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

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Date of Decision: 14.05.2024

SANDEEP KUMAR @ SUNNY**... Petitioner****Versus****STATE OF PUNJAB & ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Sangram Singh Saron, Advocate and
Mr. Madhavrao Rajwade and
Ms. Shubreet Kaur, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

Mr. Paras Talwar, Advocate
for respondent No.2/complainant.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred against the order dated 06.01.2022 passed by the Sessions Judge, Fatehgarh Sahib whereby the application filed by the petitioner/accused under Section 227 Cr.P.C. for discharging him for the offence punishable under Section 306 IPC in FIR No.253 dated 31.12.2019, Police Station Mandi Gobindgarh, District Fatehgarh Sahib has been dismissed.

2. The brief facts of the case are that one Dheeraj @ Happy consumed poison on the night of 30.11.2019. His wife Tarundeep Kaur got recorded a GD No.30 dated 01.12.2019 stating that her husband had been ill for about a week. She had been told by her mother-in-law on the phone that

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she (Tarundeep Kaur) should return back as her husband was very sick and was being taken to the doctor for treatment. When she returned back and went to Apollo Hospital, Ludhiana she came to know that her husband had initially been taken to Khanna Nursing Home, Khanna from where he had been referred to Dayanand Hospital, Ludhiana. However, as the condition of her husband was serious, he had been to Apollo Hospital, Ludhiana where he was brought dead. The incident had taken place because her husband had been ill for many days. No one was to be blamed and they did not wish to initiate any legal proceedings against anyone. The copy of the GD No.30 dated 01.12.2019 is attached as Annexure P-1 to the petition.

3. The inquest report was prepared wherein it was recorded that there was no foul play in the death of the deceased and the cause of death was described as natural. The copy of the Inquest Report is attached as Annexure P-2 to the petition.

4. During the inquest proceedings, the joint statement of Tarundeep Kaur (wife), Neeraj (brother) and other persons, was recorded along with the statement under Section 175 Cr.P.C. of Neeraj Kumar as per which no one was to be blamed for the sudden and natural death of the deceased who used to remain ill. The copy of the joint statement and the statement recorded under Section 175 Cr.P.C. are attached as Annexures P-4 and P-5 to the petition.

5. After a delay of 8 days, a complaint dated 09.12.2019 was made by the mother of the deceased to the concerned police officials as per which



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the petitioner herein and the deceased had a joint business of sale and purchase of cars since long. Initially, no suspicion was raised on anyone on account of the death of the deceased. However, later, on the examination of the body of the deceased a handwritten suicide note had been found and his phone contained audio and video recordings as per which it was the petitioner who was harassing the deceased because of which he had committed suicide. Based on the said complaint, an inquiry took place leading to the registration of the FIR No.253 dated 31.12.2019. The translated version of the complaint dated 09.12.2019 culminating in an FIR No.253 dated 31.12.2019 under Section 306 IPC, Police Station Mandi Gobindgarh, District Fatehgarh Sahib is reproduced herein below:-

“That at this time a complaint No.4640-Peshi dated 09.12.2019 moved by Kamla Devi wife of Sh. Jagmohan Lal, r/o House No.222, Sector 20, Block- C, Subhash Nagar, Mandi Gobindgarh was received at the police station by post (DAK) through Hon'ble Deputy Superintendent of Police, Circle Amloh, District Fatehgarh Sahib, contents of which are as under:- To Hon'ble SSP District Fatehgarh Sahib. Subject: Complaint against Sandeep Kumar @ Sunny s/o Ganesh Chand r/o House No.227-A, Sector 21, Block B, Gandhi Nagar, opposite Shiv Mandir, Mandi Gobindgarh, Tehsil Amloh, District Fatehgarh Sahib for initiating appropriate legal proceeding for killing Dheeraj @ Happy son of complainant by harassing him mentally. Sir, It is submitted that I, Kamla Devi wife of Sh. Jagmohan Lal, am resident of House No.222, Sector 20, Block-C, Subhash Nagar, Mandi Gobindgarh, Tehsil Amloh, District Fatehgarh Sahib and I am an old aged lady of 65 years. I



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would like to bring to your kind notice the following on the above subject. That above said Sandeep Kumar @ Sunny my son Dheeraj @ Happy had been having joint business of sale- of cars for a long time. 2) That my son Dheeraj @ Happy had been under mental depression for some time and he remained quiet and did not talk to me about anything. Whenever I asked him about the reason of his depression, he used to sit down by holding his head but did not tell me the real cause of his problem. 3) That on 30.11.2019, condition of my son became serious and on the next day on 01.12.2019, my son died. 4) That after the death of Dheeraj @ Happy, I and my daughter-in- law Tarandeep Kaur were in grave shock, due to which, my daughter-in- law got recorded in her statement u/s 174 Cr.P.C. that she does not have any suspicion on anyone regarding the death of her husband. 5) That thereafter when we checked the phone of Dheeraj @ Happy, then we found a video in phone of Dheeraj @ Happy for remaining under depression and for his death, wherein he was stating that above said accused Sandeep Kumar Luthra @ Sunny has been harassing him a lot and further, Sandeep Kumar has been insulting him in public as well as among friends and also insulting badly before the customers at the shop and also using bad words. It was also stated in video that if anything happens to him then aforesaid accused Sandeep Kumar Luthra @ Sunny would be responsible for the same. Apart from above, a handwritten note was also found from the purse of Dheeraj @ Happy, wherein my son had stated with respect to the behavior and mental harassment caused by the above said accused. Besides this, an audio has also been found in phone of my son, wherein said accused has been threatening to kill my son. CDs containing above said video and audio



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as well as handwritten note are enclosed with this complaint. 6) That from the above stated reason, we have full belief that above said accused compelled my son to commit suicide. Therefore, it is respectfully prayed before you that keeping in view aforesaid facts, by initiating appropriate legal proceeding against aforesaid accused for killing my son Dheeraj @ Happy by harassing him mentally, sentence be awarded to him and justice be delivered to me. I shall be very thankful to you. Yours truly, Sd/- (Hindi) Kamla Devi w/o late Sh. Jagmohan Lal, r/o House No.222, Sector 20, Block-C, Subhash Nagar, Mandi Gobindgarh, Tehsil Amloh, District Fatehgarh Sahib dated 19.12.2019.”

The copy of the FIR No.253 dated 31.12.2019 under Section 306 IPC, Police Station Gobindgarh Mandi, Fatehgarh Sahib is attached as Annexure P-7 to the petition.

6. The suicide note purportedly recovered from the wallet of the deceased in its translated version reads as under:-

“Veer Ji, I wanted to tell you something. I am very upset with Sunny. He is insulting me everywhere. He does not know to speak and what to say. Today four days have passed, he has been insulting a lot. He is pompous about his money. He is defaming me everywhere. Due to which I am facing insult in the market. My image is being lowered in the market. Now I cannot bear this. He talks very bad about me. Being my brother, set his mind. Entire accounts of the shop are with him.”

7. On conclusion of the investigation, the report under Section 173(2) Cr.P.C. was presented against the petitioner for the offence punishable

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under Section 306 IPC on 29.06.2020. The copy of the report dated 29.06.2020 is attached as Annexure P-10 to the petition.

8. At the stage of framing of charges, an application for discharge was moved by the petitioner. The copy of the said application dated 06.09.2021 is attached as Annexure P-13 to the petition. Along with the said application the petitioner placed on record the transcript of the video recorded by the deceased on his mobile phone on 29.11.2019. The transcript of the video recorded by the deceased is attached as Annexure P-14 to the petition.

9. A reply was filed by the complainant to the application for discharge. The copy of the said application is attached as Annexure P-16 to the petition. Along with the application, a transcript of an audio recording of the deceased was placed on record. The copy of the transcript is attached as Annexure P-15 to the petition.

10. Based on the respective pleadings of the parties, the Court of Sessions Judge, Fatehgarh Sahib dismissed the application for discharge filed by the petitioner vide order dated 06.01.2022.

11. It is this order which is under challenge in the present petition.

12. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The wife and the brother of the deceased in their earlier statements had categorically stated that the death of the deceased was due to natural causes. The complaint leading to the registration of the FIR was filed after a delay of 8 days. The essential ingredients of Section 107 IPC which includes instigation were not



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satisfied. In fact, to constitute abetment, the intention and involvement of the accused to instigate the deceased was essential which was clearly missing in the present case. There was no evidence to prove that the petitioner had the necessary *mens rea* to drive the deceased to commit suicide. There was evidence to suggest that the deceased was a consumer of drugs and was under heavy debt. Be that as it may, a reading of the suicide note and the transcript of the audio and visual recordings did not in any manner establish that the petitioner was being harassed to such an extent that it would amount to abetment on the part of the petitioner. He, therefore contends that the impugned order was liable to be set aside and the petitioner ought to be discharged for having committed the offence in question. Reliance is placed on the judgments in the cases of *Mohit Singhal & another Versus The State of Uttarakhand & others, 2024(1) R.C.R. (Criminal) 72*, *Sushil Kumar @ Sushil Yadav & another Versus State of Haryana & another, CRM-M-41891-2023, decided on 06.05.2024*, *Naresh Kapoor Versus State of Punjab & another, CRR-300-2020, decided on 25.04.2024*, *Smt. Shaila Singh Versus State of Chhattisgarh & another, CRMP No.1441 of 2017, decided on 17.10.2023*, *Gadipudi Anitha Versus State of Andhra Pradesh, Criminal Petition No.12242 of 2018, Decided on 28.03.2023*, *Ram Sarup Versus Ravi & others, CRM-M-19094-2010, decided on 06.01.2012*, *Harbhajan Sandhu Versus State of Punjab & another, CRM-M-34495-2021, decided on 23.02.2022* and *State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383*.



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13. On the other hand, the learned State counsel and the counsel for the complainant contend that a perusal of the FIR, the suicide note and the transcripts of the audio and video recordings would clearly show that the petitioner was repeatedly insulting the deceased. He was defaming the deceased in public thereby lowering his image. The petitioner was asking for the deceased to deposit money. Therefore, it was apparent that the deceased had committed suicide on account of the behaviour and conduct of the petitioner. Reliance is placed on the judgment of the Hon'ble Supreme Court in the case of **Chitresh Kumar Chopra Versus State (Govt. of NCT of Delhi), SLP (Crl.) No.1827 of 2007**. They, however, concede that as per the report of the FSL regarding the handwriting of the deceased on the suicide note more samples were to be provided and therefore the authorship of the note had not been conclusively established.

14. I have heard the learned counsel for the parties.

15. Before proceeding further in the matter, it would be apposite to examine Sections 107 and 306 of the Indian Penal Code, 1860 and the same are reproduced hereinbelow:-

Section 107 IPC, 1860

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



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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.”

Section 306, IPC, 1860

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.

16. The judgments relied upon by the learned counsel for the petitioner are discussed hereinbelow:-

In **Mohit Singhal** (supra), it was held as under:-

“7. The suicide note records that the third respondent had borrowed a sum of Rs.60,000/-. According to the deceased, he had paid more than half of the amount to Sandeep. The suicide note records that as he could not pay the rest of the money, the first appellant came to his house and started abusing him. He stated that the first appellant had assaulted him, and therefore, he complained to the police. He further noted that the business of giving money on interest was prospering. He stated that the third respondent is not a prudent woman, and due to her habit of intoxication and due to her conduct, she got trapped in this. In the suicide note, it is further stated that the first appellant has made his life a hell.



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8. According to the complaint of the third respondent, the incident in her shop of the first appellant threatening and assaulting her and her husband was on 15th June 2017. After that, notice under section 138 of the Negotiable Instruments Act, 1881, was issued by Sandeep to the deceased on 27th June 2017. The suicide note was written three days after that, on 30th June 2017. The deceased committed suicide three days thereafter. Neither in the complaint of the third respondent nor in the suicide note, it is alleged that after 15th June 2017, the appellants or Sandeep either met or spoke to the third respondent and her deceased husband. Section 306 of the IPC makes abetment to commit suicide as an offence. Section 107 of the IPC, which defines the abetment of a thing, reads thus:

"Section 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."

(underline supplied)



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9. *In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.*

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

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

12. *Accordingly, we set aside the impugned judgment and quash the summoning order dated 23rd January 2019 in*



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Criminal Case No. 454 of 2019 passed by the learned Additional Chief Judicial Magistrate Ist, Dehradun, District Dehradun.

(emphasis supplied)

In **Sushil Kumar @ Sushil Yadav** (supra), it was held as under:-

“13. A perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide inasmuch as the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide. To constitute abetment, the intention and involvement of an accused to aid or instigate the commission of suicide is imperative. There must be a positive act on the part of an accused to aid or instigate the deceased to commit suicide. Further, merely being named in a suicide would not by itself establish the culpability of an accused until the ingredients of an offence are made out.

14. Further, while dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment. If the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to take the extreme step of committing suicide, then the Court would do well in not quashing proceedings. On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive



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nature or other contributing factors then the Court must not hesitate in quashing the proceedings.

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17. Coming back to the facts of the present case, a perusal of the FIR, the statements under Section 161 Cr.P.C. and the suicide note do not disclose any specific incidents of acute harassment which was likely to drive the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioners to aid or instigate the deceased for committing suicide. From the allegations and the from the record it has not been established that the petitioners intended to push the deceased to such a situation that he would ultimately commit suicide. At the very best what could be said is that the deceased was pressurized to return the loan amount received by him from the petitioners and nothing more. Therefore, apparently a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his hypersensitive nature. Furthermore, where a person succumbs to the pressure of his debt and the creditor is taken as an abettor to his suicide simplicitor, the legitimate interest of a person asking for his own money in a reasonable manner would be harmed in every such case.

18. Keeping in view the aforementioned principles in mind and on an examination of the FIR and the report under Section 173(2) Cr.P.C. and 173(8) Cr.P.C. the uncontroverted allegations levelled in the FIR and the evidence collected in support of the same clearly do not disclose the commission of any offence by the petitioners.

(emphasis supplied)



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In **Naresh Kapoor** (supra), it was held as under:-

12. A perusal of the aforementioned judgments would show that to constitute an alleged abetment of suicide under Section 306 IPC there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such action on the part of the accused which compelled the commission of suicide. If a person committing suicide is hypersensitive and the allegations attributed to the accused are otherwise not ordinarily expected to induce a similarly situated person to take the extreme step to commit suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Therefore, what is required is an examination of every case on its own facts and circumstances and keeping in view the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased. Further, even if the allegations against the accused were of such a nature that would drive an ordinary person to commit suicide, there must be a proximate and live link between the occurrence of extreme harassment and the subsequent suicide. The act complained off at the hands of the accused must be the only factor which subsequently led to the deceased committing suicide.

13. Coming back to the instant case, a perusal of the FIR and the suicide note would show that no specific incidents whatsoever have been pointed out by the complainant or the deceased which compelled the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioner/accused to instigate or aid the deceased in committing of suicide. From the allegations and from the



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record, it has not been established that the petitioner/accused intended to push the deceased to such a situation that she would ultimately commit suicide. At the very best, what could be said is that the deceased was harassed and nothing more.

(emphasis supplied)

In **Smt. Shaila Singh** (supra), it was held as under:-

13. Even if the prosecution version is taken as true and correct, there is no material on record to establish that the petitioner had adopted any coercive methods to recover her loan amount. Further, if there was any demand made by the petitioner, that cannot be treated as abetment as any person who has given loan would certainly like to get it back. If there was any unlawful activity performed by the petitioner in order to recover the loan amount, either the deceased or her husband could have taken shelter of any competent Court of law or at least made a complaint before the police authorities, which admittedly in this case is missing.

(emphasis supplied)

In **Gadipudi Anitha** (supra), it was held as under:-

“2. On 30.08.2016, the deceased is said to have committed suicide after writing a suicide note giving a list of creditors who are said to have been harassing her for return of their money and that she was committing suicide as she was unable to bear the harassment of these creditors. The petitioners are also mentioned in the said suicide note.

3. The investigating officer after completion of investigation has filed a charge-sheet under Section 306 r/w. 34 of Indian Penal Code and the same has been taken cognizance by the Additional Junior Civil Judge at Chilakaluripet, Guntur



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District as P.R.C.No.30 of 2017. A perusal of the charge-sheet would show that the petitioners have been including as accused on the ground that the deceased had included the names of the accused, in her suicide note, as the persons who are harassing her for repayment of their money. The petitioners have approached this Court, by way of the present of Criminal Petition, for quashing the same.

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7. In the present case, the deceased had committed suicide. The question of whether the petitioners herein, had abetted her in the commission of her suicide is the issue before this Court. The Hon'ble Supreme Court of India had interpreted the definition of abetment in Section 107 of Indian Penal Code in the case of C.B.I v. V.C. Shukla in the following manner:-

"...a person abets the doing of a thing when he does any of the acts mentioned in the following three clauses.

(i) instigates that person to do that thing.

(ii) engages with one or more other person or persons in any conspiracy for the doing of that things.

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

So far as the first two clauses are concerned it is not necessary that the offence instigated should have been committed. For understanding the word 'aid' in the third clause it would be advantageous to see Explanation 2 in Section 107 IPC, which reads thus:

"Whoever, either prior to or at the time of the commission of the act, does anything in order to facilitate the commission thereof, is said to aid the doing of that act"



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It is thus clear that under the third clause when a person abets by aiding, the act so aided should have been committed in order to make such aiding an offence....."

Clauses (i) and (ii) extracted above do not apply to this case because no 'instigation' by or 'conspiracy' between the petitioner and the other accused is alleged by the prosecution. The third clause also is not attracted because no 'aid' was given by the petitioner to the deceased when she committed suicide. Aiding suicide by a person can only be by positive acts of assisting in procuring the material required for suicide, like a person supplying rope or other material for hanging, when a person expresses his desires to commit suicide by hanging, or supplying weapon or material like drugs, poison, etc., when the person intending to commit suicide asks such aid, or if a person suggest the modes in which suicide can be committed like jumping into a river, lake or well, etc., to a person who intends to commit suicide."

8. In the present case, the allegations against the petitioners are that they had been harassing the deceased lady for recovery of the loans and advances by them. There are no specifics or details of the said harassment except the fact that the deceased had stated so in her suicide note. In the circumstances, the only an allegation against the petitioners is an allegation of general harassment for recovery of their money. Such harassment would not fall under Clause-1 & 2 of the above interpretation of the term "Abetment". Clause-3 requires an intention on the part of the petitioners to encourage the deceased person to commit. There is no allegation against the petitioners of having done anything with an intention of encouraging the deceased lady to commit suicide.



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9. *All the Judgments cited by the learned counsel for the petitioners had gone into various facets of what would constitute abetment to suicide. One common thread is the requirement of intentionally pushing the deceased to commit suicide. Mere harassment would not amount to an offence under Section 306 of Indian Penal Code.*

10. *In that view of the matter, it must be held that the allegations in the charge-sheet do not make out any case of abetment by the petitioners, under Section 306 of Indian Penal Code and consequently, this Criminal Petition is allowed quashing P.R.C.No.30 of 2017 on the file of the Additional Junior Civil Judge at Chilakaluripet, Guntur District against the petitioners herein.*

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

(emphasis supplied)

In **Ram Sarup** (supra), it was held as under:-

3. *Briefly stated the facts are that the aforesaid petitioners had loaned some money (Rs. 17 lacs) to Shamsher Singh, who failed to repay the same. Persistent demands were made by them and upon violation to repay the amount, the petitioners even approached the police. Unable to withstand this humiliation, the deceased Shamsher Singh, who was running a shop of the commission agent under the name and style of M/s Mansa Ram and Sons at Karnal, took the extreme step of taking his own life.*

4. *The petitioners say that by no stretch of imagination can this be called abetting an offence of suicide and further state with reference to the peculiar facts of the case that during the life time of Shamsher Singh, they had initiated three complaints against him under Section [138](#) of the Negotiable*



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Instruments Act, as the deceased had issued cheques as a measure of discharge of his liability, which cheques were dishonoured. The first complaint was filed on 6.7.2007 for a cheque pertaining to an amount of Rs. 7 lacs and the second on 21.7.2006 regarding an amount of Rs. 3 lacs, while the third one was filed on 27.1.2007 pertaining to an amount of Rs. 7 lacs. After the petitioners had led their evidence and when the statement of the deceased was to be recorded under Section [313](#) of the Code of Criminal Procedure, he committed suicide. The petitioners then withdrew the complaints and filed a suit for recovery against the present complainant, who is son of the deceased, in order to recover the amounts from the estate of the deceased. This suit was filed on 21.11.2009 and along with the suit an application under Order [39](#) Rule [1](#) and [2](#) and Order [38](#) Rule [5](#) of the Civil Procedure Code were filed seeking attachment of the assets of the complainant. It is thereafter that the instant complaint was filed after a lapse of almost a year. Prior to this, an FIR was registered on the statement of complainant Ravi on similar allegations. The said FIR bearing No.317 dated 21.5.2009 under Sections [306/34](#) Indian Penal Code was investigated by the police, but the allegations were found to be false and the FIR was thus cancelled. It is with reference to the aforesaid facts as also the suicide note that the petitioners pray that the proceedings against them are frivolous and the allegations in the complaint do not set out the commission of any offence and thus pray that the same be quashed.

5. Learned counsel for respondent No.2 (in Crl.Misc.No.M-20028 of 2010), on the other hand, has vehemently opposed the prayer and has justified the complaint as also the summoning order and has stated that the complaint at the



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threshold should not be quashed once it discloses commission of an offence. He has also referred to the unfortunate situation where the petitioners were hounding the deceased for recovery of the amount and using strong arm tactics creating unbearable pressure upon the deceased and also thrusting humiliation upon him.

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9. The Supreme Court in Sanju alias Sanjay Singh Sengar v. State of M.P. 2002, Cri.L.J.2796 has in emphatic words described what is instigation. In that case the accused had asked the deceased 'to go and die' and in that backdrop the Supreme Court observed as follows:-

."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 means 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 means rea."

10. To constitute abetment of suicide the words, actions and conduct that is attributed to a person has to be overt and not merely inferential resulting from a contribution to a situation by a normal standardised conduct of human behaviour. It would then depend upon sensitivity of a person and his perceptible reaction to the situation if he convinces himself about the futility of his existence.

11. In the instant case the petitioners were having loan transactions with the deceased and it was normal for them to insist that their money be returned. No act has been attributed to them which can be termed to be taking recourse



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to illegal activity for recovery of such an amount. Rather, they had used the agency of the police to register FIR against the deceased and had also filed complaints against him under Section 138 of the Negotiable Instruments Act. Their conduct, therefore, was that of a prudent law abiding citizen making an endeavour to recover a bad loan.

12. The deceased, on the other hand, was surrounded by numerous such transactions which had gone bad and it is, therefore, the cumulative effect of all such bad transactions which pushed him to a corner. Such situation could possibly be have been a result of his own mismanagement, but that is not for the Court to comment upon. Suffice it to say that the complaint even if taken on its face value does not sufficiently establish the commission of an offence under Section 306 Indian Penal Code and since it has been filed in the backdrop of a tussle where the petitioners seek to recover their loan from the estate of the deceased, the lodging of the complaint in order to ward off such action cannot be ruled out implying thereby that the complaint is motivated.

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14. Learned counsel for the respondent/complainant, on the other hand, placed reliance upon a judgment in Didigam Bikshapathi & Anr. v. State of A.P., 2008(1)RCR (Criminal) 209 where the Supreme Court while referring to the facts of the case in which there was a business dispute between the accused and the deceased and the accused having hurled abuses in filthy language upon refusal by the accused to return the amount led to the committing of suicide by the deceased leaving behind a suicide note and the Hon'ble Supreme Court observed that a case for abetment of suicide was indeed made out. The distinctive feature in this case



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relied upon by the learned counsel for the respondent/complainant is the suicide note itself which is noticed by the Supreme Court wherein a clear mention has been made about the role of the accused. In Netai Dutta v. State of W.B., 2005 CrL.L.J. 1737 it was observed by the Supreme Court as under :-

"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 wilful 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 Panab Kumar Nag."

15. To the mind of this Court, the suicide note in question also does not suggest any wilful act or omission or an act of intentional aiding or instigating the deceased and since the basic ingredients of constituting an offence are not made out and the background of the case strongly suggest an attempt to evade the liability to satisfy a loan, I am of the opinion that the pressure tactic adopted by the respondents is an abuse of the process of law.

(emphasis supplied)

In **Harbhajan Sandhu** (supra), it was held as under:-

"14. Another factor which would go to the root of the matter is that there has been absolutely no positive act on the part of the petitioner-accused to instigate or aid in the committing of suicide. From the allegations and from the record, it is not established that the petitioner-accused



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intended to push the deceased into such a position that he ultimately committed suicide. Issuance of the alleged threats three months prior to the suicide without any positive act of aiding or instigating would not by itself create an offence under Section 306 IPC.

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16. Even, otherwise, merely being named in a suicide note would not by itself establish the guilt of an accused until the ingredients of an offence are made out. In the present case, taking the suicide note to be absolutely correct, the allegations therein do not constitute an offence for which the petitioner can be prosecuted.

(emphasis supplied)

17. A perusal of the aforementioned judgments would show that to constitute abetment, the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide. There must be an intention and involvement of an accused to aid or instigate the commission of suicide. A positive act on the part of an accused to aid or instigate is imperative and mere harassment is insufficient to constitute abetment. Further, being named in a suicide would not by itself establish the culpability of an accused until the ingredients of the offence are made out.

18. While dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment. If the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to



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take the extreme step of committing suicide, then the Court would do well in not quashing proceedings. On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive nature or other contributing factors then the Court must not hesitate in quashing the proceedings.

19. As regards the principles governing quashing of an FIR, the Hon'ble Supreme Court in the case of **State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383**, has held as under:-

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should 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.



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2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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 F.I.R. 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 F.I.R. 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.”

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(emphasis supplied)

20. Coming back to the facts of the present case, a perusal of the FIR, the suicide note and the transcripts of the various audio and video recordings would only go to show that the petitioner was insulting and defaming the deceased in public. The deceased was being asked to deposit money and there is conversation about some monetary transaction between the two which was apparent because both were working together in the business of sale and purchase of cars. Other than the purported defamatory talks of the petitioner in public, qua the deceased, demand of money and his rude and abrasive behaviour there is absolutely nothing to suggest that the petitioner acted in such a manner that the deceased was left with no option but to commit suicide. In fact, there is nothing to suggest that the petitioner intended to push the deceased to commit suicide. At the very best, what would be said is that the deceased was being pressurized to deposit money by the petitioner in a scenario where both the deceased and the petitioner were business partners. As the petitioner did not commit any illegal or unlawful act to get the deceased to deposit money, no complaint was filed or other legal proceedings initiated at the instance of the deceased. Apparently, a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his hypersensitive nature which have might been exacerbated on account of his illness as is borne out from the Inquest Report dated 01.12.2019 (Annexure P-2), the joint statement of

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the complainant party dated 01.12.2019 (Annexure P-4) and the statement under Section 175 Cr.P.C. (Annexure P-5).

21. The judgment in the case of **Chitresh Kumar Chopra** (supra), is clearly distinguishable on facts. In the said case, the deceased was asked to sign a settlement paper reducing his share of profits from the sale of land from 25% to 10%. Due to the said fact, the deceased felt mentally harassed and pressurized by the accused therein because of which he had committed suicide. It was in that situation, that the Hon'ble Supreme Court held that the deceased had been put under tremendous pressure to do something which he was perhaps not willing to do and dismissed the petition challenging framing of charges.

22. Keeping in mind the aforementioned principles and on an examination of the FIR, the report under Section 173(2) Cr.P.C. and 173(8) Cr.P.C. the uncontroverted allegations levelled in the FIR and the evidence collected in support of the same clearly do not disclose the commission of any offence by the petitioner.

23. In view of the above discussion, I find considerable merit in the present petition. Therefore, the order dated 06.01.2022 passed by the Sessions Judge, Fatehgarh Sahib is hereby set aside. The petitioner stands discharged.

(JASJIT SINGH BEDI)
JUDGE

14.05.2024

JITESH

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