

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-50641-2021 (O&M)

Date of decision: 10.04.2023

NIRMALJIT SINGH AND ORS

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Akshay Chadha, Advocate for the petitioners

Mr. H.S. Sullar, Sr. DAG Punjab

Mr. Saurav Kanojia, Advocate for complainant-respondent No.2

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure (in short 'CrPC') for quashing of FIR No.16 dated 02.03.2014, Annexure P-1 under Sections 306, 506 and 34 of the Indian Penal Code (in short 'IPC') registered at Police Station Maloud, District Khanna and all the subsequent proceedings.

Learned counsel for the petitioners contended that from the contents of FIR itself, as well as from the bare reading of alleged suicide note dated 01.03.2014, Annexure P-5, there is a mere mention of the names of the petitioners that they had disturbed /irritated the deceased without there being any specific role attributed or instances of disturbing or irritating. There is no complaint in that regard, also stated to have been submitted by the petitioners to either the school

authority or the police. Therefore, it does not constitute abetment under Section 107 IPC and consequently, no offence under Section 306 IPC is made out. Still further, there was a compromise also arrived at between the parties in the present case on 25.11.2021, Annexure P-3, regarding which even an affidavit of even date of the complainant, who is the son of the deceased, was sworn in, and Notarized on 27.11.2021, Annexure P-4. The statements of the complainant party have already been recorded on 07.02.2022, affirming the compromise in pursuance to the order dated 21.01.2022, passed by this Court. To bolster his submissions, reliance was placed on the judgments passed by Hon'ble The Supreme Court in the cases of **Netai Dutta vs. State of West Bengal**, (2005) 2 SCC 659, **Ramesh Kumar vs. State of Chhattisgarh**, (2001) 9 SCC 618, **Madan Mohan Singh vs. State of Gujarat and another**, (2010) 8 SCC 628, **State of Kerala and others vs. S. Unnikrishnan Nair and others**, (2015) 9 SCC 639, and **Geo Varghese vs. The State of Rajasthan and another**, 2021 SCC OnLine Sc 873.

The learned State counsel submits that the investigation was duly conducted in the present case and the final report under Section 173 CrPC was presented only against petitioner Nos. 1 and 2 and accused Gurmail Singh, who expired during pendency of the trial, whereas, petitioner Nos. 3 to 7 were found innocent and put in column No.2. Charges were framed on 10.03.2015, however, only two witnesses out of a total of sixteen have been examined so far.

Learned counsel for the complainant affirms the factum of compromise and the statement recorded before the trial Court by the complainant that the same has been effected voluntarily and without any pressure or coercion. The complainant stands by the compromise and has no objection to the quashing of the FIR registered by him.

Heard the learned counsel for the parties.

For the purpose of adjudicating the case, it is worthwhile to, at first make a reference to the provisions, which read thus:

Section 306 of the IPC:

"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."

A bare reading of the provision, makes it amply clear that to constitute an offence under Section 306 IPC, the prosecution has to establish: (i) that a person committed suicide, and (ii) that such suicide was abetted by the accused. In other words, an offence under Section 306 would stand only if there is an "abetment" for the commission of the crime. The parameters of "abetment" have been stated in Section 107 of the IPC, which defines abetment of a thing 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."

A conjoint reading of the aforesaid would show that a person can be said to have abetted in doing a thing, if he, firstly, 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 to Section 107 states that any wilful misrepresentation or wilful concealment of material fact which he is bound to disclose, may also come within the contours of "abetment". It is manifest that under all the three situations, direct involvement of the person or persons concerned in the commission of offence of suicide is essential to bring home the offence under Section 306 of the IPC.

The word "instigate" which figures in the first clause of Section 107, is not defined in the IPC. Hon'ble The Supreme Court in the case of **Ramesh Kumar vs. State of Chattisgarh**, (2001) 9 SCC 618, observed that, "instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', though it is not necessary that actual words must be used to that effect or what constitutes 'instigation' must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an 'instigation' may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation."

The dictionary meaning of the word "goad" is "a thing that stimulates someone into action: provoke to action or reaction" (See: **Concise Oxford**

English Dictionary); "to keep irritating or annoying somebody until he reacts" (See: Oxford Advanced Learner's Dictionary - 7th Edition). Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter.

Hon'ble The Supreme Court of India in the case of **Netai Dutta vs. State of West Bengal**, (2005) 2 SCC 659, held as under:-

“5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16.2.2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of the "abetment" have been stated in Section 107 of the Indian Penal Code. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing; or 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, or the person should have intentionally aided any act or illegal omission. The explanation to Section 107 says that any willful misrepresentation or willful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately

instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.”

In view of the aforesaid, to ascertain whether any one of the ingredients of Section 107 IPC would be attracted in the present case, it is necessary to consider in sum and substance the allegations levelled against the petitioners as emerge from the FIR and suicide note.

FIR and the suicide read thus:

“Statement of Paramvir Singh son of Ranjit Singh caste Ramdassia Sikh resident of Jhamat Police Station Maloud District Ludhiana aged about 27 years 99151-10006 It is stated that I am the resident of above-mentioned address and is working as an architect in Pahir. the case of the prosecution as per the FIR is that on 01.03.2014, the father of the complainant left home at 8 a.m. for his duty and went to school on his scooter bearing No.PCH7653, make LML Vespa. He used to come home every day around 4 o'clock. However, on that date, the exams of 10+2 were starting in the school and the exam was scheduled from 2 p.m. to 5 p.m. When the father of the complainant did not return till 5.30-6 p.m., the complainant alongwith his neighbour, Rajdeep Singh came towards Jagera to search for his father and when they reached at Verka Milk Plant's booth near Jagera bridge, his father's scooter was parked near Verka Booth. They searched for the father of the complainant in the surrounding but did not get any clue. As per the complainant he was told by his father that in relation to his father's extension, school's clerk Parminder Kaur and her husband in connivance with Gurmail Singh, who is the Principal at Government Senior Secondary School, Kalalh wanted to get his father transferred and Gurmail Singh wanted to come in as Principal in Latala School. To accomplish that they were threatening and harassing him on the phone. As a result of which under stress and disturbance his father had committed suicide. There was no clue about the dead body of complainant's father. Thereafter, after leaving Rajdeep to keep surveillance of the scooter, he went to the Police Station to give information.”

Suicide note:-

“Clerk Parminder Kaur, her husband Happy, Sattu, Chairman

Gurmukh, Daljeet Lala Chairman, Pawan Kumar Math's master, have disturbed/irritated me. I am committing suicide on account of them. Let they be strictly punished by justice. Along with them MLA Dakha, Harjinder Singh is also there.”

The aforesaid goes to show that the father of the complainant (since deceased, who was working as Principal, Senior Secondary School, Latala, Tehsil Pakhowal, District Ludhiana) had allegedly shared with him that petitioner No.2 and her husband-petitioner No.1 in connivance with Sh. Gurmail Singh, Principal of Government Senior School, Kalakh wanted to get him transferred so that in his place the aforesaid Gurmail Singh becomes the Principal of the school at Latala, for which reason they were allegedly threatening and harassing him over the phone. According to the complainant, it is due to the stress and disturbance, that his father had committed suicide. Petitioner Nos. 3 to 7 were summoned on an application filed under Section 319 CrPC vide order dated 25.04.2006. Petitioner No.2 was working as a clerk in the said school, whose husband is petitioner No.1 and petitioner No.3 was working as a Maths Teacher. On a pointed query raised by the Court, the learned counsel for the petitioners had submitted that the school wherein the father of the petitioner was working and the Senior Secondary School, Kalakh, where Sh. Gurmail Singh was working as a Principal, who was planning to replace the deceased, are located within the same district and at a distance of 5.6 kms.

As per the FIR, there was no information with regard to the body of the deceased, which apparently was recovered from the river on 03.04.2014, after the lodging of FIR on 02.03.2014. The cause of death as per the post mortem report was ‘asphyxia’ due to drowning.

The alleged suicide note was recovered from a notebook in the

‘dikki’ of the scooter, containing names of the petitioners along with that of one MLA of Dakha. As is apparent therefrom, the deceased had alleged being disturbed/irritated by the persons mentioned therein, with no further specifics, the position remained the same even in the statement of the complainant before the trial Court.

In the case of **State of West Bengal vs. Orilal Jaiswal and Anr.**, (1994) 1 SCC 73, Hon’ble The Supreme Court observed that, “We may add here 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 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 of abetting the offence of suicide should be found guilty.”

Hon’ble The Supreme Court of India in the case of **Ramesh Kumar** (supra), wherein the appeal was partly allowed maintaining the conviction under Section 498A IPC, acquitting the accused for an offence under Section 306 IPC, in spite of the charge and conviction being on the basis of dying declaration recorded by an Executive Magistrate, wherein she had stated that previously there had been quarrel between the deceased and the husband and on the day of occurrence she had a quarrel with him, who told her that she can go wherever she wanted to go, whereafter she poured kerosen on herself and set fire, by holding thus:-

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

In a case of a suicide note making allegations against the officers of the department, quite similar to the facts of the present case, Hon’ble The Supreme Court in **Madan Mohan Singh vs. State of Gujarat and another**, (2010) 8 SCC 628, concluded that, “We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note” by observing that in order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring out the suicide of the concerned person as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 IPC. The suicide note and para as relevant read thus:-

“7. It is then suggested in the followings words:

“I am going to commit suicide due to his functioning style. Alone M.M. Singh, D.E.T. Microwave Project is responsible for my death. I pray humbly to the officers of the department that you should not cooperate as human being to defend M.M. Singh. M.M. Singh has acted in breach of discipline disregarding the norms of discipline. I humbly request the Enquiry Officer that my wife and son may not be harassed. My life has been ruined by M.M. Singh.”

XXXXX

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.

11. In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide note, it cannot be said that the accused ever intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this.

In State of Kerala and others vs. S. Unnikrishan Nair and others,
(2015) 9 SCC 639, a case wherein the deceased who committed suicide was working as Chief Investigating Officer and was entrusted with the investigation assisted by a team of officers (that included respondent Nos.1 and 2), in Sampath murder case wherein the allegations were that he was beaten to death by the investigating agency, while he was in custody. Hon'ble The Supreme Court of India concluded that, "We have quoted in extenso from the said judgment and we have no hesitation in stating that the suicide note therein was quite different, and the Court did think it appropriate to quash the proceedings because of the tenor and nature of the suicide note." It was observed that the suicide note really does

not state about any continuous conduct of harassment. The said suicide note as also the paras relevant hereto read thus:

“Rajan and Unnikrishnan (CBI TVPM) are responsible for my this situation. Nobody else has any role in this. They who compelled me to do everything and cheated me and put me in deep trouble. Advocate Seekumar also has some role. CJM Sri Vijayan also put pressure on me.”

“12. As we find from the narration of facts and the material brought on record in the case at hand, it is the suicide note which forms the fulcrum of the allegations and for proper appreciation of the same, we have reproduced it herein-before. On a plain reading of the same, it is difficult to hold that there has been any abetment by the respondents. The note, except saying that the respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else. The respondents were inferior in rank and it is surprising that such a thing could happen. That apart, the allegation is really vague. It also baffles reason, for the department had made him the head of the investigating team and the High Court had reposed complete faith in him and granted him the liberty to move the court, in such a situation, there was no warrant to feel cheated and to be put in trouble by the officers belonging to the lower rank. That apart, he has also put the blame on the Chief Judicial Magistrate by stating that he had put pressure on him. He has also made the allegation against the Advocate.”

In Geo Varghese vs. The State of Rajasthan and another, 2021

SCC OnLine SC 873, a student committed suicide after panning down a suicide note specifically taking the name of the appellant, who was his teacher and the facts being that the deceased were harassed by him from 19.04.2018 till 24.04.2018 and ultimately on the complaint of the appellant-teacher, the deceased was called by the principal on 25.04.2018 for bunking classes, and his parents were asked to come on 26.04.2018, however, on the intervening night of 25.04.2018-26.04.2018, the deceased committed suicide and it was contended that there was approximate nexus in the harassment and suicide, thus a prima facie

case for alleged cognizance was made out and the High Court had rightly refused to quash the FIR. Hon'ble The Supreme Court observed that the High Court was not justified in dismissing the application under Section 482 CrPC as, "in the absence of any specific allegation and material of definite nature, not imaginary or inferential one, it would be travesty of justice, to ask the appellant-accused to face the trial." It took into consideration the suicide note consisting of three pages, which along with the paras relevant in that regard, read thus:-

"01st page – 'MY ALL THINGS GOES TO MY DEAR BRO KAIRN EVEN MY LOVE BYE BUDDY & SORRY' 02nd page – 'NEEDED JUSTICE' 03rd page – 'THANKS GEO (PTI) OF MY SCHOOL'"

"33. Considering the facts that the appellant holds a post of a teacher and any act done in discharge of his moral or legal duty without their being any circumstances to even remotely indicate that there was any intention on his part to abet the commission of suicide by one of his own pupil, no mens rea can be attributed. Thus, the very element of abetment is conspicuously missing from the allegations levelled in the FIR. In the absence of the element of abetment missing from the allegations, the essential ingredients of offence under Section 306 IPC do not exist.

34. All these facts have been clearly ignored by the High Court while mechanically dismissing the petition under Section 482 CrPC on the ground that FIR discloses the commission of a cognizable offence.

40. Insofar as, the suicide note is concerned, despite our minute examination of the same, all we can say is that suicide note is rhetoric document, penned down by an immature mind. A reading of the same also suggests the hyper- sensitive temperament of the deceased which led him to take such an extra- ordinary step, as the alleged reprimand by the accused, who was his teacher, otherwise would not ordinarily induce a similarly circumstanced student to commit suicide.

41. In the absence of any material on record even, prima-facie, in the FIR or statement of the complainant, pointing out any such circumstances showing any such act or intention that he

intended to bring about the suicide of his student, it would be absurd to even think that the appellant had any intention to place the deceased in such circumstances that there was no option available to him except to commit suicide.”

The Bombay High Court in the case of **Dilip S/o Ramrao Shirasao vs. State of Maharashtra**, Criminal Application (Apl) No.332 of 2016, decided on 05.08.2016, where four Judicial Officers of the Maharashtra State Judiciary including the Principal District Judge of the said district had sought quashing of the FIR under Section 306, registered against them on the allegations levelled by another Judicial Officer, who allegedly committed suicide leaving behind a suicide note specifically naming them and holding them responsible for his death on account of harassment meted to him. The deceased was disturbed on account of he being transferred to Darwaha and not being permitted to do up and down from there. The deceased, like in the present case, had never made any complaint with regard to any of the applicants. It was observed that, “it cannot also be a case of harassment inasmuch as the deceased was the junior most Judicial Officer in the cadre of Civil Judge Senior Division and transferring him out of the District headquarters to another place in the same district, cannot be said to be an act by the applicant no.1 causing harassment to the deceased.” Further that, “even taking the allegations to be true at its face value, the question would be as to whether is it sufficient to book the persons like applicants for the offence punishable under Section 306 of the Indian Penal Code.” It was a case wherein investigation was almost complete and the High Court found that the continuation of criminal proceedings would result in an abuse of process of law, and as such the application filed under Section 482 CrPC was allowed.

The suicide note in the said case reads thus:-

"Shri D.R.Shirsao, the District Judge, Yavatmal, Shri S.M. Agarkar, Member, Legal Services Authority, Shri D.N. Khadse, Civil Judge Senior Division, Yavatmal, Shri R.P. Deshpande, Chief Judicial Magistrate, Yavatmal and H.L. Manwar, 2nd Civil Judge Senior Division, Yavatmal are responsible for my death as they subjected me to harassment."

Sd/-

A.D. Jawalkar
Civil Judge"

Fortiori, it is the solemn duty of the Court to separate grain from the chaff and under the inherent powers, this Court is to act ex debito justitiae i.e., to do real and substantial justice, or to prevent abuse of the process of the Court.

Hon'ble The Supreme Court in **Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi)**, (2009) 16 SCC 605, dealt with the aspect of abetment and opined that there should be an 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.

Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. There has to be a positive act on the part of the accused to instigate or aid in committing suicide. The intention of the legislature and the ratio of the cases decided by Hon'ble The Supreme Court is clear that in order to hold a person liable under Section 306 IPC, there has to be 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.

Moving back to the facts of the case in hand, it containing the allegations of transfer of the deceased, who was working as Principal from one school to the other at a distance of short distance of 5.6 kms; the allegations being against the petitioners who included a Clerk, a Maths teacher and Chairman of disturbing and irritating the deceased; not a case set up that transfer would entail any other adverse consequences upon his service; a perusal of the suicide note, reveals the allegations levelled to be vague; no specific instances narrated that could be viewed as material for attracting the ingredients of instigation, provocation, goading, inciting, urging under Section 107 IPC, for the offence to come within the contours of 'abetment', that essential to bring home the offence under Section 306 IPC, which could not even be substantiated by the complainant in his statement before the trial Court. The said act of the disturbing/irritating does not reflect requisite mens rea on the assumption that the deceased, a highly educated person would be pressurized and without weighing the pros and cons, ended his life. The offence is also not attracted, there being no positive action on the part of the petitioners alleged proximate to the time of occurrence which may have led or compelled the deceased to commit suicide. Thus, it cannot be said that the petitioners had in any manner whatsoever aided or by act of omission or commission driven the deceased to the point of no return, leaving him with no option. This Court, basis the aforesaid suicide note and the peculiarity of facts and circumstances of the case, particularly, in absence of specifics and definite material which is not inferential or presumptive arrive at a conclusion that the proceedings if allowed to continue would end in conviction of the petitioners for the offence under Section 306 of IPC. Further still, there was also a compromise arrived at between the parties, pursuant to which, the petitioners had filed the

petition for quashing of FIR and subsequent proceedings arising therefrom on basis of compromise, whereafter, on a direction passed by this Court on 31.01.2022, the statements of the complainant and the accused-petitioners were recorded before the Additional Sessions Judge, Ludhiana. As per his report, the complainant-Paramvir Singh-respondent No.2, affirmed it, to have arrived at voluntarily, without any kind of coercion or pressure and had given no objection if the proceedings are quashed by this Court against the accused persons. Thereafter, the amended petition was filed seeking quashing of the FIR on merits.

In the case of **Shivaji Shitole and others vs. State of Maharashtra and others**, 2013(8) RCR (Crl.) 415, Bombay High Court quashed the criminal proceedings for offence under Section 306/34 IPC, wherein the deceased was threatened with removal from the job and deliberately transferred from Pune to Haryana, by observing that even assuming that the deceased was being treated unfairly by the petitioners, no intention that he should commit suicide can be attributed to any of the petitioners as they cannot be attributed the requisite mens rea to hold them guilty as abettors.

Hon'ble The Supreme Court in a case wherein the appellant was charged for an offence under Section 306 IPC on the ground that the appellant during the quarrel is said to have remarked the deceased 'to go and die', held that mere words uttered by the accused to the deceased 'to go and die' were not even prima facie enough to instigate the deceased to commit suicide. The Court of Sessions was found to be in error in summoning the appellant to face trial. [See **Swamy Prahaladdas vs. State of M.P. & Anr.** , 1995 Supp. (3) SCC 438].

In the case of wherein the appellant aggrieved by an order whereby he had been charge- sheeted for an offence under Section 306 IPC, filed a petition under Section 482 of the Code, deceased committed suicide by hanging and died of asphyxia, leaving behind a suicide note specifically naming the appellant and others, Hon'ble The Supreme Court, quashed the charge sheet by observing that, the quarrel between the deceased and the appellant had taken place on 25th July, 1998 and if the deceased came back to the house again on 26th July, 1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25th July, 1998 and held that, "Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of 'abetment' are totally absent in the instant case for an offence under Section 306 IPC." [See **Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh** (2002) 5 SCC 371].

The suicide note in the said case reads thus:

“SUICIDE NOTE Danik Bhaskar 581 South Civil Lines Jabalpur.

Agent Name Sengar New Agency Place Goshalpur No. of copies 409 Date Name of the person who prepared label Gosalpur Sengar has threatned to report under Dowery demand and threatned to involve family members due to this I am writing in my full senses that Sanjay Sangar is responsible for my death. Sanjay Sangar also Mukraj commander Loota Tha Sanjay ki. Sengar New Agency Gosalpur I was threatened therefore I am dying Sangar Gosalpur My name Chander Bhushan Singh Goutam Chander Bhushan Singh Goutam Babloo Goutam In my senses Sengar responsible for my death.

My moti Darling my moti. You look after my Chukho. My darling Moti Neelam Sengar @ Chander Bhushan Singh Goutam Gandhigram Budghagar.

Sengar is responsible for my death Sanjay Sengar is responsible for my death Sanjay Sengar is responsible for my death Chander Bhushan Singh Goutam Gandhigram Budhagar.”

The test to be applied by a Court for deciding whether it is expedient and in the interest of justice to permit a prosecution to continue, is by taking into consideration any special features which appear in a particular case that the uncontroverted allegations prima facie establish the offence and in the opinion of the Court chances of conviction are weak and no useful purpose is likely to be served by allowing the criminal prosecution to be continued, the Court can quash the proceedings, were the observations of Hon’ble The Supreme Court of India in the case of **Madhavrao Jiwaji Rao Scindia vs. Sambhajirao Chandraojirao Angre**, 1988 (1) RCR 565.

In **Vineet Kumar and others vs. State of Uttar Pradesh and others**, (2017) 13 SCC 369, it was held thus:

“23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in *State of Karnataka vs. L. Muniswamy*, (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated:

‘7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the

conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”

The exposition of law for exercise of the inherent power under Section 482 CrPC is too well settled and to the extent possible, Hon’ble The Supreme Court in **State of Haryana vs. Bhajan Lal**, (1992) Supp (1) SCC 335, wherein by way of illustration, as many as seven categories of cases were formulated, to prevent abuse of process of the court or otherwise to secure the ends of justice, yet it was clarified that it was not possible to lay down precise and inflexible guidelines or any rigid formula and to give an exhaustive list of myriad kinds of cases where such power could be exercised.

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie

constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously

instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

On an evaluation having been made above by applying the law as explicated to the peculiar facts of the case, this Court finds that the allegations set out in the FIR do not constitute the offence for which cognizance has been taken and it evidently being a case of that nature, where the petitioners should not be compelled to undergo the rigmarole and ordeal of trial, quashing the proceedings would serve the salutary purpose of Section 482 CrPC, so as to prevent the abuse of the process of the Court.

As a sequel to the above, the present petition is allowed, FIR No.16 dated 02.03.2014 and the consequential proceedings arising therefrom are hereby quashed.

Pending applications, if any, shall stand disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

10.04.2023

S.Sharma(syr)

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No