for her such modelling purpose.

[17] One colleague of the deceased namely Pradip Sarkar stated that often the deceased would come to the office late and on asking the deceased in depressed mind informed him that the petitioner No.2 was engaged in

modelling for uploading the same in Facebook and instagram and for such photo and video shoots, she would often go outside State specially at Kolkata and after 5/6 days she would return to her house. On her return, there would be quarrel between the deceased and her and petitioner No.2 also gave pressure on him for costly ornaments and wearing apparels. Whenever the deceased would resist her from going outside the State, she would start quarrelling with him. As the deceased had to look after the minor son, he would be late in attending the office. His other two colleagues namely, Sri Biswanath Bhuhia and Sri Shubankar Debnath also gave similar statements.

[18] One witness namely, Jay Prakash Dey, the cousin of the deceased also similarly stated that there would be quarrel between the deceased and petitioner No.2 concerning her modelling and for staying of her for 5/6 days at a stretch at Kolkata and on her return there would be quarrel with the deceased as the deceased would resist her from pursuing modelling as some objectionable photographs and videographs would be there of the petitioner No.2 and she would also give pressure upon the deceased for costly gold ornaments. As the petitioner No.2 would keep him in mental tension, he ultimately committed suicide on the said date.

[19] One co-tenant of the deceased namely, Mousumi Kanu stated that on hearing outcry of petitioner No.2, she went to their room and found that the deceased had committed suicide by hanging and there was sign of injury on his head. She also found the conversation of petitioner No.2 to be suspicious and petitioner No.2 also stated that at around 2/2.30 am said incident had occurred. Therefore, she was suspecting that the deceased was murdered. She also stated that on several occasions there would be quarrel between the couple and **about 5/6 months ago also** there was such quarrel for different reasons. She further stated that the deceased would resist her from pursuing modelling and for that reason the quarrel would take place between them.

[20] The last witness Ratna Dey in this respect who is the landlady of the deceased said that concerning the issue of modelling there would be quarrel between the husband and wife and the ground of such objection from the side of deceased was that there were objectionable photographs and videographs of petitioner No.2. Whenever the petitioner No.2 would go outside

the State, she would keep her son in the custody of the deceased and ultimately, the deceased could not tolerate the same and had committed suicide.

[21] On consideration of all these materials, it appears that there was difference of opinion between the couple concerning the modelling of petitioner No.2 and for that reason, there would be quarrel between them and ultimately the deceased had committed suicide. He was depressed concerning such issue. According to the wife of informant, the petitioner No.1 gave pressure on him to build a house. The petitioner No.2 would also make demand of costly gold ornaments and wearing apparels to the deceased. Though two of the witnesses stated that they found mark of injury on the head of the deceased but according to the autopsy surgeons they found one abraded bruise on the forehead of the deceased apart from one ligature mark found on his neck. Both the injuries were anti mortem in nature and injury of the forehead was caused by hard and blunt force impact. Finally, they gave opinion that cause of death was asphyxia as a result of hanging and until otherwise is proved, it was suicidal in nature. No witness has stated anything about any physical assault upon the deceased by any of the petitioners.

[22] In case of ***S.S. Chheena vs. Vijay Kumar Mahajan and another; (2010) 12 SCC 190*** it was held by the Apex Court that abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot sustain. In order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence and it requires an active act or direct act which led the deceased to commit suicide seeing no option and the act must have been intended to push the deceased into such a position that he would commit suicide.

[23] In case of ***Velladurai vs. State represented by the Inspector of Police; Criminal Appeal No.953 of 2021 decided on 14.09.2021*** it has also been held by Hon'ble Supreme Court that in order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in commission of 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.

[24] As already discussed earlier, there is not a single piece of material that any of the petitioner has on any occasion instigated the deceased to commit suicide or had done anything by creating a situation that the deceased was left with no other option but to commit suicide. Nothing also came out in the investigation that any kind of incident of a serious magnitude and proximate to the time of commission of suicide had occurred which compelled the deceased to commit suicide. The existence of any criminal mens rea has also not been revealed in the investigation and even no specific act on the part of any of petitioners is also demonstrably surfaced in the materials collected by the investigating officer which has led the deceased to commit suicide. Therefore, even if all the materials as collected during investigation are placed before the Court through evidences during trial, there is no chance of rendering conviction in this case. The continuation of the proceeding, therefore, will be mere abuse of process of the law. The charge has yet not been framed in this case as informed by Ld. Counsel of both sides. Therefore, trial has not commenced yet. Considering all these aspects, the petition is allowed.

The proceeding bearing No. ST (T-2) 19 of 2025 is quashed against both the petitioners and they are discharged from the case.

Send back the Trial Court record with copy of this order.

Pending application(s), if any, shall stand disposed of.

JUDGE