

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

**VISHAL
RAM
KAMBLE**

CRIMINAL APPLICATION NO. 955 OF 2025

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VISHAL RAM
KAMBLE

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1. Sunil Shamrao Chougule,
Age-42 years, Occu.-Service, Chhena
R/o. Near Pitachi Giran Varnali Vasahat,
Dist. Sangli
2. Ganesh Prakash Joshi,
Age-45 years, Occu-Service,
R/o. Sainath Park, Haripur Road,
Dist. Sangli

...APPLICANTS

VERSUS

1. The State of Maharashtra,
Through P.I. Vishrambaug Police Station,
Dist. Sangli
2. Priyanka Mahesh Kamble
Age-32 years,
R/o. Jilha Parishad Colony,
Vishrambaug, Sangli
Currently R/o. At School NO. 42,
Near Devkule Hospital, Tq. Miraj,
Ajroli, Dist. Sangli

...RESPONDENTS

Mr. Meghdeep Oak, Advocate for the Applicants.

Mrs. Mahalakshmi Ganapathy, Addl. P. P. (through V.C.), for the
Respondent No.1 – State.

Mr. Rushikesh A. Mohite, Advocate for the Respondent No. 2.

CORAM : ABHAY J. MANTRI, J.

DATE : 17th SEPTEMBER, 2026

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith.
2. Heard the learned Advocate for the Applicants and Respondent No. 2 as well as the learned Additional P.P.
3. Perused the record as pointed out by the learned Advocate for the respective parties and have gone through the judgments relied upon by the learned Advocate for the Applicants in support of his submissions.
4. Applicants have invoked inherent jurisdiction of this Court to quash and set aside the FIR bearing No.1 of 2025 registered with Vishrambaug Police Station, Sangli dated 01-01-2025 for the offences punishable under Sections 108 of the Bhartiya Nyaya Sanhita (for short '*the BNS*') and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Act, 1989 (for short '*the Atrocities Act*') against the Applicants and filing of the charge-sheet, pursuant to the said FIR.
5. On 1st January, 2025, informant Priyanka, widow of the deceased Mahesh, lodged the report against the Applicants, alleging that they used to harass and torture her husband as he belongs to the Scheduled Caste category. Due to their mental and physical

harassment, he was under mental stress. They had taunted him with caste-based slurs and thereby tortured him.

6. They were telling other colleagues not to speak to him in the office. Accused No. 1, Sunil, spoke to Mr. Galgale and started harassing her husband deliberately. Therefore, her husband was frustrated. On 15/10/2024, the deceased lodged the complaint against the applicants. Due to their behaviour, the deceased was under mental stress and therefore, on 5th December 2024, the deceased committed suicide. Based on her report, the offence was registered against the Applicants, and an investigation was conducted. After completion of the investigation, the charge-sheet was filed against them. Aggrieved by the same, the Applicants have preferred this Petition.

7. Learned Advocate for the Applicants vehemently contended that there was approximately one month's delay in lodging the FIR. The FIR does not provide a satisfactory explanation for the delay in lodging it. Secondly, he submitted that nothing from the charge-sheet indicates that soon before the death of the deceased, the Applicants had abetted him and instigated him to commit suicide. On the contrary, he pointed out that the deceased was absent from the office from 24-07-2024 till 27-10-2024. Accordingly, he drew my attention to the notice issued to the deceased and the explanation

submitted by him pursuant to the said notice. He further pointed out that the explanation given by the Applicants to the notice does not indicate that, due to the harassment or torture by the Applicants, the deceased was on leave or was absent from the office. He emphasised that even assuming that the deceased had circulated the video on 24-10-2024, it cannot be said that, immediately after circulation of the video, he committed suicide as he was harassed at the hands of the Applicants. Lastly, he submitted that none of the witnesses has stated that the Applicants harassed the deceased at any time. Therefore, the allegations made in the FIR are baseless, and it cannot be said that the deceased was abetted by the Applicants soon before his death. Therefore, he urged that the Petition be allowed.

8. To buttress his submissions, he has relied on the following judgments.

- i]* *Prakash and others Vs State of Maharashtra and another*¹
- ii]* *Prabhat Kumar Mishra @ Prabhat Mishra Vs State of Uttar Pradesh and another*²
- iii]* *Vaijnath Kondiba Khandke Vs State of Maharashtra and others*³

9. On the other hand, the learned Addl. P. P. and Advocate for Respondent No. 2 strongly opposed the Application contending that the circulation of the video by the deceased itself indicates that

1 (2026) 6 SCC 251

2 (2024) 3 SCC 665

3 (2018) 7 SCC 781

the deceased was harassed and tortured by the Applicants. Therefore, that is sufficient to draw an inference that the Applicants abetted the deceased to commit suicide. The learned Addl. P. P. tried to point out the statements of witnesses Pradip & Mahadeo and submitted that a mere perusal of the said statements indicates that the Applicants harassed the deceased. However, on query, she failed to satisfy the court as to why his statement was recorded belatedly, i.e. after three months from the incident. Hence, they propounded that the statements of the witnesses Pradip and Mahadeo support the prosecution case and show that the deceased was harassed at the hands of the Applicants; therefore, they urged that the Applicants failed to make out a case to invoke the inherent jurisdiction of this Court. As such, they prayed for dismissal of the Application.

10. I have considered the rival submissions and perused the material placed on record and the judgments relied upon by the learned Counsel for the parties. While dealing with the above controversy, it is appropriate to reproduce Sections 108 and 45 of BNS.

“Section 108: 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.

Section 45: A person abets the doing of a thing, who:

- (a) instigates any person to do that thing; or
- (b) 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
- (c) intentionally aids, by any act or illegal omission, the doing of that thing.”

11. Section 108 has two basic ingredients: *first*, an act of suicide by one person, and *second*, the abetment to the said act by another person or conspiracy. In order to substantiate a charge under Section 108 of the BNS, it must necessarily be proved that the accused persons have contributed to the suicide of the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three conditions outlined in Section 45 of the BNS Act has to be satisfied. Section 108 read with Section 45 of the BNS is *pari materia* to Section 306 read with Section 107 of the IPC.

12. The Hon’ble Supreme Court time and again has interpreted Section 306 read with Section 107 of the IPC, and its principles are well established. *To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused persons, which must be in close proximity to the commission of suicide; that is, the main condition is suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of*

suicide and should put the victim in such a position that he/she would have no other option but to commit suicide. The Hon'ble Supreme Court has crystallised the law on abetment through a plethora of decisions. Abetment involves a mental process of instigating or intentionally aiding another person to do a particular thing. To bring a charge under Section 108 of the BNS, the act of abetment would require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the accused persons being apparent from the face of the record, the aforesaid section cannot be sustained. Abetment also requires an active act, direct or indirect, on the part of the accused persons which left the deceased with no other option but to commit suicide.

13. Apart from that, the Hon'ble Supreme Court in **S.S. Chheena v. Vijay Kumar Mahajan**⁴ had an occasion to consider the scope of Section 306 IPC and the ingredients which are essential for abetment as set out in Section 107 of the IPC, wherein it observed in paragraphs 16, 18, 21 and 23 to 25, which reads thus:-

This Court, in S.S. Chheena v. Vijay Kumar Mahajan and Another¹², had an occasion to consider the scope of Section 306 of the IPC and the ingredients essential for abetment, as set out in Section 107 of the IPC. It observed as follows:

“16. The word “suicide” in itself is nowhere defined in the Penal Code; however, its meaning and import are well known and require 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

4 (2010) 12 SCC 190

by himself, irrespective of the means employed by him in achieving his object of killing himself.

18. In our country, while suicide in 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.

21. The learned counsel for the appellant has placed reliance on a judgment of this Court in *Mahendra Singh v. State of M.P.* In *Mahendra Singh*, the allegations levelled were as under: (SCC p. 731, para 1)

“1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed, I want to die by burning.”

The Court, on the aforementioned allegations, came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under Section 306 IPC merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

23. In *State of W.B. v. Orilal Jaiswal* [(1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that:

“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 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.”

24. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words “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 other. 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.

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.”

(emphasis supplied)

14. The Hon’ble Supreme Court in **S.S. Chheena** (*supra*) held that “*abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing. Therefore, without a positive act on the part of the accused to instigate or aid a person in committing suicide, conviction cannot be sustained.*” It is further observed that “*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 of the IPC, there has to be clear mens rea to commit an offence. Abetment also requires an active act or direct act which led the deceased to commit suicide, seeing no other option. That act must have been intended to push the deceased into such a position that he committed suicide.*”

15. The Hon’ble Supreme Court in **Prakash** (*supra*) has considered various decisions delivered by the Supreme Court and, after considering the same, in paras 32 to 34 has observed as under.

32. Thus, this Court has consistently taken the view that instigation or incitement on the part of the accused person is the gravamen of the offence

of abetment to suicide. However, it has been clarified on many occasions that in order to link the act of instigation to the act of suicide, the two occurrences must be in close proximity to each other so as to form a nexus or a chain, with the act of suicide by the deceased being a direct result of the act of instigation by the accused person.

33. This Court in the case of **Mohit Singhal** (supra) reiterated that the act of instigation must be of such intensity and in such close proximity that it intends to push the deceased to such a position under which the person has no choice but to commit suicide. This Court held that the incident which had allegedly driven the deceased to commit suicide had occurred two weeks prior and even the suicide note had been written three days prior to the date on which the deceased committed suicide and further, there was no allegation that any act had been done by the accused-appellant therein in close proximity to the date of suicide. This Court observed as follows:

“11. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in close proximity to the date of suicide. By no stretch of imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.

12. Therefore, in our considered view, the offence punishable under Section 306IPC was not made out against the appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of law.” (emphasis supplied)

34. This Court, in the case of *Naresh Kumar v. State of Haryana*¹⁶, observed as follows:-

“20. This Court in *Mariano Anto Bruno v. State* [*Mariano Anto Bruno v. State*, (2023) 15 SCC 560 : 2022 SCC OnLine SC 1387] , after referring to the aboveresferred decisions rendered in context of culpability under Section 306IPC observed as under :

“45. ... 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 306IPC is not sustainable.”

(emphasis supplied)

16. Having considered the settled legal position on Sections 306 and 107 of the IPC as referred to above and the law laid down by the Hon'ble Supreme Court in *Prakash* (supra), *Prabhat* (supra) and *Vaijnath* (supra), I have to proceed to consider the facts of the present case in view of the established principles.

17. It is not in dispute that the deceased was working as a peon with the Irrigation Department and the applicants were also working as clerks. During his lifetime, he never made a complaint alleging that the Applicants abused him with caste slurs or harassed him because he belonged to the Scheduled Caste community. However, for the first time, the complainant made such allegations in her complaint. None of the witnesses has supported the said allegations. Therefore, prima facie, the allegations in the complaint about the caste slur appear baseless.

18. Secondly, it appears that from 24-07-2024 till 27-10-2024, the deceased was absent from duty and therefore, a show cause notice was issued to him for his absenteeism. He replied to the said show cause notice on 28-10-2024, wherein he stated that "he was absent from the office from 24-07-2024 to 26-07-2024, and on 30 and 31-07-2024 on account of compensatory leave and thereafter, from 1st August, 2024, his health deteriorated, and therefore, he could not

appear on duty till 27.10.2024. Along with the said explanation, he has also annexed the medical certificate. Perusal of the medical certificate reveals that '*he had viral hepatitis and general weakness*'. He has nowhere stated that, due to harassment at the hands of the Applicants, he was absent from duty. These facts indicate that the deceased was absent from the office from 24-07-2024 to 27-10-2024.

19. It also appears that on 24-10-2024, one video was circulated by the deceased. However, in the said video also, he did not say that the Applicants were abusing him with caste slurs; therefore, he was under mental stress but only stated that they were trying to harass him by giving him extra work. He also stated that, at the instigation of the Applicants, Mr. Galgale was also allotted work and, as a result, he was tired. However, on perusal of the statement of Mr. Galgale, the same prima facie appears to be incorrect.

20. It is pertinent to note that on 5th December 2024, the deceased committed suicide and FIR was lodged on 1st January, 2025, i.e. after 25 days of his suicide. It doesn't appear from the statement of the witnesses that the deceased was harassed and tortured at the hands of the Applicants. None of the witnesses has stated the same. The statements of Mahadev and Pradeep Patil, as pointed out by the learned Addl. P.P also do not denote that the deceased was harassed at

the hands of the Applicants or that they were abusing him with caste slurs or that they abetted the deceased to commit suicide soon before his death. On the contrary, witnesses Mr. Pradeep and Mr. Mahadeo have categorically stated that no dispute with the deceased arose in their presence, nor that any office employee harassed him.

21. Apart from that, it is worth noting that the alleged video was circulated on 24.10.2024. The alleged incident occurred on 05.12.2024, i.e. after a gap of one and a half months. In such an eventuality, it cannot be said that soon before the commission of the suicide, the deceased was harassed and tortured by the Applicants or they abetted him to commit suicide.

22. At the outset, it is appropriate to take note that, in view of the dictum in *Prabhat* (supra), the prosecution against the Applicants for the offence under Section 3(2)(v) of the Atrocities Act is ex facie illegal and unwarranted because none of the witnesses supported the afterthought allegations of the complainant in the complaint to attract the ingredients of Section 3(2)(v) of the Atrocities Act to justify the allegations in the FIR against the Applicants.

23. Thus, having considered the above facts and law laid down by the Hon'ble Supreme Court in the above-referred judgments, it does not appear that, soon before the commission of the suicide, the

deceased was harassed and tortured by the Applicants. No close proximity is indicated from the entire record between the act of alleged instigation and the act of suicide. Furthermore, no close proximity, such as to create a clear nexus between the act of instigation and the act of suicide, appears from the record. As a consequence, the prosecution has failed to *prima facie* establish that the Applicants had any intention to instigate or aid or abet the deceased to commit suicide. In the absence of sufficient material to show that the Applicants had intended by their words/acts to push the deceased into such a position that he was left with no other option but to commit suicide, in such an eventuality, the continuation of the criminal proceedings against the Applicants would result in an abuse of the process of law, and it would not serve the ends of justice. Therefore, in my view, it would be appropriate to exercise the inherent powers under section 528 of the BNSS to quash and set aside the FIR and the pending proceedings against the Applicants.

24. As a result, *the Application is allowed in terms of prayer clause-ii & iii which reads as under:*

“ii] That this Hon’ble Court be pleased to quash the charge-sheet and proceedings arising out of C.R. No. 1 of 2025 registered with Vishrambaug Police Station, bearing Special Case No.174 of 2025 pending before the court of Ld. Special Judge, Sangli.

iii] That this Hon'ble Court be pleased to quash and set aside the order dated 15-09-2025 passed by Ld. Additional Sessions Judge, Sangli, taking cognizance of the charge-sheet and issuing process against the applicants.”

25. The Rule is made absolute in the above terms. No order as to costs.

26. The Application is disposed of.

27. Inform the concerned court accordingly.

[ABHAY J. MANTRI, J.]

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