



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 219 OF 2025

PRIYA RAHUL BORUDE,
BEBI RAJENDRA PARBHANE
AND
VISHAL RAJENDRA PARBHANE

VERSUS
THE STATE OF MAHARASHTRA
AND
DATTATRAYA HARIBHAU BORUDE

...
Shri Zambare Sudheer R., Advocate for the Applicants.
Shri C.V. Bhadane, APP for Respondent No.1/ State.
Shri Bide Dnyaneshwar A., Advocate for Respondent No.2.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 03 September 2026

P. C. :-

1. By this revision application filed under Section 397 r/w Section 401 of the Code of Criminal Procedure, the applicants seek an exception to the impugned order dated 21.04.2025 passed by the learned Additional Sessions Judge, Ahmednagar, below exhibit 14 in Sessions Case No.305/2023 thereby, rejecting the application exhibit 14 for discharge. The said sessions case is in pursuance of the FIR No.617/2021 registered with the Nagar Taluka Police Station on 04.11.2021 by

respondent No.2/ Dattatraya Haribhau Borude, for the offences punishable under Sections 306, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. According to the prosecution, applicant No. 1 Priya is the wife of the deceased Rahul Borude, whose marriage took place on 21.11.2017. The deceased Rahul Borude was the son of respondent No.2/ complainant Dattatray Haribhau Borude. It is alleged that there used to be quarrel between the deceased and applicant No.1 Priya and therefore, they were residing separately. It is alleged that prior to one and a half month of the incident, accused Priya had quarrel with her husband i.e. deceased Rahul, and left the matrimonial house and went to her paternal home. She used to come at her in-laws' house and used to physically and mentally harass the deceased Rahul. When the informant had asked the deceased Rahul as to why his wife is not coming for cohabitation, at that time, Rahul appears to have told him that the accused persons are forcing him to enter the house and agricultural land in the name of applicant No.1 Priya and they are also abusing and threatening him from time to time on phone.

3. It is further alleged that the deceased Rahul

informed to the informant on phone that on 03.11.2021 at about 8:00 pm, the accused persons came at the house of deceased Rahul. They told the deceased that agriculture and house property should be entered in the name of applicant No.1 Priya, otherwise they will kill him. They also threatened, abused, and assaulted him. Thereafter, they left the house. It is alleged that on 04.11.2021, the deceased Rahul did not come to the house of the informant for tiffin, and therefore, the informant made phone call to him. The phone was switched off. Thereafter, the informant made search of deceased Rahul, but he could not find him. The informant and his relatives also searched near the well. At that time, his slipper was found near the well. Therefore, some persons jumped into the well for searching the deceased Rahul. The informant and others had been to the house of Rahul and then there they found one diary. In that diary, they found one written note in his handwriting mentioning therein that the accused persons told him that the land and house property be entered in their names, and they also had given him life threats, and due to the harassment, he is committing suicide. After searching in the well, the body of deceased Rahul was found in the well, and villagers took out him from the well. The deceased

was taken to Civil Hospital, Ahmednagar where, the medical officer declared him as dead on 04.11.2021 prior to 12 PM. Therefore, the aforesaid FIR came to be registered against the applicants/ accused Nos. 1 to 3.

4. After completion of investigation, the charge sheet came to be filed and the case is committed to the Sessions Court, which is registered as Sessions Case No.305/2023. The applicants have preferred the application (exhibit 14) under Section 227 of the CrPC for discharging them from the aforesaid crime.

5. The learned advocate for the applicants submits that there is nothing to suggest that they have instigated the deceased to commit suicide. There is also nothing to suggest that he was ever humiliated, harassed soon before his death. According to them, the death of the deceased is accidental one, but due to anger, the informant lodged the fabricated FIR against the applicants. It is specifically submitted on behalf of the applicants that previously the deceased Rahul himself had lodged the complaint against the informant father, which was registered as NCR No. 1021 of 2018 on 01.12.2018. In the said complaint, it is

reported that there was scuffle between the father and son Rahul on account of switching off electric supply. There is allegation that the informant himself had assaulted the deceased and also threatened to kill him. As such, it is submitted that the impugned order is erroneous and therefore, same is liable to be quashed and set aside.

6. On the other hand, this revision application is resisted by the learned APP as well as the learned advocate appearing for respondent No.2/ informant. According to them, there is sufficient material against the applicants to proceed further against them. The prosecution has relied upon various material in the form of suicidal note as well as PM report, spot panchnama, and the statements of witnesses to suggest that there was abetment on the part of the applicants, as a result of which, the deceased committed suicide. According to the prosecution, there is sufficient material available in the form of chargesheet against the applicants, as such, the prosecution may be permitted to conduct a trial against the applicants/ accused persons.

7. After hearing the learned counsel for the parties and going through the material available on record, it is evident that

the deceased Rahul was the husband of applicant No.1 Priya. Their marriage was solemnized on 21.11.2017 and on account of marital discord, the couple used to live separately. Applicant Nos.2 and 3/ accused are in-laws of the deceased. The deceased committed suicide on 04.11.2021.

8. The law in respect of Section 306 of Indian Penal Code has been evolved in view of the various landmark judgments delivered by the Hon'ble Apex Court as well as this Court. It is settled that the basic ingredients of Section 306 are required to be carefully examined. Section 306 of IPC reads as under:-

"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."

9. The word "suicide" is nowhere defined in the Indian Penal Code, however, its meaning and import is well-known and requires no explanation. Suicide by itself is not an offence under either English or Indian criminal law, though at one time it was a felony in England. In England, the former law was the nature of

being a deterrent to people, as it provided penalties of two types: one, degradation of corpse by burying it on the highway with a stake through its chest; and second, forfeiture of property of the deceased by the state. However, in our country, while suicide itself is not an offence. Considering that the successful offender is beyond the reach of the law, the attempt to suicide is an offence under Section 309 of IPC.

10. The word "abetment" has been defined under Section 107 of the IPC and therefore, it is useful to refer the definition of 107 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 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 the commission of an act, does anything in order to facilitate the commission of that act,

*and thereby facilitate the commission thereof,
is said to aid the doing of that act.”*

11. Thus, it is settled that 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 legislature and the ratio of the cases decided by the Hon'ble Apex Court is clear that in order to convict a person under Section 306 IPC, there has to be 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 position that he committed suicide.

12. In view of the aforesaid legal position, the allegations in this case are required to be viewed. In this case, it is alleged that the deceased appears to have written suicide note in his diary, thereby stating that the applicants have harassed him for demanding the property to be transferred in their names. A bare perusal of the said suicide note discloses that the applicants have also lodged the complaint against the deceased at police

station. The deceased has narrated that in view of the harassment caused to him, he is committing suicide. It is to be seen here that applicant No.1 had left the matrimonial house and she was staying with her parents' house.

13. In view of the settled position of law, in order to attract the aforesaid offence of Section 306, the prosecution is required to establish that the accused persons have actually abetted the crime in such a manner that there was no other option available to the deceased than to commit suicide. The material brought before the learned Sessions Court by the prosecution is not suggestive of the aforesaid aspect.

14. On this issue, the learned advocate for the applicants has vehemently relied on the following judgments :-

(a) Manohar s/o. Bakaramji Gabhane & Ors. Versus State of Maharashtra & Anr. reported in 2023 All MR (Cri) 2806.

(b) Yuvraj Shinde Versus State of Goa & Anr. reported in 2022 All MR (Cri) 1434.

(c) Vimlesh Alias Poonam Sanjay Sharma Versus State of Rajasthan Through P.P. reported in 2017 CRI.L. J. 2556 :

(2017) 4 CRILR (RAJ)1641.

(d) S.S. Chheena Versus Vijay Kumar Mahajan & Anr.
reported in 2010 ALL MR (Cri)3298(S.C.).

(e) Sanju Alias Sanjay Singh Sengar Versus State of
M.P. reported in AIR 2002 Supreme Court 1998.

(f) Madan Mohan Singh Versus State of Gujarat & Anr.
reported in 2010 ALL MR (Cri) 3245 (S.C.).

(g) M. Mohan Versus State Represented by the Deputy
Superintendent of Police reported in AIR 2011 Supreme Court
1238 : 2011 AIR SCW 1601.

(h) Bhartendra s/o. Dhanraj Bhoyar Versus The State of
Maharashtra & Anr. reported in 2023 ALL MR (Cri)2117.

15. In the aforesaid cited judgments, it is observed that the prosecution must establish that the accused persons have actually abetted the deceased and they have instigated him to such an extent that that there was no option for the deceased than to commit suicide. The Hon'ble Apex Court as well as this Court have time and again clarified that what amounts to abetment and

instigation.

16. The Hon'ble Apex Court in one of the landmark judgments i.e. ***Sanju v. State of MP reported in 2002 SSC Criminal 1141***, has observed that deceased has had explicitly declared his intention to die, upon which the accused therein asked the deceased to proceed to do so and thereupon, suicide was committed. The Hon'ble Apex Court held that, "*Even if one accepts the prosecution theory that the applicant did tell the deceased to go and die, that itself does not constitute the ingredients of instigation. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. The presence of mens rea, therefore, is concomitant of instigation i.e. common knowledge that the words uttered in a quarrel or in a spur of moment cannot be taken to be uttered with mens rea.*" Thus, the Hon'ble Apex Court took a view that the offence under Section 306 cannot be attracted.

17. The ratio of the aforesaid case is squarely applicable to the case in hand. In this case, considering the allegations in the FIR itself and other material brought on record, the deceased has undoubtedly in ordinary circumstances appears to have

committed suicide owing to his sensibility, hypersensitivity and quirks. As such, I am of the opinion that the material brought before the Court in the view of charge-sheet is not sufficient to attract the offence under Section 306 of the IPC. In that view of the matter, the Criminal Revision deserves to be allowed. Hence, the following order:-

ORDER

- (a) The Criminal Revision Application is allowed.
- (b) The impugned order dated 21.04.2025 passed by the learned Additional Sessions Judge, Ahmednagar, below exhibit 14 in Sessions Case No.305/2023 rejecting the application for discharge filed by the applicants, is quashed and set aside.
- (c) The application (exhibit 14) for discharge filed by the applicants under Section 227 of the Code of Criminal Procedure, 1973, in Sessions Case No.305/2023, stands allowed.
- (d) The applicants are discharged from the offences punishable under Sections 306, 323, 504, 506 r/w 34 of the Indian Penal Code arising out of FIR No.617/2021 registered with the Nagar Taluka Police Station on 04.11.2021 by

respondent No.2/ Dattatraya Haribhau Borude.

(e) Bail bond, if any furnished by the applicants, stands cancelled.

(f) The surety, if any, stands discharged.

kps

(SUSHIL M. GHODESWAR, J.)