

**HIGH COURT OF UTTARAKHAND AT NAINITAL****Writ Petition Criminal No. 304 of 2026****18 August, 2026**

Kundan Singh

--Petitioner

**Versus**

- 1: State Of Uttarakhand
- 2: Director General Of Police
- 3: Senior Superintendant Of Police
- 4: Parvinder Singh

--Respondents

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**Presence:-**

Mr. Saurabh Kumar Pandey, Advocate for the petitioner.

Mr. Prabhat Kandpal, learned A.G.A. for the State.

Mr. M.S. Pal, Sr. Advocate, assisted by Ms. Amreen Bano, Advocate for respondent no.4.

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**Hon'ble Alok Mahra, J.**

The present writ petition under Article 226 of the Constitution of India has been filed with a prayer to quash the chargesheet dated 04.04.2026, arising out of FIR No. 0013 of 2026 dated 12.01.2026, registered at Police Station-I.T.I., District Udham Singh Nagar, whereby, the petitioner has been chargesheeted for offence under Sections 108, 351(2) and 352 of BNS alongwith other co-accused.



2. The brief facts of the case are as hereunder:-

The brother of the complainant committed suicide in the intervening night of 10.01.2026-11.01.2026. Thereafter, an FIR was lodged by the complainant in which it was alleged that the complainant and the deceased have entered into an agreement to purchase some property and in that relation have paid money to the other co-accused, but, they refused to execute the sale deed on the date fixed; thereafter, the deceased alongwith his brother went to Police Station I.T.I, Kashipur on 28.09.2025, where, the petitioner, who was in-charge of the said Police Station, misbehaved with the complainant and his father and did not lodge the complaint; thereafter the petitioner had called the complainant and the deceased to have a meeting with the persons, who, according to the complainant, have taken money and were not executing the sale deed. The said meeting though lasted for more than an hour, but, was not fruitful. Thereafter, the deceased moved a complaint to the S.S.P., Udham Singh Nagar, wherein, he has alleged that he has been cheated and misled by the other co-accused, as they have taken more than Rs. 4 Crores from him and his brother and now are refusing either to execute the sale deed or to return the money back to



them. The said complaint, which was moved by the petitioner before the S.S.P., Udham Singh Nagar, reached the Police Station, where the petitioner was deployed on 12.10.2025. The petitioner marked the said complaint to another Sub-Inspector Jitendra Singh that the complainant had also alleged that the deceased had given Rs. 5 Lakhs to the petitioner, which was demanded by the petitioner in lieu of helping the deceased and the complainant to get his money back from the other co-accused. The date, on which the said amount was given to the petitioner, is wavering in every statement from 3<sup>rd</sup> of November to 5<sup>th</sup> of November. On 25.11.2025, the persons who were alleged to have taken money from the deceased and his brother moved the Hon'ble High Court and sought protection from their arrest and lastly the deceased moved an application on 26.12.2026 and the said application moved to the Hon'ble Chief Minister through C.M. Helpline Portal. On 09.01.2026, the petitioner had return back Rs. 5 Lakhs to one witness which was taken by him.

3. Learned counsel for the petitioner submits that the allegations against the petitioner in the FIR as well during investigation is that he misbehaved with the deceased and his father on 28.09.2025 and another



allegation is that he has taken Rs. 5 Lakhs from the deceased for helping the deceased to get back his money. Besides these two allegations, no other allegation is there. On this basis, learned counsel for the petitioner submits that the Investigating Officer without proper application of mind and without proper investigation, has submitted the chargesheet against the petitioner under Sections 108, 351(2) and 352 of BNS. Learned counsel for the petitioner further submits that provisions of Section 108 of BNS are not attracted in the present set of facts. For ready reference, Section 108 of BNS is quoted as hereunder:-

“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.”

4. On this basis, it is further submitted that even if all the statements recorded under Sections 180 and 182 of the BNSS as well as the averments made in the complaint are taken on its face value, then also, no act of petitioner would amount to abetment as defined under Section 45 of BNS.

5. Learned counsel for the petitioner further submits that the incident of 28.09.2025 is recorded in the CCTV, which is installed in the Police Station and perusal of the



said CCTV would reveal that no misbehaviour was done with the deceased or father of the complainant. The Investigating Officer did not consider the same while filing the impugned chargesheet. It is also submitted that in the complaint, which was sent through S.S.P. Office to the I.T.I. Police Station, Kashipur, the petitioner already deputed Sub-Inspector Jitendra Singh to investigate in the matter and, as such, he was not the Investigating Officer in respect of that complaint; as regards receiving Rs. 5 Lakhs from the deceased, petitioner has submitted that he was not in the Police Station the whole day on 03.11.2025 as he was busy in investigation of one robbery case and return in the midnight of 03.11.2025 and on 04.11.2025, he was deputed on some VIP Protocol duty and on that date also, he return to the Police Station at about 09:30 PM; and on 05.11.2025 also, he was on protocol duty. Petitioner has further submitted that petitioner had no contact with the deceased after 16.11.2025. Learned counsel for the petitioner has further drawn attention of this Court to the last complaint lodged by the deceased in the C.M. Helpline Portal on 27.12.2025 and, in that also, he has submitted that there was no allegation against the petitioner or any other Police officials and only the grievance made in it is



that the accused persons, who took money from the deceased, are neither returning the money, nor executing the sale deed.

6. Per contra, learned State Counsel submits that the fact that the petitioner has taken Rs. 5 Lakhs from the deceased is evident from the statement of the witness Jagjeet Singh @ Happy, who had given statement under Section 180 of BNSS that the petitioner had returned him Rs. 5 Lakhs on 09.01.2026. On this basis, they have inferred the fact that the petitioner earlier took Rs. 5 Lakhs, which petitioner has returned. Learned State Counsel further submits that as per the statement recorded by the other witnesses under Section 180 of BNSS, it has come out that the petitioner used to threaten the deceased of dire consequences that if he is seen around the local area of the Police Station, of which, the petitioner was In-charge, then he would be implicated in false cases or he would be killed in false interrogation.

7. To this, learned counsel for the petitioner submits that statement given by the informant and witness Jagjeet Singh @ Happy cannot be relied upon, as the money, which is alleged to have been returned by the petitioner, has not been made the case property.



8. It is further submitted by learned counsel for the petitioner that to attract the offence under Section 108 of BNS, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased, but, here in the instant case, there is no evidence that the petitioner has played any active role or any positive or direct act to instigate or aid the deceased in committing suicide. In the FIR, there is no such role and or action of the petitioner, which has enticed the deceased to commit such an act. Learned counsel further submits that the petitioner never instigated/abated the deceased for commission of suicide; that there cannot be any presumption of abatement against the petitioner and that the investigation has not brought out any omission or commission of the petitioner, which led to the deceased to take any extreme step of committing suicide.

9. To support his arguments, learned counsel for the petitioner has relied upon a judgment passed by Hon'ble Apex Court in the case of Prakash and Others Vs. State of Maharashtra and Another, reported in 2024 SCC OnLine SC 3835. Paragraph Nos. 22 and 28 of the judgment are extracted hereinbelow:-



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“22. It could thus be seen that this Court observed that 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 has been held that since the cause of suicide particularly in the context of the offence of abetment of suicide involves multifaceted and complex attributes of human behaviour, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. This Court further observed that a mere allegation of harassment of the deceased by another person would not suffice unless there is such action on the part of the accused which compels the person to commit suicide. This Court also emphasised that such an offending action ought to be proximate to the time of occurrence. It was further clarified that 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. It was further held that if the acts and deeds are only of such nature where the accused intended nothing more than harassment or a 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. This Court held that owing to the fact that the human mind could be affected and could react in myriad ways and that similar actions are dealt with differently by different persons, each case is required to be dealt with its own facts and circumstances.”

“28. This Court in the case of Naresh Kumar v. State of Haryana, 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 abovereferred decisions rendered in context of culpability under Section 306IPC observed as under : (SCC para 45)

“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 306 IPC is not sustainable.**”

10. Learned counsel for the petitioner has further relied upon a judgment passed by Hon’ble Apex Court in the



case of Mahendra Awase v. State of M.P., reported in (2025) 4 SCC 801. Paragraph Nos. 23 and 24 of the judgment are extracted hereinbelow:-

“23. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for Section 306IPC (Now Section 108 read with Section 45 of the Nyaya Sanhita, 2023) to be attracted. They however seem to have followed more in the breach. Section 306IPC 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.

24. 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.”

11. This Court has carefully considered the rival submissions and perused the material placed on record.

12. Now, the question is as to whether the offence punishable under Section 108 of BNS is made out against the petitioner. Before dwelling upon the point, the provisions of Section 45 of the BNS are required to be predicated here as under:-



“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.”

13. So far as the offence under Section 108 of BNS is concerned, there should be availability of *means rea* in the offence. On this aspect, the law has been laid down by Hon'ble the Apex Court in the case of **S.S. Chheena Vs. Vijay Kumar Mahajan** reported in **2010 (12) SCC 190**, in which, it has been observed 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 the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 108 of BNS, 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.”

14. Similarly, in the case of **M. Mohan Vs. State represented by the Deputy Superintendent of Police** reported in **AIR 2011 SC 1238**, the Hon'ble Apex Court has observed as hereunder:-

45. 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.

46. 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.

15. In view of the aforesaid law, the facts of this case and the material available on record fail to satisfy the ingredients of Section 108 of BNS because the reason to commit suicide and abetment to commit suicide cannot be equated for the purpose of Section 108 of BNS. It is not enough to convict a person for offence under Section 108 of BNS unless the ingredients of Section 45 of BNS are satisfied.

16. Section 108 of BNS read with Section 45 of BNS, has been interpreted, time and again, 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, which must be in close proximity to the commission of 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.

17. As per the statements of wife and son of the deceased, all three of them have travelled to Nainital and stayed there for one night and thereafter on their return, all three suffered motion sickness and decided to stay at Haldwani for a night. For all this period, the deceased was in happy frame of mind and in the night when all three of them were sleeping in the same room, the deceased shot himself in the dark of the night.

18. On the basis of the above facts, it is apparently clear that there is no evidence against the petitioner to be chargesheeted under Sections 108, 351(2) and 352 of BNS, as neither there is evidence of any *mens rea* of the petitioner to abet the commission of suicide or act of criminal intimidation.

19. Accordingly, the present Writ Petition is allowed. Consequently, FIR No. 0013 of 2026 dated 12.01.2026, registered at Police Station-I.T.I., District Udham Singh Nagar and the charge-sheet dated 04.04.2026 filed pursuant thereto stand quashed *qua* the petitioner.

**(Alok Mahra, J.)**

18.08.2026

Ujjwal