

Sl. No. 1

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 376 of 2013

***Soma Mondal (Koruri) and Ors.
V.
State of West Bengal and Another***

For the Petitioner : Mr. Kallol Mondal
Mr. Krishan Roy

For the State : Mr. Bidyut Kumar Roy
Mr. Pravash Bhattacharyya

Heard on : 18.11.2022

Judgment on : 16.12.2022

Ananya Bandyopadhyay, J. :-

The instant revisional application under Section 401 read with Section 482 of the Criminal Procedure Code has been filed to quash the proceedings being Sessions Case No. 105/2012 arising out of Shyampukur PS case No. 298 of 2009 dated 15.11.2009 under Section 306/34 of the Indian Penal Code pending before the Ld. 4th Court of City Sessions Court arising out of the order dated 10.04.2012 passed by the Ld. Additional Chief Metropolitan Magistrate, Calcutta in connection with G.R. Case No. 2103 of 2009 dated 15.11.2009 under Section 306/34 of the Indian Penal Code.

By an order dated 07.02.2013 of this Court the aforesaid Sessions Case No. 105/2012 was stayed and such order of stay was extended from time to time. The petition inter alia contended that the petitioner no. 1, 2 and 3 had been the wife, father-in-law and mother-in-law respectively of the deceased Mithun Koruri. The Shyampukur PS case No. 298 of 2009 dated 15.11.2009 under Section 306/34 of the Indian Penal Code was instituted on the basis of a complaint lodged by Opposite Party No. 2 alleging that the son of Opposite Party No. 2 since deceased initially got married on 29.12.2000 which subsisted for 21 days before its dissolution. Thereafter on 05.06.2006 the aforesaid deceased married the petitioner No.1 for the second time and was subjected to torture by the petitioners herein which ultimately compelled the deceased to commit suicide. On 14.11.2009 at 9.45 p.m. the de facto complainant was informed about the demise of his son by his daughter and mother. The neighbours and the friends of the deceased had taken him to the local nursing home and therefrom to R.G. Kar Hospital wherein he was declared dead. The deceased had given one suicide note to the mother of the de facto complainant on 11.11.2009 who kept it under the bedding without paying any heed to it. The said note was handed over to the Police on 15.11.2009.

On the basis of the aforesaid complaint an FIR was drawn up. Investigation was initiated and on completion thereof, chargesheet was submitted being no. 312/2011 dated 30.11.2011 under Section 306/34 of the Indian Penal Code vide order dated 10.04.2012. Ld. Additional Chief Metropolitan Magistrate took cognizance of the same.

The Ld. Lawyer for the petitioners submitted that the complaint lodged by the de facto complainant was devoid of the elements to constitute an offence under Section 306/34 of the Indian Penal code.

There must be a proximate incitement or instigation compelling enough for the victim to commit suicide. Abatement, therefore, has to be a propelling act forceful enough to influence the victim to extensively lose his control over his senses to commit suicide. In the instant case, mere disagreement in opinion between the married couple, reluctance on the part of the petitioner no.1 if at all to continue with the married life cannot be termed to be an abetment to suicide. The petitioner no. 1 was not residing with the deceased at the time he committed suicide. There is no proof of immediate mental torture or instigation on the part of the petitioners severe enough to drive them into the dragnet of an offence of abetment.

The Ld. Advocate for the petitioners further submitted that the Ld. Trial Court without assessing the materials on record took cognizance of the case to the detriment of the petitioners in contravention of the legal principles postulated by the Hon'ble Supreme Court and other High Courts in a catena of decisions and he further relied on the following decisions.

Annakali Dutta and others v. State, ¹

9. *In my considered view, from the mere fact that the deceased committed suicide*

¹ 1990 SCC OnLine Cal 80

after he was badly treated by the petitioners a case of strong suspicion regarding commission of an offence under s. 306 of the Penal Code, 1860 cannot be said to have been made out against the petitioners. As has been pointed out by the Division Bench of the Court in the case of Pratima Dutta v. State reported in 81 CWN 713, ill-treatment or torture might produce a state of mind favourable to suicide but evidence of such torture or ill-treatment would not by itself be sufficient to sustain a charge under s. 306 of the Penal Code, 1860 unless there is evidence of incitement to end his life. According to the Division Bench, there must be some evidence from which it can be said that the commission of suicide was the immediate effect of incitement. Owing to occasional torture and ill-treatment, someone may decide to take one's own life. In such a case, the persons who meted out such torture and ill-treatment may not be said to have abetted the commission of suicide. But if someone actively suggests or goads another to the act by express solicitation, insinuation or encouragement, it would certainly amount to abetment of the act. It is of course true that it may be difficult to prove such element of abetment of commission of suicide but then without proof no person can be convicted. It is in that context that the legislature has enacted the provisions of s. 113A of the Evidence Act but then as that section has no manner of application in this case and as there is no material whatsoever to prove abetment of the commission of suicide, the charge under s. 306/34 of the Penal Code, 1860 cannot be allowed to stand. Consequently the charge under s. 201 of the Penal Code, 1860, one of the ingredients of which is commission of an offence, cannot also be allowed to stand.

Sanju alias Sanjay Singh Sengar Kumar and others vs. State of M.P. ²

10. This Court, considering the definition of 'abetment' under [Section 107 I.P.C.](#), found that the charge and conviction of the appellant for an offence under [Section 306](#) is not sustainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of abetment are attracted on the statement of the deceased.

11. In [Ramesh Kumar V. State of Chhattisgarh](#) (2001) 9 SCC 618, this Court while considering the charge framed and the conviction for an offence under [Section 306 I.P.C.](#) on the basis of dying declaration recorded by an Executive Magistrate, in which she had stated that previously there had been quarrel between the deceased and her husband and on the day of occurrence

² (2002) 5 SCC 371

she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set fire. Acquitting the accused this Court said:

"A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires 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 for abetting the offence of suicide should be found guilty."

12. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25th July, 1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased 'to go and die'. For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under [Section 161 Cr.P.C.](#) when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under [Section 161 Cr.P.C.](#) is annexed as annexure P-3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him 'to go and die'. Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 drove the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly pointed out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant

had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below.

Subha Narayan vs. State of West Bengal and others³

13. It cannot be denied that to constitute an offence under [Section 306](#) of IPC, it is not enough that the victim was subjected to some harassment or used to be criticized but something more than it is necessary. It is necessary to establish that the instigation was the proximate cause for commission of suicide.

14. The materials available on record at best indicate that the victim used to be tortured by the petitioner for her alleged friendship with a boy. There is absolutely nothing more in the materials so as to justify proceeding with the case for the offence under [Section 306](#) of Indian Penal Code. Mere vague allegation, that too without referring to any date or time or any particular incident, cannot constitute an offence under [Section 306](#) of Indian Penal Code.

15. The question now arises as to whether there is any reason for intervention in this matter right at this stage. Till now, on the basis of the materials placed before the learned Court, cognizance has been taken of the offence under [Section 306](#) of IPC. Nothing more has been done so far. But when it is found that the materials as disclosed on investigation do not constitute an offence under [Section 306](#) of Indian Penal Code or for that matter, any offence in law, whether there can be any justification for allowing the proceeding to continue.

16. Though the facts and circumstances of the present case are significantly different from those of the cases as referred to earlier, I am of the opinion that in absence of even prima facie material or even something more than mere shadow of doubt implicating the petitioner with the offence under [Section 306](#) of IPC, further continuation of the proceeding will amount to abuse of process of Court. I think in the best interest of justice, in exercise of power under [Section 482](#) of the Criminal Procedure Code, further proceeding should be quashed.

³ (2006)3 CHN 651

Sridevi Shil alia Mamoni vs. Bimal Sarkar and Anr. ⁴

5. On hearing the learned Advocates appearing for the parties and after going through the entire materials available on record with special attention to the case diary materials, I find that save and except the alleged suicidal note of the deceased, there is no other material at all worth the name to fix the petitioner with the alleged offence. It is needless to say that to attract the ingredients of the offence of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary. But, in the instant case, what I find is that the deceased loved the petitioner but he could not succeed to gain the confidence of the petitioner. In other words, it can be said that if at all there was any love-affair, it was an one-sided game. There is nothing to show that the petitioner and the deceased were engrossed in love with each other and, on refusal or commission of any overt act or omission on the part of the petitioner, the deceased was compelled or forced to put an end to his life. The unfortunate incident of killing himself by the deceased took place only because of his sentimental failure. Therefore, considering the pros and cons of the matter, I do not find any material, which may even remotely justify the framing of charge under Section 306 of the Penal Code, 1860 against the present petitioner as has been done by the learned Additional Sessions Judge or to continue with the criminal proceedings now pending before his Court.

Bishnu Chakraborty vs. State of West Bengal⁵

17. The present application stands on rather peculiar footings, as submitted by the learned Counsel on behalf of the petitioners, that the de facto complainant herself did not choose to proceed with the matter. This by itself, of course, does not necessarily bring the matter to an end. The learned Counsel for the petitioners relying upon the decision of a learned Single Bench of this Court in the case of Annakali Dutta v. State, reported in 1990 (2) CHN 38 : 1990 C Cr. LR (Cal) 169, submitted that there may be occasions for torture or ill-treatment and it may lead the victim to decide to take his own life. But the person who meted out such torture and ill-treatment may not be said to have abated the commission of suicide. It was decided in the said case that if someone actively suggests or goads another to the act by express solicitation, insinuation or encouragement, it would certainly amount to abetment of the act.

18. The learned Division Bench of the Apex Court in the case of Swamy Prahalad Das v. State of M.P., reported in 1995 SCC (Cri) 943, observed that suicide may

⁴ 2015 SCC Online Cal 7506

⁵ 2007 (3) CHN 754

not be the direct result of the words uttered or the alleged ill-treatment meted out by the victim and in such circumstances section 306 of the Penal Code, 1860 could have no manner of application.

19. *The aforesaid view finds further support from the decision in the case of Sanju @ Sanjay Singh Sengar v. State of M.P., reported in 2002 (3) Supreme 650 : 2002 C Cr. LR (SC) 779.*

20. *The learned Counsel for the petitioners in this context also referred to a judgment passed by this Court in C.R.R. No. 1891 of 2005. The legal position now stands clear. Mere harassment or ill-treatment or even physical torture may not be sufficient cause so as to justify applicability of section 306 of the Penal Code, 1860. The Court is required to weigh the materials carefully so as to find out if such alleged act of ill-treatment or torture was the proximate cause for the commission of suicide by the victim.*

Madan Mohan Singh vs. State of Gujarat and Anr. ⁶

14. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are allowed to continue on such basis, it will be difficult for every superior officer even to work.

M. Arjunan vs. State (Represented by its Inspector of Police)⁷

7. The essential ingredients of the offence under [Section 306](#) I.P.C. 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, accused cannot be convicted under [Section 306](#) I.P.C.

Amalendu Pal alias Jhantu vs. State of West Bengal ⁸

⁶ (2010) 8 SCC 628

⁷ (2019)3 SCC 315

21. The perpetration of physical torture on the deceased on the day prior to the date of the incident which led the deceased to commit suicide is the prosecution case all throughout. It is nowhere the case of the prosecution that the appellant had played any active role either in instigating or aiding the commission of suicide by the deceased for denying to accept Anita as the wife of the appellant. Anita, the second wife of the appellant was brought by the appellant to his house about three months prior to the date of the incident of suicide by the deceased and therefore, bringing of the second wife to the house by the appellant cannot be said to have either incited or facilitated the commission of suicide by the deceased. It is also not the case of the prosecution as disclosed from the evidence led which we have scrutinised very minutely. The aforesaid contention, in our considered opinion, is far fetched and is not established by the facts of the present case.

22. After carefully assessing the evidence on record we find that there is no direct evidence to show that the appellant had by his acts instigated or provoked the deceased to commit suicide and has not done any act which could be said to have facilitated the commission of suicide by the deceased.

Gangula Mohan Reddy vs. State of Andhra Pradesh⁹

13. [In State of West Bengal v. Orilal Jaiswal & Another](#). (1994) 1 SCC 73, this Court has cautioned that 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 the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged and such petulance, discord and difference 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.

17. 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

⁸ (2010) 1 SCC 707

⁹ (2010) 1 SCC 750

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 this act must have been intended to push the deceased into such a position that he committed suicide.

Jagveer Singh vs. State of U.P. ¹⁰

16. Before a person may be said to have abetted the commission of suicide, he must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. As per provision of Section 107 IPC, it is very much clear that for abetment a person should do something to instigate any person to do something or engages with one or more persons in any conspiracy to do that thing or intentionally aids, by any act or illegal omissions, to do that particular thing. In this case, it was necessary for appellant to be convicted him for the offence under Section 306 IPC that he should have instigated the deceased to commit suicide or he should have engaged with one or more persons in any conspiracy to abet the deceased to commit suicide or he should have intentionally aided by any act for abetting her to commit suicide.

20. In the case in hand, the trial court has referred the suicide-note left by the deceased which shows the sole reason of committing the suicide by the deceased was that she was separated by the appellant from his life. In the opinion of this Court, the aforesaid reason could not be the reason which could come under the category of the abetment. There is absolutely nothing in the suicide-note, which would make him responsible for an offence under Section 306 IPC. This Court finds nothing in the suicide-note suggesting abetment to commit suicide. There is nothing in the suicide note which can be said to be proximate reason to commit suicide by the deceased. The aforesaid suicide note does not show any mens rea on the part of the appellant. No guilty mind of appellant is shown by any statement in suicide note as referred by the trial court. Further, suicide note does not show the fact that there was any instigation or even cruelty on the part of appellant due to which the deceased was left with no option but to commit suicide because if the appellant had separated the deceased from his life, it was not compelling reason which put the deceased in a situation where she had no option but to commit suicide. Learned trial court has given finding that there was mental cruelty on the part of

¹⁰ 2021 SCC OnLine ALL 641

appellant towards the deceased and on the basis of this finding, appellant was convicted under Section 498A IPC, but this Court is not convinced with this finding also because firstly there was no averment of demand of additional dowry of Rs. 50,000/- and a four wheeler in the FIR. The statements of PW-1 and PW-2 show that they did not state this fact before the Investigating Officer also, both the above witnesses have stated the fact of demanding Rs. 50,000/- and a four wheeler for the first time before the trial court, therefore, these averments will come under the category of improvement. Moreover, entire suicide-note does not contain any such demand of dowry or torturing the deceased. Learned trial court has wrongly given the finding of mental cruelty on the basis that appellant drove out the deceased from his life. In the absence of mens rea and proximate cause for abetting the suicide, learned trial court has wrongly appreciated the law regarding the abetment.

In view of the aforesaid observations the Ld. Advocate for the appellant prayed for quashing of the chargesheet dated 30.11.2011.

The Ld. Advocate appearing on behalf of the State submitted that it is premature to come to a conclusion without the evidence being unraveled to quash the proceedings which otherwise would have been justifiably resolved through trial.

The complaint dated 15.11.2002 revealed that the petitioner no. 1 and the deceased did not reside in the same premise prior to his suicide. The suicide note alleged to have been written by the deceased was evasively kept under wraps for 2 to 3 days. A copy of the alleged suicide note present in the case diary inter alia stated that the petitioner no. 1 did not disclose her marriage with the deceased, a divorcee, well within her knowledge to her family member. The petitioner no. 1 misbehaved with the deceased prior to the “Durga

Puja” and petitioner no. 2 and 3 along with their daughter told the deceased that a registry certificate could be purchased and the deceased obliquely married a rural girl instead of an urban girl. The deceased also stated that he loved petitioner No. 1 and did not want to die. Petitioner no. 1, 2 and 3 were aspersed responsible for his death. The alleged suicide note further revealed that petitioner no. 1 expressed to sever her marital relation with the deceased on 04.09.2009, in order to lead an independent life. It appeared that the verklempt deceased on account of rejection claimed punishment of the petitioner no. 1. The deceased stated in the alleged suicide note certain people were aware of the fact of the deceased and petitioner no. 1 having spent several nights together and further demanded punishment for the petitioner no. 1. The statement recorded under Section 161 Cr.P.C. prevalent in the case diary did not mention about an immediate effect of inducement on the deceased to commit suicide on the part of the petitioners. Differences between the deceased and petitioner no. 1, her intermittent absence from the marital home and reluctance to continue with her marriage would not amount to an incitement caused to the deceased to commit suicide.

In the judgement of **Rajiv Thapar and ors. Vs. Madan Lal Kapur**¹¹, the Hon’ble Supreme Court has considered the scope of the provision under Section 482 Cr.P.C. and has laid down the steps which should be followed by the High Court to determine the veracity of a prayer for quashing of

¹¹ (2013)3 SCC 330

proceedings in exercise of power under Section 482 Cr.P.C. Paragraph 30 containing the four steps read as under:

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under [Section 482](#) of the Cr.P.C.:-

30.1 Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

30.2 Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

30.3 Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

30.4 Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5 If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under [Section 482](#) of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused.

In view of the aforesaid observation of the Hon'ble Supreme Court, the ingredients to constitute an offence under Section 306/34 in the instant case are absent.

Section 306 in the Indian Penal Code states as follows:

“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.”

In Gurcharan Singh vs. State of Punjab, the Hon’ble Supreme Court observed that,

13. [Section 107](#) IPC defines “abetment” and in this case, the following part of the section will bear consideration: -

“107. Abetment of a thing – A person abets the doing of a thing, who – First- Instigates any person to do that thing; or Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing.”

14. The definition quoted above makes it clear that whenever a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted in doing that thing.

15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Sec 107 of the [IPC](#), the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous. However, what transpires in the present matter is that both the Trial Court as well as the High Court never examined whether appellant had the mens rea for the crime, he is held to have committed. The conviction of Appellant by the Trial

Court as well as the High Court on the theory that the woman with two young kids might have committed suicide, possibly because of the harassment faced by her in the matrimonial house, is not at all borne out by the evidence in the case. Testimonies of the PWs do not show that the wife was unhappy because of the appellant and she was forced to take such a step on his account.

16. The necessary ingredients for the offence under [section 306 IPC](#) was considered in the case *SS Chheena Vs. Vijay Kumar Mahajan*¹ where explaining the concept of abetment, Justice Dalveer Bhandari wrote as under:-

“25. Abetment involves a mental process of instigating a person or intentionally aiding a 1 (2010) 12 SCC 190 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.”

Apart from marital discord between the parties revealed through the statements recorded under Section 161 Cr.P.C, there have been no material to substantiate the process of continuous or imminent and proximate incitement to commit the offence of abetment. The alleged suicide note dated 11.11.2009 projected the disgust of the deceased of being refused to continue with the marital life by the petitioner no. 1. Such refusal is an independent opinion and cannot be equated with an instigation to constitute an offence of abetment. The deceased could have taken recourse to legal measures if at all the petitioner no. 1 wanted a divorce in case of a legal relationship existing between them.

However, he resorted to an abrupt and drastic measure to end his life seeking punishment of the petitioners wherefrom the distraughtedness, frenzied and hysterical attitude of the deceased can be detected rather than his extreme vulnerability and severity to end his life being impelled by the petitioners. In absence of material placed in record within the meaning of Section 107 of the Indian Penal Code, it is baseless to allow to proceed against the petitioners for the alleged offence committed under Section 306 of the Indian Penal Code and Section 3(2)(v) of the Act. It will be an injustice meted out to the petitioners if they are subjected to face a criminal trial without any credible material against them. Most importantly in absence of mens rea it would be a precarious situation if the act of either of the two persons in a matrimony intending to opt out of marriage would constitute abetment in an imbroglio where the other person out of resentment, feeling of betrayal, remorselessness commits suicide.

The decision to discontinue with the married life on the part of petitioner no. 1 does not give rise to mens rea. The active and direct role on her part or that of the petitioner no. 2 and 3 to abet the suicide of the victim are absent on the materials on record.

To allow to proceed with the trial will definitely result in an abuse of process of the Court and under no circumstances shall serve the ends of justice. Therefore, the Court is inclined to quash the G.R. Case No. 2103 of 2009.

The criminal revisional application being CRR 376 of 2013 is allowed.

The proceedings being Sessions Case No. 105/2012 arising out of Shyampukur PS case No. 298 of 2009 dated 15.11.2009 under Section 306/34 of the Indian Penal Code pending before the Ld. 4th Court of City Sessions Court arising out of the order dated 10.04.2012 passed by the Ld. Additional Chief Metropolitan Magistrate, Calcutta in connection with G.R. Case No. 2103 of 2009 dated 15.11.2009 under Section 306/34 of the Indian Penal Code is accordingly quashed.

Connected applications, if any, also disposed of accordingly.

There is no order as to cost.

Let the copy of this judgment be sent to the learned trial court as well as the police station concerned for necessary information and compliance.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this court.

Ananya Bandyopadhyay, J.