

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO.728 OF 2026

(397(Cr.PC) / 438(BNSS))

BETWEEN:

SRI HALESH S P
S/O. PRAKASH B.H.,
AGED ABOUT 29 YEARS,
R/O. THARALABALU BADAVANE,
DAVANAGERE TOWN,
DAVANAGERE-577005.

...PETITIONER

(BY SRI. KITUR JAMALSAB IMAMSAB, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY THE
SANTHEBENNUR POLICE STATION
NOW REPRESENTED BY THE STATE PP,
HIGH COURT OF KARNATAKA BUILDING,
BENGALURU-560 001.
2. REVANASIDDAPPA K.C.,
S/O. MAHADEVAPPA,
AGED ABOUT 71 YEARS,
R/O. NO.2226/19, BAPUJI,
VIDHYANAGARA, DAVANAGERE TOWN,
DAVANAGERE DISTRICT-577005.
3. NAGARAJU K.S. YANE NAGARAJU K.S.,
S/O. S.K. SADASHIVAPPA,
AGED ABOUT 50 YEARS,
R/O. SHIRAMAGONADANAHALLI VILLAGE,
DAVANAGERE TALUK AND DISTRICT -577005.

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Location: High
Court of
Karnataka



4. BASAVARAJU YANE BASAVARAJAPPA
S/O. NARAPPA,
AGED ABOUT 45 YEARS,
R/O. BADA VILLAGE,
DAVANAGERE TALUK AND DISTRICT -577514.

...RESPONDENTS

(BY SRI. CHANNAPPA ERAPPA, HCGP FOR R1;
SRI. S.G. RAJENDRA REDDY, ADVOCATE FOR R2 TO R4)

THIS CRL.RP IS FILED U/S. 397 R/W 401 CR.P.C (U/S 438 R/W 442 BNSS) PRAYING TO SET ASIDE THE ORDER OF DISCHARGE DATED 04.02.2026 MADE IN S.C.NO.39/2025 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE AND RESTORE THE CASE TO THE FILE AND DIRECT THE TRIAL COURT TO FRAME CHARGES AND PROCEED WITH THE TRIAL.

THIS CRL.RP HAVING BEEN HEARD AND RESERVED ON 12-08-2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, **VENKATESH NAIK T. J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

This criminal revision petition is filed by the defacto complainant/revision petitioner to set aside the order of discharge dated 04.02.2026 passed by learned II Additional District and Sessions Judge, Davanagere in S.C.No.39/2025, wherein the trial Court discharged the respondents under Section 227 of Cr.P.C(now under Section 250 of BNSS, 2023) for the offence punishable under Section 306 read with section 34 of Indian Penal Code.

For the sake of convenience, the parties are referred as per their rankings before the trial Court. The revision petitioner is the 'accused' and the respondent in the 'complainant-State'.

2. The brief facts of the prosecution case is as under:-

On 18.01.2024, CW1 - Halesh S.P., the son of the deceased Prakash lodged a complaint, alleging that, on 17.01.2024, the deceased had left the house stating that he would go to Yakkegundi Village and around 05.00 p.m., one Veeresh (CW9), a relative, called the defacto complainant and informed that the deceased had consumed poison in his land and that they were taking him to Shamanuru Shiva-Shankarappa Hospital, Davanagere for treatment. Hence, the defacto complainant/CW1, rushed to the hospital. However, around 3.00 p.m., the deceased breathed his last. The defacto complainant stated that at that time, he searched the innerwear pocket of the deceased and found the death note stating that the deceased had committed suicide on account of cruelty meted out by the accused persons. Thus, the defacto complainant lodged a complaint before the police. Hence, the police took up the investigation and after completion of investigation, filed the charge sheet against the accused

persons for the aforesaid offence. After receipt of the charge sheet, the accused persons were secured and at this juncture, the accused persons/respondents herein had filed an application under Section 227 of CrPC to discharge them for the offence punishable under Section 306 read with Section 34 of IPC. The trial Court allowed the application and discharged the accused for the offence under Section 306, 504 r/w 34 of IPC. Being aggrieved by the order passed by the trial Court discharging the accused persons, the present revision petition is filed.

Heard learned counsel for the revision petitioner/de-facto complainant, learned HCGP for respondent No.1-State and learned counsel for respondent Nos.2 to 4.

3. It is contended by learned counsel for the revision petitioner/defacto complainant that the trial Court after hearing both sides, ignoring the charge sheet material, has allowed the application and discharged the accused persons for the offence under Sections 306, 504 r/w 34 of IPC. The findings given, conclusion arrived at, the decision taken by the trial Court is totally arbitrary, capricious, erroneous and opposed to law. The trial Court has ignored the important and crucial charge sheet

material, more particularly, statement of the witnesses, death note of the deceased and opinion of the handwriting expert etc. The material documents stated invariably create a degree of suspicion against the accused and as such, the trial court ought to have proceeded with the trial. It is contended that, in fact, the trial Court has conducted a mini trial while considering the application for discharge, which is impermissible at the stage of discharge. Further, the prosecution witnesses have clearly stated that the accused had filed three Negotiable instrument cases against the deceased and that deceased had also lodged complaint before the Peetadhikari Taralubalu Swamiji in the year 2023 itself and the trial court has committed an error in not pursuing the incriminating evidence of the prosecution and same clearly makes out prima-facie case of harassment and abuse by respondent Nos.2 to 4. Thus, it led to the father of the petitioner/defacto complainant to commit suicide. Further, the trial Court committed an error in discarding the suicide note alleged to have been written by deceased B.H. Prakash, wherein there is direct attribution of blame on the accused and as such, the trial court ought to have proceeded with the trial by framing charges. On all these grounds, learned counsel for the petitioner/complainant prayed to allow the revision petition.

4. Per contra, learned counsel for respondent Nos.2 to 4/accused Nos.1 to 3 vehemently contended that there is prima-facie no material against the accused persons. The ingredient of Section 306 of IPC is not at all made out. Admittedly, there was monetary transaction between the deceased and accused Nos.1 to 3. Merely because the deceased committed suicide, on that count alone, the accused persons cannot be implicated in the crime. The death note relied upon by the prosecution is stated to be created one for the purpose of implicating the accused persons in the crime. A reading of the suicide note reveals that respondents Nos.2 to 4 were asking the deceased to repay the loan and there was cheque bounce case. Therefore, Section 306 of IPC (now Section 108 of BNSS) is not attracted. The trial court considering the material available in the charge sheet has rightly discharged accused Nos.1 to 3. Hence, the criminal revision petition filed by the defacto complainant requires to be dismissed.

5. Learned HCGP appearing for respondent No.1-State vehemently contends that respondent Nos.2 to 4 are involved in the case of heinous offence punishable under Section 306 IPC. There is prima-facie material against the accused. The trial court ought to have framed charge against accused Nos.1 to 3.

However, it has discharged the accused persons. Hence, the order passed by the trial court requires to be interfered with. Hence, learned HCGP prayed to pass appropriate order in that regard.

6. On the basis of submissions made by the learned counsel appearing for the parties and on perusal of material available on record, the following point would arise for court's consideration:

"Whether, the order of the trial Court in discharging respondent Nos.2 to 4/accused Nos.1 to 3 is in accordance with law?."

7. In the instant case, as per the case of the prosecution, the accused persons harassed the deceased by filing false cases against him under Section 138 of N.I. Act and hence the deceased committed suicide. Therefore, the accused persons are involved for the offence punishable under Sections 306, 504 read with 34 of IPC. In order to attract the offence punishable under Section 306 of IPC, the prosecution must necessarily establish the ingredient of *abetment* as defined under Section 107 of IPC. Hence, it is just and necessary to analyze Section 306 and 107 of Indian Penal Code which reads as under:-

306. Abetment of suicide.—

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

107. Abetment of a thing.—

A person abets the doing of a thing, who—

(First)— Instigates any person to do that thing; or

(Secondly)—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

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

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

8. In order to frame charge for the offence punishable under Section 306 of Indian Penal Code, the prosecution must prima facie establish the basic requirements, where there must be clear allegation and material to show that the deceased

committed suicide and the prosecution must show that accused had abetted the commission of such suicide within the meaning of Section 107 IPC.

9. Insofar as the term '**abetment**', is concerned, necessarily, the abetment must involve instigation, intentional aid or active participation on the part of the accused persons and there must be prima facie material to indicate a direct or approximate nexus between the acts or omissions of the accused and the act of suicide committed by the deceased. So also mere harassment, casual remarks or general allegations without the element of *mens rea* or positive act on the part of the accused, would not be sufficient to attract the offence under Section 306 IPC.

10. The evidence of the prosecution witnesses and the death note furnished during the course of investigation also establishes the fact that the accused persons filed criminal case for the offence under Section 138 of Negotiable Instruments Act for recovery of Rs.75,00,000/- from the deceased and in that regard, the deceased submitted a complaint before the Peetadhikari of Tharalubalu, Sirigere Mutt. In the mean-while,

the accused persons were harassing the deceased, thus, without tolerating such harassment, he consumed poison.

11. The Hon'ble Apex Court in the case of **Kanchan Sharma vs. State of Uttar Pradesh and Another** reported in **(2021) 13 SCC 806** held at para 14 as under:-

14. In the judgment in S.S. Chheena v. Vijay Kumar Mahajan [S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190 : (2011) 2 SCC (Cri) 465] this Court reiterated the ingredients of offence of Section 306 IPC. Para 25 of the judgment reads as under : (SCC p. 197)

"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 306IPC 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."

12. On perusal of the material available on record, more particularly the death note, there is prima-facie case for framing charge under Section 306 IPC, as there is nexus and proximity with the conduct and behaviour of the accused persons with that of the suicide committed by the deceased.

13. In order to attract the offence 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 drives 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 commits suicide.

14. At this stage, it is appropriate to notice the law laid down by the Hon'ble Apex Court in the case of ***M. Arjunan vs. State Represented by its Inspector of Police*** reported in **(2019) 3 SCC 315**, wherein it is held at paragraph 7 as under:-

7. The essential ingredients of the offence under Section 306 IPC are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC.

15. The Hon'ble Apex Court in the case of ***UDE SINGH AND OTHERS v. STATE OF HARYANA*** reported in **(2019) 17 SCC 301** has held at paragraph Nos.13, 14 and 15 as under:

13. *The offence of abetment of suicide is specified in Section 306 IPC 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."*

13.1. *The expression "abetment" within the meaning of the Penal Code is defined as follows:*

"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."

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14. *When the accusation in the present case has its genesis in certain acts and utterances attributed to the accused, the meaning and expanse of the expression "abetment", particularly on its operation in relation to the offence of "abetment of suicide", is required to be dilated upon. Hence, before proceeding further, apposite it shall be to take note of the case law as cited and as relevant in this matter.*

"19. xxxxxxxxxxxxxxxxxxxxxxxxxxxx

14.2 xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

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36. The word "instigate" literally means to goad, urge forward, provoke, incite or encourage to do an act. A person is said to instigate another person when he actively suggests or stimulates

him to an act by any means or language, direct or indirect, whether it takes the form of express solicitation or of hints, insinuation or encouragement. Instigation may be in (express) words or may be by (implied) conduct.

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43. Keeping in view the aforesaid legal position, we are required to address whether there has been abetment in committing suicide. Be it clearly stated that mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a conviction in terms of Section 306 IPC is not sustainable. A casual remark that is likely to cause harassment in ordinary course of things will not come within the purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for the victim to put an end to life.

14.4. *In Madan Mohan Singh [Madan Mohan Singh v. State of Gujarat, (2010) 8 SCC 628 : (2010) 3 SCC (Cri) 1048 : (2010) 2 SCC (L&S) 682] , the driver of the accused had alleged in his suicide note that the accused had driven him to the extent of committing suicide. However, on evidence, it was found that the deceased had a grudge against his superior and even though the deceased felt that he was wronged at some point in time, there was nothing available on record to prove that the accused had done anything to instigate the deceased to commit suicide. Hence, this Court observed as under : (SCC p. 631, para 10)*

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

and lastly, that the accused had in any way aided any act or illegal omission to bring about the suicide."

14.6 **XXXXXXXXXXXXXXXXXXXXXXX**

"19. As observed in Ramesh Kumar [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

20. ... The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self."

14.7. In *Amalendu Pal v. State of W.B.* [*Amalendu Pal v. State of W.B.*, (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] , this Court, after reference to several past decisions, held as follows : (SCC p. 712, para 12)

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. *Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.*”

15. Thus, “abetment” involves a mental process of instigating a person in doing something. A person abets the doing of a thing when:

(i) he instigates any person to do that thing; or

(ii) he engages with one or more persons in any conspiracy for the doing of that thing; or

(iii) he intentionally aids, by acts or illegal omission, the doing of that thing.

These are essential to complete the abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do anything.

16. On perusal of the ratio laid down in the decisions cited supra, the Hon'ble Apex Court has clearly held that, if the accused by their acts and 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 of the IPC. The incident has taken place on account of harassment made by the accused persons. It shows that there is prima-facie material and there is proximity as required under law to drive home the abetment of suicide under Section 306 IPC.

17. In support of their case, learned counsel for respondent Nos.2 to 4 relied upon the judgment of Hon'ble Apex Court in the case of ***Dhirubai Nanjubhai Patel Lotwala v. State of Gujarat & Anr*** reported in ***2006 Live Law (SC) 270***, wherein the Hon'ble Apex Court held that where a suicide note indicates multiple creditors, without specifying individual roles or showing they acted as a group, a trial based on such a note would be a "futile exercise" and an "abuse of the purpose of the Court".

18. The learned counsel further relied upon the judgment of the Hon'ble Apex Court in the case of ***Mahendra Awase vs.***

The State of Madhya Pradesh reported in **2025 INSC**

76(Crl.A.No.221/2025 @ Special Leave Petition(Crl.)

No.11868/2023) disposed of on 17.01.2025, wherein, the

Hon'ble Apex Court at paragraph Nos.18, 19 and 20 held as

under:-

18. As has been held hereinabove, to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.

19. Applying the above principle to the facts of the present case, we are convinced that there are no grounds to frame charges under Section 306 IPC against the appellant. This is so even if we take the prosecution's case on a demurrer and at its highest. A reading of the suicide note reveals that the appellant was asking the deceased to repay the loan guaranteed by the deceased and advanced to Ritesh Malakar. It could not be said that the appellant by performing his duty of realising outstanding loans at the behest of his employer can be said to have instigated the deceased to commit suicide. Equally so, with the transcripts, including the portions emphasised hereinabove. Even taken literally, it could not be said that the appellant intended to instigate the commission of suicide. It could certainly not be said that the appellant by his acts created circumstances which left the deceased with no other option except to commit suicide. Viewed from the armchair of the appellant, the exchanges with the deceased, albeit heated, are not with intent to leave the deceased with no other option but to

commit suicide. This is the conclusion we draw taking a realistic approach, keeping the context and the situation in mind.

Strangely, the FIR has also been lodged after a delay of two months and twenty days.

20. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for Section 306 IPC [Now Section 108 read with Section 45 of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed more in the breach. Section 306 IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law laid down by this Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306."

19. A perusal of the aforesaid judgment in ***Dhirubhai Nanjibhai Patel's*** case, the suicide note indicated multiple creditors without specifying individual roles, whereas in this

case, the role of each accused has been clearly attributed by the deceased and the manner of harassment made by them and as such, he made complaint to Peetadhikari of Tharalubalu, Sirigere Mutt. In this case, the prosecution witnesses have clearly stated about the manner and harassment meted out by the deceased at the hands of accused persons, which is corroborated by the death note of the deceased. At this juncture, the accused persons are disputing the question of fact. Whether the accused persons harassed the deceased in the manner stated in the death note and, as such, he committed suicide, is a matter which requires detailed trial and at the threshold, the accused persons are not entitled for discharge. Perhaps, the learned trial judge has gone into conducting a mini trial while deciding the discharge application. Hence, the order passed by the trial court requires interference at the hands of this Court.

Accordingly, I pass the following:-

1. The criminal revision petition is ***allowed***.
2. The order dated 04.02.2026 passed in S.C.No.39/2025 by learned II Additional District and Sessions Judge, Davangere is hereby set aside. The discharge application

filed by the accused persons under Section 250 of BNSS, 2023(Under section 227 of CrPC) is hereby rejected.

3. The accused persons shall appear before the trial Court on **21.09.2026**. In-turn, the trial court shall frame charge against the accused persons and proceed with the trial in accordance with law.

**Sd/-
(VENKATESH NAIK T)
JUDGE**

MN/-