

CRR-300-2020 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-300-2020 (O & M)
Date of Decision: 25.04.2024

Naresh Kapoor

... Petitioner

Versus

State of Punjab and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Ahluwalia, Advocate,
for the petitioner.

Mr. Mohit Saroha, AAG, Punjab.

Mr. Anil Kumar Spehia, Advocate,
for respondent No.2.

JASJIT SINGH BEDI, J.

The present revision petition is being preferred against the order dated 16.08.2019 passed by the Additional Sessions Judge, Jalandhar and the charge-sheet dated 16.08.2019 whereby a charge for the offence punishable under Section 305 IPC has been framed against the petitioner.

2. The brief facts of the case as emanating from the pleadings are that FIR No. 34 dated 06.02.2019 came to be registered at Police Station Rama Mandi, District Jalandhar for the offence punishable under Section 306 IPC. The FIR was registered at the instance of one Rajesh Kumar Mehta who alleged that on the night intervening 05/06.02.2019, his adopted daughter, namely, Tanvi Mehta who was a student of KMV

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Secondary School, Pathankot Road, Jalandhar, had committed suicide at their house by hanging herself on the ceiling fan. It was alleged that as per the suicide note recovered from the person of the deceased, the extreme steps to commit suicide had been taken on account of the harassment meted-out to the deceased by the petitioner-Naresh Kapoor who was her Mathematics Teacher in school. The copy of the FIR is attached as Annexure P-1 to the present petition.

3. During the course of investigation, a suicide note came to be recovered purportedly authored by the deceased. The translated version of the same is attached as Annexure P-4/P-9 to the petition and is reproduced hereinbelow:-

“SUICIDE NOTE

Mumma and Papa,

I am not committing this suicide with my own will. There is a big reason behind it, that is my sir in school 'Naresh Kapoor'. Mumma, he always used to speak something or the other to me. Whenever I used to go to school, he would only call me out. You may ask my friends. He used to vent the anger of others on me. He had kept all the students of his class under fear. Mumma, I did not used to go to school due to his fear. You used to ask me as to why I was not having interest in studies. You tell me, what could I have told to you. I used to get perturbed on seeing him and thinking about his talks. If any student used to take something in his class, he used to print his palm on his face. Mumma, I cleared so many classes and came to class 10th and on coming to this class, I got bewildered by thinking about his acts/talks. Mumma, I am frightened by that Sir. Due to him, I wept a lot in the school. You may ask my friends. I am unable to see

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any other way except to commit suicide. You must be feeling that I have taken a very wrong path, my decision can be wrong but the fear of my heart cannot be false and wrong.

I hate Naresh Sir !!!

Mumma you please do not cry after my going, okay I will always remain in your heart. You take care of yourself and father. Papa ji, now nobody would waste your money, nobody would harass you to purchase this thing or that thing. I had a wish before dying, that is to have Aactiva and new phone. No problem, I did not get both these things. Tell Kavya that didi loves you very much.

Mumma please you and papa both get awarded punishment to Naresh Kapoor. He compelled me to die. Please do not spare him, he should get punished for his mistake. Only then my soul would rest in peace.

That's all, I do not want to say anything more. I would only say that I love you Mumma and papa.

*Tanvi Mehta Daughter of
Mr. Rajesh Mehta.*

I quit !!!

Byeeeeee !!!!!

Good bye everyone”

4. The petitioner came to be arrested and was released on regular bail vide order dated 05.04.2019, which is attached as Annexure P-2 to the petition.

5. Upon noticing that the deceased was a minor aged about 15-16 years, the investigating agency deleted the offence punishable under Section 306 IPC and invoked Section 305 IPC instead. The final report under Section 173 Cr.P.C. was presented before the Trial Court under Section 305 IPC. The translated copy of the same is attached as Annexure P-3 to the petition.

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6. Pursuant thereto, the charges were framed vide order dated 16.08.2019. The impugned order and the impugned charge-sheet are under challenge in the present petition.

7. The learned counsel for the petitioner contends that the ingredients of the offence defined under Section 107 IPC and punishable under Section 305 IPC are not made out in the present case. Admittedly, the petitioner was on leave from school between 21.01.2019 till 25.01.2019 on account of his marriage and additionally, the school had declared a period between 26.01.2019 till 28.01.2019 as holidays. On 04.02.2019, the petitioner was on leave from school and on 05.02.2019, the deceased was on leave from school. The occurrence of suicide allegedly took place on the night intervening 05/06.02.2019. Therefore, as the interaction between the petitioner and the deceased in the days immediately preceding the suicide was negligible, the element of abetment was missing in the present case. As regards the suicide note, he contends that the said note does not refer to any specific incident regarding harassment being meted-out by the petitioner. In fact, the Managing Committee of the Sanskriti KMV Shcool, Jalandhar wherein the petitioner was employed had constituted a Three-member Committee in accordance with the Protection of Child Rights Act, 2001 on 06.02.2019. The said Committee had held meetings on 09.02.2019, 12.02.2019, 16.02.2019 and 17.02.2019. The said Committee which was comprising of Members from other institutions and a parent, had apparently found that the petitioner was a good Teacher and had always

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devoted time for the betterment of his students. He was strict only when required to pull-up their performance. He had never compelled any student for tuitions. No such complaint had ever been received from either the deceased or her parents about the conduct of the petitioner. On the contrary, the petitioner was found to be humble, polite, honest and dedicated. Ultimately, the Committee had come to the conclusion that there was no harassment. He contends that once the Committee had come to the conclusion that the deceased was weak in studies, there was no harassment, the FIR and the suicide note did not disclose any specific act or conduct on the part of the petitioner which amounted to abetment, the impugned order dated 16.08.2019 and the impugned charge-sheet dated 16.08.2019 were liable to be set aside. Reliance is placed on the judgments '*Geo Varghese versus State of Rajasthan and anr. 2021(4) RCR (Criminal) 361, V.P. Singh Etc. versus The State of Punjab & Ors. 2023(1) RCR (Criminal) 348, Virender Singh Rana and ors. Versus State of Madhya Pradesh and another (Misc. Criminal Case No.10745 of 2023 decided on 24.01.2024) and Harbhajan Sandhu versus State of Punjab and another, CRM-M-34495 of 2021 decided on 23.02.2022*'.

8. The learned counsel for the State and the counsel for the complainant-respondent No.2, on the other hand, contend that a bare perusal of the FIR would *prima facie* establish the commission of offence for which the accused/petitioner was to be tried. The suicide note detailed the manner in which the petitioner had picked on the deceased

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harassing her to the extent that she had no option but to commit suicide. Mere suspicion was sufficient to frame charges. Therefore, the present petition was liable to be dismissed. Reliance is placed on the judgment in '**Amit Kapoor versus Ramesh Chander and another, 2012(4) RCR (Criminal) 377**'.

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

10. Before proceeding further in the matter, it would be useful to refer to the relevant provisions of law for the proper adjudication of the present case.

"Section 107 of the IPC reads as under:-

"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.".....

Section 306 of the IPC reads as under:-

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

11. As regards what would constitute abetment, the Hon’ble Supreme Court in ‘*Geo Varghese versus State of Rajasthan and anr., 2021(4) RCR (Criminal) 361*’, has observed as under:-

“3. The appellant herein was appointed as a Physical Training Teacher in St. Xavier's School, Nevta in the year 2016. He was imparting Physical Training to the students from 1st to 5th standard. He was also a member of the Disciplinary Committee for maintaining overall discipline by the students of the School.

4. One student of Class 9th of the institution, unfortunately, committed suicide in the morning at about 04:00 AM on 26.04.2018. The mother of the deceased-student lodged the FIR in question on 02.05.2018 before the concerned Police Station under Section 306 IPC after about 7 days of the suicide, alleging that her son committed suicide due to mental harassment meted out by the appellant.

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9. Shri Abhishek Gupta, also took us through the suicide note which is filed as Annexure P-2. A perusal of the same reveals that it is a note consisting of three pages with following written on each separate paper :-

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'

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15. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. Abetment is defined under Section 107 of IPC which reads as under :-

"107. Abetment of a thing - A person abets the doing of a thing, who-
First.-Instigates any person to do that thing; or
Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or
Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.
Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.
Explanation 2.-Whoever either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act."

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17. The scope and ambit of Section 107 IPC and its correlation with Section 306 IPC has been discussed repeatedly by this Court. In the case of S.S.Cheena v. Vijay Kumar Mahajan and Anr., (2010) 12 SCC 190, it was observed as under:-

"Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme 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."

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19. In the case of M. Arjunan v. State, Represented by its Inspector of Police, (2019) 3 SCC 315, a two-Judge Bench of this Court has expounded the ingredients of Section 306 IPC in the following words:-

"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."

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22. What is required to constitute an alleged abetment of suicide under Section 306 IPC is 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 actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the

alleged action of the accused and the psyche of the deceased.

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27. It is a solemn duty of a teacher to instil discipline in the students. It is not uncommon that teachers reprimand a student for not being attentive or not being upto the mark in studies or for bunking classes or not attending the school. The disciplinary measures adopted by a teacher or other authorities of a school, reprimanding a student for his indiscipline, in our considered opinion, would not tantamount to provoking a student to commit suicide, unless there are repeated specific allegations of harassment and insult deliberately without any justifiable cause or reason. A simple act of reprimand of a student for his behaviour or indiscipline by a teacher, who is under moral obligations to inculcate the good qualities of a human being in a student would definitely not amount to instigation or intentionally aid to the commission of a suicide by a student.
28. 'Spare the rod and spoil the child' an old saying may have lost its relevance in present days and Corporal punishment to the child is not recognised by law but that does not mean that a teacher or school authorities have to shut their eyes to any indiscipline act of a student. It is not only a moral duty of a teacher but one of the legally assigned duty under Section 24 (e) of the Right of Children to Free and Compulsory Education Act, 2009 to hold regular meetings with the parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other act or relevant information about the child.
- 29. Thus, the appellant having found the deceased boy regularly bunking classes, first reprimanded him but on account of repeated acts, brought this fact to the knowledge of the Principal, who called the parents on telephone to come to the school. No further overt act has been attributed to the appellant either in the First Information Report or in the statement of the complainant, nor anything in this regard has been stated in the alleged suicide note. The alleged suicide note only records insofar as, the appellant is*

concerned, 'THANKS GEO (PTI) OF MY SCHOOL'. Thus, even the suicide note does not attribute any act or instigation on the part of the appellant to connect him with the offence for which he is being charged.

30. If, a student is simply reprimanded by a teacher for an act of indiscipline and bringing the continued act of indiscipline to the notice of Principal of the institution who conveyed to the parents of the student for the purposes of school discipline and correcting a child, any student who is very emotional or sentimental commits suicide, can the said teacher be held liable for the same and charged and tried for the offence of abetment of suicide under section 306 IPC.

31. Our answer to the said question is 'No'.

32. 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.

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39. 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 hypersensitive temperament of the deceased which led him to take such an extraordinary step, as the alleged reprimand by the accused, who was his teacher, otherwise would not ordinarily induce a similarly circumstanced student to commit suicide".

In ‘*V.P. Singh Etc. versus The State of Punjab & Ors. 2023(1) RCR (Criminal) 348*’, the Hon’ble Supreme Court has held as under:-

“1. The criminal justice system of ours can itself be a punishment! It is exactly what has happened in this case. 14 years on an issue of abetment of suicide in an episode where a student was reprimanded for misconduct in the College and on endeavor to take disciplinary action and call the father, though the parent did not turn up and subsequently the child committed suicide. An unfortunate situation! However, we are concerned with the issue whether there is any element of an abetment to suicide in the present case which was at the threshold of charges having been framed.

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6. It is interesting to note that on the bail application on 06.8.2008, one of the factors which weighed with the High Court while granting bail was that the conduct could not be construed to make the accused liable for offence under Section 306 of IPC as it was to ensure discipline in the class and the campus and even if the teachers are stated to be acting harshly, it could not be said that they wanted to incite, urge or provoke the deceased to commit suicide.

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11. If we turn to the complaint, the charge sheet is simply an incorporation of what the complainant has said. It is the say of the father, complainant (who was certainly not present to witness what happened) that some students were causing the noise and it was not the son/deceased. The son stated that he was not at fault but he was shouted at by Mr. Nitin Shyam to go out of the classroom. The deceased did so and closed the

door. It is alleged that thereafter Mr. Nitin Shyam ran after the son and caught hold of him by the arm and dragged him towards the office of the Head of the Department. On the next day i.e. 17.4.2008, when the deceased went to college, he found the notice to him pasted on their notice board recording that he had been suspended and calling upon his parents, failing which, he will not be permitted to appear in the examination. He was not permitted to enter the classroom on 17.4.2008 and even on making a grievance to the Head of the Department, he did not succeed as he was threatened to spoil his career but on meeting Mr. Nitin Shyam, he was turned away and also stated that if he were to die, it would not bother him. Since nothing happened for the next few days despite the best endeavour of the deceased, he committed suicide.

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18. To examine the factual matrix in the present case, in view of the aforesaid legal position, we find not an iota of material on record even assuming the complete charge sheet to be correct which could lead to a conviction in a case of abetment as there was absence of the necessary ingredients to make the offence. While we appreciate the anguish of a father who has lost a young son, that cannot result in blaming the world (in the present case, the institution and its teachers) for what is a basic disciplinary action necessary for running the institute. A contra position would create a lawless and unmanageable situation in an educational institution. The suicide note further shows that there is something to be said about the relationship between the deceased and his father where in fact the deceased thought that his father could be blamed for the episode and thus asked to not to trouble his father. The anguish of the father

ought not to have been converted into a case of abetment of suicide and certainly the investigation and the approach of the trial Court could have been more realistic keeping in mind the surrounding facts and circumstances in which the suicide episode occurred”.

In ‘**Virender Singh Rana and ors. Versus State of Madhya Pradesh and another (Misc. Criminal Case No.10745 of 2023 decided on 24.01.2024)**’, the Madhya Pradesh High Court has held as under:-

“6. It is the submission of learned counsel for the petitioners that petitioners are teachers of the school where deceased pupil Mahendra Kushwah was studying. The deceased caused nuisance in the school with his friends by blasting crackers in bathroom of the school whereby wall of the bathroom got damaged, then to protect the interest of other students, deceased was admonished for the same. A call was made to the house of Mahendra Kushwah at mobile No.9516999146 and parents of other two students and parents were directed to remain present on the next day to avoid repetition of such event. Therefore, whole exercise was done as a measure to protect the other students and to make erring pupil realized their misconduct. School authorities are meant for this purpose and therefore, there was no element of abetment as such as per [Section 107](#) of IPC.

7. It is further submitted by learned counsel for the petitioners that by admonition, the children were persuaded or even compelled to behave in proper manner so that they can learn good values from the school and become good citizen. It is not a case where petitioners intentionally harboured a notion against the deceased. In fact, no physical

torture or violence is being made. It is a case of simple imposing social control by way of scolding.

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14. However still question arises "Whether the alleged act of scolding and reprimand of a Student by a Teacher would be an Attempt of Course Correction or would Constitute an Offence".

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27. *Section 306* of IPC postulates:-

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."

28. Moreover essential condition to charge and prosecute the person is abetment by such person to the commission of suicide. The provision of abetment as contained in Chapter V of *Indian Penal Code* deals in respect of different contingencies. *Section 107* of IPC defines abetment which is reiterated for better understanding:

"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.".....

29. The essential three conditions that are necessarily required to be present individually in the sequence leading to the commissioning of suicide by a person are as below:

- i. a. Instigation to commit suicide.*
- b. Conspiracy leading to person committing suicide*

c. Intentionally aiding by an act or omission to commit suicide.

30. If any of the conditions is found present against the person sought to be prosecuted under [Section 306 IPC](#), such person shall be held responsible for abetting commissioning of suicide. Per contra in the absence of the any of the above three conditions, a person cannot be held responsible for committing crime under [section 305 IPC](#).

31. In all three cases of instigation, conspiracy or aid, direct and active involvement of the accused is essential to convict him for abetment of suicide. The term 'instigation' is not defined in [IPC](#). The instigation on the part of the accused should be active and proximate to the incident. It has been held in number of cases that to constitute "instigation", the person who instigates another person has to provoke, incite, urge or encourage doing of an act by the other by "goading" or "urging forward". A mere statement of suggesting the deceased to end his life without any mens-rea would not come under the purview of abetment to suicide. Mens-rea is a necessary ingredient of instigation and the abetment to suicide would be constituted only when such abetment is found intentional.

32. Supreme Court in *Geo Varghese (supra)*, while dealing with the matter wherein a 9th standard student committed suicide and left a note alleging that his PTI teacher harassed and insulted him in front of everyone, the Court emphasised two essentials for conviction under Sec. 306. First, there should be a direct or indirect act of incitement. A mere allegation of harassment of the deceased by another would not be sufficient. Secondly, there must be reasonableness. If the deceased was hypersensitive and if the allegations imposed upon the accused are not otherwise sufficient to induce another person in similar circumstances to commit suicide, it would not be fair to hold the accused guilty for abetment of suicide. Thus, Supreme Court quashed the FIR in the lack of any specific allegation and material on record as the essentials to prove the allegation under Section 306 were not satisfied. Here is the present case, three students were scolded but deceased appeared to be over sensitive,

therefore, committed suicide, whereas other two students remained grounded. Therefore, it appears that the deceased was sensitive and being afraid of consequences of his misconducts, took such drastic and painful decision.

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36. There is no allegation in the charge-sheet regarding abetment qua the present petitioners. Their role is confined to causing reprimand or scolding the boy for his act which was the duty of the Principal and other Teachers as discussed above. They never had any intention in respect of the deceased boy that he should commit suicide. They tried 16 to correct him for his alleged wrong doing and at the same time one cannot ignore the fact that Principal and other Teachers have responsibility of safety and well being of other students also. Any misadventure or misconduct of a student can endanger the life, liberty and progress of other students. Parents hand over the children to the school with the trust that school will take care their wards as their parents and therefore, such reposition of trust cannot go in vein with timidity and fear of backlash. Teachers should be placed over and above such fear, else they will be failing in their duties in formulating the future of mankind. Therefore, on this count also, case of petitioners deserves consideration and case of prosecution falters”.

This Court in the case of ‘***Harbhajan Sandhu versus State of Punjab and another, CRM-M-34495 of 2021 decided on 23.02.2022***’, has held as under:-

“12. 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 complained off omission or commission at the hands of the accused to the deceased must be the only factor, which subsequently led to

him committing suicide. In the present case, there is not even a remote mention of any date or time when the petitioner committed any overt act except the Civil Hospital occurrence which could only pertain to February, 2019.

13. Further, to constitute abetment, the intention and involvement of the petitioner-accused to aid or instigate the commission of suicide is imperative. In the present case, taking the contents of the FIR and the suicide note to be the Gospel Truth, the petitioner is said to have approached the deceased at Civil Hospital, Jalandhar to threaten him and his family members in February, 2019, whereas, the deceased committed suicide on 16.05.2019. During the intervening period of three months, there is nothing on record to establish that the petitioner threatened the deceased or his family members in any way. In fact, there is no evidence of any contact between the deceased and his family with the petitioner. Thus, it is clearly established that there is no proximate and live link between the alleged threats given in February, 2019 and the subsequent suicide in May, 2019.

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 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.

17. Therefore, viewed from any angle, in the absence of any mens rea to instigate or goad the deceased to commit suicide and, further, in the absence of live link between the threats of February, 2019 vis-a-vis the occurrence of suicide, which took place in May, 2019, the prosecution case qua the petitioner cannot be sustained”.

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

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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 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.

14. The independent Three Members Committee constituted by the School also came to the conclusion that the deceased was weak in studies and that the behaviour of the petitioner did not amount to harassment of students in general and Tanvi Mehta-deceased in particular. The minutes of the Meeting are reproduced as under:-

“Internal Investigation of suicide incidence of by Ms Tanvi Mehta d/o Sh Rajesh Mehta

Date and time-17th Feb. 2019, 4:00 pm
Venue: Sanskriti KMV School

Minutes

After the detailed Interaction with the Principal, Teachers, the students and with the observations the members came to the conclusion in the fourth meeting that-

- 1. Committee observed that school provides conducive environment for learning to the students. On close observation committee found that Tanvi Mehta was absent on 5th Feb. 2019 a day prior to the incident.*
- 2. With the thorough check, committee found that all the senior grades (9th to 12th) classrooms, major rooms, floor corridors, washroom entrance, ground of the building all are monitored by CCTV and security guards.*
- 3. Based on the document shown by school authorities and interaction by Principal, concerned teacher and students who appeared before committee, the committee feels that Mr Naresh Kapoor is innocent. In the opinion of committee, behavior, attitude and action of Naresh Kapoor doesn't amount to harassment of students in general and Tanvi in particular.*
- 4. Being a Maths teacher, Mr Naresh Kapoor has to be firm towards the teaching for the good results of the students.*
- 5. As per thorough observation and statement of other teachers, he has always devoted his time for the teaching and solving the problems of the students.*
- 6. Tanvi Mehta's examination assessments and results are evident of her weak performance in mathematics, Science and Social Science which was a matter of concern.*
- 7. Committee did not find any specific/immediate reason in school which could have led Ms Tanvi to take this drastic step, it is also mentioned that she was absent from school on 5th Feb. 2018.*

15. I may also add that by its inherent nature, the post of a Teacher requires disciplining of students. Disciplining could include taking steps to curb their unruly behaviour or pushing them harder to improve their grades. In either situation, a Teacher is likely to use harsh and aggressive language. The majority of students are unlikely to get affected by the act, conduct or language of a Teacher. However, if a

particular student, who has a hypersensitive nature, commits suicide, then it would indeed be a travesty of justice that a well-meaning Teacher would have to face Trial for abetment in such a scenario. However, on the other hand, if there is evidence to suggest that the act and conduct of a Teacher was particularly harsh towards a specific student and there were multiple specific incidents of acute harassment then the situation would be completely different. In the instant case, as has already been discussed hereinabove, it appears that the deceased was weak in studies for which she was reprimanded. Even otherwise, neither the FIR nor the suicide note refer to any specific instances of acute harassment amounting to abetment.

16. As regards the judgment in *Amit Kapoor (supra)*, while it is true that charges can indeed be framed on the basis of strong suspicion, however, as has already been pointed out hereinabove, in the instant case, taking the allegations to be correct, in my opinion, absolutely no offence whatsoever is made out.

17. In view of the aforementioned discussion, the impugned order dated 16.08.2019 and the charge-sheet dated 16.08.2019 are set aside and the petitioner is discharged of the charges framed against him.

18. This petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

April 25, 2024
sukhpreet

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