



2024:DHC:8394



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 2nd August, 2024

Pronounced on: 29th October, 2024

+ CRL.M.C. 5431/2014 & CRL.M.A. 18526/2014 (Stay), CRL.M.A. 1286/2015 (Vacation of interim order)

DR. G K ARORA

.....Petitioner

Through: Ms. Richa Kapoor, Mr. Kunal Anand,
Mr. Jai Batra, Ms. Saloni Mahajan,
Mr. Sandesh Kumar, Ms. Sakshi and
Ms. Atika Singh, Advocates.

versus

STATE & ANR

.....Respondents

Through: Mr. Amit Ahlawat, APP for the State.
SI Ajay Tomar, PS IP Estate.
Ms. Stuti Gupta, Advocate for R-2.

+ CRL.M.C. 5817/2014 & CRL.M.A. 19798/2014 (Stay), CRL.M.A. 1271/2015 (Vacation of interim order dt.19.12.2014)

RAVINDER SINGH

.....Petitioner

Through: Ms. Richa Kapoor, Mr. Kunal Anand, Mr.
Jai Batra, Ms. Saloni Mahajan, Mr.
Sandesh Kumar, Ms. Sakshi and Ms. Atika
Singh, Advocates.

versus

STATE & ANR

.....Respondents

Through: Mr. Amit Ahlawat, APP for the State.
SI Ajay Tomar, PS IP Estate.
Ms. Stuti Gupta, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

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JUDGMENT

AMIT SHARMA, J.

1. The present petitions under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') seek quashing of the order dated 17.09.2014 passed by the Learned Metropolitan Magistrate (hereinafter referred to as 'MM'), Tis Hazari Courts, Delhi summoning the petitioners in case FIR no. 369/2013 under Section 306 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at PS IP Estate.

BRIEF FACTS

2. Brief facts necessary for adjudication of the present petitions are as follows:

a) On 30.09.2013, a PCR call was received *vide* DD no. 17-A at around 5:20 P.M. at PS IP Estate with respect to self-immolation of a lady in front of Gate no. 6 of the Delhi Secretariat, who was taken to JPN Hospital.

b) S.I. Karan Pal Singh alongwith Constable Ajeet reached the aforesaid hospital and collected the MLC bearing no. 203914, which confirmed the self-burn injuries of the patient with remarks, "*A/H/O burns (Self) at Gate No.6 Delhi Secretariat at around 5:15 PM as told by BB C/O Pain & Bleeding all over body. Patient was not giving any history on her own.*" Later the survivor lady was identified as Ms. Pavitra Bhardwaj, w/o Mr. Dharmender Sharma, i.e., respondent no. 2.

c) On the very same day, i.e., 30.09.2013, considering the contents of the MLC, *prima facie* a case bearing FIR no. 369/2013 under Section 309 of the IPC was registered at PS IP Estate. During investigation, *inter alia* exhibits of the burn-site including a kerosine oil bottle, match box; a suicide note dated 30.09.2013

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addressed to the Commissioner of Police, Delhi and Ms. Sonia Gandhi, Chairperson of Delhi Pradesh Congress was also recovered, wherein the act of self-immolation was attributed to the mental and physical harassment meted out by one Mr. G.K. Arora, Principal of B.R. Ambedkar College, Yamuna Vihar, Delhi (hereinafter referred to as 'BRAC'), i.e., petitioner in CRL.M.C. 5431/2014 (hereinafter referred to as 'petitioner no. 1') and one Mr. Ravinder Singh, Senior Assistant looking after the work in Principal's office at BRAC, i.e., petitioner in CRL.M.C. 5817/2014 (hereinafter referred to as 'petitioner no. 2') and mental harassment by various aides of petitioner no. 1.

d) Thereafter, on 01.10.2013, SI Karan Pal Singh and Sh. B.L. Meena, Learned Sub-Divisional Magistrate, Kotwali, Darya Ganj, Delhi (hereinafter referred to as 'SDM') recorded separate statements of the survivor, wherein she had narrated about her complaints to various authorities and attributed the cause of her attempt to suicide by self-immolation to be the alleged harassment by the petitioners. The survivor (hereinafter referred to as 'deceased') succumbed to her burn injuries on 07.10.2013 and thereafter, on the basis of the Post-Mortem Report, Section 306 of the IPC was added in the aforementioned case FIR and investigation was taken up.

e) Thereafter, report under Section 173 of the Cr.P.C. was filed before the learned MM and for lack of sufficient evidence, the petitioners were kept in column no. 12.

f) Respondent no. 2 (husband of the deceased) thereafter, filed a protest petition challenging the findings in the aforesaid report before the Learned MM, Tis Hazari Courts, Delhi.

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g) On 17.09.2014, *vide* the impugned order, the Learned MM after considering both the closure report and the protest petition, summoned petitioner nos. 1 and 2 by observing that there is *prima facie* sufficient material to summon them. Hence, the present petitions.

SUBMISSIONS OF BEHALF OF THE PETITIONERS

3. Learned counsel for the petitioners has placed on record the following sequence of events:

a) The deceased was appointed as a Laboratory Attendant in the Department of Geography on ad-hoc basis at BRAC on 03.03.2005 and was permanently confirmed on 15.03.2005. Petitioner no. 1 joined BRAC as a Principal in February, 2007 and petitioner no. 2 joined BRAC in 1997 and had been working as a Senior Assistant looking after the Principal's office. The deceased got elected and served as the Executive Member of the Delhi University and College Karamchari Union (hereinafter referred to as 'DUCKU') since 2009.

b) Petitioner no. 1 since 2007, has issued several notices and advisory letters to the staff of BRAC for maintaining discipline and decorum, including the deceased and in 2011, a disciplinary action was initiated against the deceased wherein 6 charges were framed, *viz.*, non-observance of duty timings and official decorum, wilful absenteeism, tampering and falsification of the official record, giving false statements, passing derogatory remarks towards colleagues and seniors, making false complaints against senior employees to agencies outside of the college in violation of University rules etc., by the Disciplinary Authority of BRAC, i.e., petitioner no. 1 being the Principal *vide* College Memorandum No. BRAC/PF/2011-12/182 dated 06.05.2011. An Enquiry Authority was set up and

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on the basis of its report dated 25.11.2011, all 6 charges were proved against the deceased and she was terminated from service on 13.03.2012 by petitioner no. 1 exercising his powers.

c) Since 2009 (the first complaint being on 27.01.2009) till 2013, the deceased approached various committees and authorities complaining against the petitioners and the aides of petitioner no. 1. The first ever complaint dated 27.01.2009 to the Secretary, DUCKU by the deceased alleged of harassment by petitioner no.1 by overloading her with work through withdrawal of another attendant in the laboratory. After that there were several complaints addressed to the Chairperson, BRAC, Vice Chairperson and Dean of Delhi University (hereinafter referred to as 'DU'), Registrar of DU, Lieutenant Governor of Delhi alleging harassment at work mentally including non-payment of LTC bill or for extra work, high-handedness of the petitioners etc. On 15.04.2011, a complaint of sexual harassment was made by the deceased to the Apex Sexual Harassment Committee (hereinafter referred to as 'Apex'), DU alleging voyeurism and passing of comments by petitioner no. 1 and his aides. From 27.06.2011 to 17.02.2012, various complaints were made to the Delhi Commission for Women (hereinafter referred to as 'DCW') alleging sexual and mental harassment and torture by petitioner nos. 1 and 2, which were investigated by SHO PS Jyoti Nagar. Post her dismissal from service on 13.03.2012, several complaints were made to DCW and Apex attributing such termination to be non-fulfilment of petitioner no. 1's wishes. Further, the deceased alleged that on 13.07.2012, petitioner no. 1 had pushed her down the stairs and caused severe leg injuries; however, during enquiry, through a statement under 161 of the Cr.P.C. by the deceased's brother, it came on record

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that the deceased slipped from her house at Maujpur and hence, suffered the injury.

d) The Sub-Committee constituted by Apex in its report dated 23.03.2013 ruled out deceased's case of sexual harassment on the basis of report from the College Complaints Committee (hereinafter referred to as 'CCC') and various other depositions before the Sub-Committee. After her death on 07.10.2013, two agencies, i.e., Enquiry Committee constituted by National Commission for Women (hereinafter referred to as 'NCW') and Retd. Justice Shri B.L. Garg Commission apart from Delhi Police had enquired into the complaints and found them to be unsubstantiated. Shri B.L. Garg Commission report further revealed pending matrimonial litigation between the deceased and respondent no. 2 and false implication of father-in-law of the deceased under Section 354 of the IPC by her.

e) Petitioner no. 1 was suspended from his service on 10.10.2013 and reinstated with effect from 25.07.2014.

f) Respondent no. 2 had filed a writ petition bearing WP (Crl.) no. 1957/2013 before this Court praying for fair investigation in case FIR no. 369/2013, which *vide* order dated 16.04.2014, was dismissed by the Learned Single Judge on the ground that at that stage, i.e., before filing of the final report under Section 173 of the Cr.P.C., respondent no. 2 could not show *prima facie* suppression of evidence/material by the Investigating Officer (hereinafter referred to as 'IO'). Further, an SLP (Crl.) no. 3651/2014 was preferred by respondent no. 2 with respect to the correctness of the order dated 16.04.2014 passed by the Hon'ble High Court, which stood dismissed *vide* order dated 08.05.2014.

4. Relying on the above sequence of facts, learned counsel for the petitioners



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submitted that there was no direct or proximate nexus of the commission of suicide by the deceased with any overt or covert act committed by the petitioners alluding “instigation”, as there was a gap of one and a half years approximately between the deceased’s termination from service and her act of attempt to suicide by self-immolation; thereby not fulfilling the ingredients of abetment under Section 306 of the IPC. Even the investigation into the Call Detail Records (‘CDR’) shows that the deceased was not having the mobile numbers of the petitioners and was not in touch with them after her termination. Further, the contents of the two dying declarations before the IO and Learned SDM were concocted and organized set of beliefs lacking any objective evidence.

5. It was further submitted that various committees and agencies enquired into the act of deceased’s suicide; however, could not find an iota of evidence against the petitioners pertaining to their role in such suicide and concluded that the allegations of sexual harassment by the deceased against the petitioner no. 1 to be unsubstantiated.

6. Furthermore, it is submitted that the suicidal tendency of the deceased was evident on the record as deceased and respondent no. 2 had strenuous marital relationship and that the deceased had allegedly filed maliciously motivated complaint against her father-in-law by implicating him under Section 354 of the IPC. That respondent no. 2 himself had filed a complaint dated 16.12.2006 against the deceased and her family members including her brother namely, Mr. Vinay Bhardwaj for physical assault and alleged that the deceased had tried to kill him several times. The deceased *vide* DD no. 22A dated 07.11.2006 lodged a complaint, where proceedings under 107/150 Cr.P.C. were initiated and deceased

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made a statement about prosecuting her husband, i.e., respondent no. 2 and her in-laws in case of her unnatural death. Further, Prof. I. Usha Rao, Proctor, DU in her letter dated 02.04.2012 to the Deputy Commissioner of Police, North East District, Seelampur, Delhi, SHO/Bhajanpura, Dean University of Delhi, Chairperson of Apex Complaint Committee and Principal of BRC called for immediate steps to avoid any untoward incident as the deceased was threatening to commit suicide because of her termination.

SUBMISSIONS SPECIFIC TO PETITIONER NO. 1

7. Learned counsel for the petitioners submits that petitioner no. 1 had started his career as a Lecturer at DU and during his long tenure of 32 years, he has earned several fellowships and accolades and always had an unblemished record. That the prosecution had examined 53 witnesses in total (33 from BRAC, 10 from outside and 19 students including females) and none had stated anything untoward against the character of petitioner no. 1. Further, the Closure Report was a well-reasoned one and the protest petition on behalf of respondent no. 2 was motivated at the behest of persons having professional rivalries with petitioner no. 1.

SUBMISSIONS SPECIFIC TO PETITIONER NO. 2

8. Learned counsel for the petitioners submits that petitioner no.2 had joined as a Junior Assistant-cum-Typist in September, 1997 and due to his sincere performance and approach towards his work, he had been promoted as a Senior Assistant (UDC) in BRAC and that during his long tenure of 17 years, his record had been unblemished.

9. It is further submitted that the deceased had only levelled one stray allegation against petitioner no. 2 in her complaint dated 22.03.2011 to then

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Principal of BRAC, i.e., petitioner no. 1; wherein she alleged that petitioner no. 2 had interrupted her from using official telephone rather impertinently. The said complaint was at first investigated by Assistant Consultant and then by DU, which *vide* its letter dated 16.12.2013 found it to be unsubstantiated. Later, SHO PS Jyoti Nagar investigated the same and found it to be unsubstantiated. Further, petitioner no. 2 had filed a defamation suit against the deceased which was later withdrawn after her demise. Therefore, no particular role could be attributed to petitioner no. 2 in the abetment to deceased's suicide and that he got tagged along only as an associate/helper of petitioner no. 1; as aside from the aforementioned stray complaint, he was not even named specifically by the deceased in her complaints.

10. Learned counsel for the petitioners relies on the following judgments/orders:

- a) Mahendra K.C. vs. State of Karnataka and Another (2022) 2 SCC 129**
- b) Geo Varghese vs. State of Rajasthan and Another (2021) 19 SCC 144**
- c) State of Uttar Pradesh vs. Veerpal and Another (2022) 4 SCC 741**
- d) Atbir vs. Government of NCT of Delhi (2010) 9 SCC 1**
- e) Sham Shankar Kankaria vs. State of Maharashtra (2006) 13 SCC 165**
- f) Ritika vs. State 2019:DHC:5272**
- g) Mohit Singhal and Another vs. The State of Uttarakhand and Others 2023 INSC 1035 (paragraph nos. 8 and 9)**
- h) Mariano Anto Bruno and Another vs. the Inspector of Police 2022 SCC OnLine SC 1387 (paragraph nos. 29 and 30)**
- i) Kumar @ Shiva Kumar vs. State of Karnataka 2024 INSC 156 (paragraph nos. 33, 34, 35, 36)**

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- j) **Prabhu vs. The State Rep by the Inspector of Police and Another, the Hon'ble Supreme Court of India, SLP (Crl.) diary no. 39981/2022 dated 30.01.2024 (paragraph nos. 9 and 10)**
- k) **Kashibai and Others vs. The State of Karnataka 2023 INSC 722 (paragraph nos. 9 and 10)**
- l) **V.P. Singh etc. vs. the State of Punjab and Others, the Hon'ble Supreme Court of India, Crl. Appeal no. 2103/2010 dated 24.11.2022 (page no. 7)**
- m) **M. Vijayakuamr vs. State of Tamil Nadu 2024 INSC 177 (paragraph no. 8)**
- n) **Swamy Prahaladdas vs. State of M.P. and Another 1995 Supp (3) SCC 438**
- o) **Mahendra Singh and Another, Gayatribai vs. State of M.P. 1995 Supp (3) SCC 731**
- p) **Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618**
- q) **Sanju alias Sanjay Singh Sengar vs. State of M.P. (2002) 5 SCC 371**
- r) **Chitresh Kumar Chopra vs. State (Government of NCT of Delhi) (2009) 16 SCC 605**
- s) **Amalendu Pal alias Jhantu vs. State of West Bengal (2010) 1 SCC 707**
- t) **Gangula Mohan Reddy vs. State of Andhra Pradesh (2010) 1 SCC 750**
- u) **Rajesh vs. State of Haryana (2020) 15 SCC 359**
- v) **Shabbir Hussain vs. State of Madhya Pradesh and Others 2021 SCC OnLine SC 743**
- w) **Nisha Priya Bhatia vs. Union of India, Hon'ble Delhi High Court, W.P. (Crl.) 1889/2014 dated 19.09.2014**



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SUBMISSIONS ON BEHALF OF RESPONDENT NO. 2

11. Learned counsel for respondent no. 2 submits that the impugned order has been passed with due application of mind and the petitioners *prima facie* failed to point out any irregularity in the impugned order warranting exercise of powers of this High Court, as the Learned MM is not required to thoroughly scrutinize the evidences at this stage and would only gauge if there exists any case *prima facie*. The dying declarations by the deceased clearly attributed mental and sexual harassment by petitioner nos. 1 and 2 to be the cause of her suicide and therefore *prima facie* material existed to chargesheet the petitioners and summon them.

12. Learned counsel appearing on behalf of respondent no. 2 submitted that there was a clear live-link between the suicide and harassment caused by the petitioners and drew attention of the Court to the statement of witnesses namely, Rajesh Khatri and Birander Singh, who are employees of the same college working as Senior Cartographic Assistant, Department of Geography and Projectionist, Department of Social Work respectively, wherein they have corroborated the allegations of the deceased and have also stated that on account of fact that they supported the deceased, memos dated 10.09.2013 and 24.09.2013 had been issued to them, which is prior to the date of attempt to suicide by the deceased. Attention was also drawn to a letter dated 13.07.2013 by Prof. (Dr.) Ved Pal Singh written to petitioner no. 1 stating that the latter could not have terminated the services of the deceased without approval of the Governing Body of the college. It is further submitted that the contents of the suicide note also show live-link inasmuch as it is stated therein that the reasons for the extreme step was on account of sexual harassment, witnesses being threatened and that the deceased



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had no finance to sustain the fight. It is also submitted that the decision to donate the body parts as contained in the suicide letter also shows that she was making a conscious decision.

13. Reliance has been placed on the following judgments:

- a) **Chitresh Kumar Chopra vs. State (Government of NCT of Delhi) (2009) 16 SCC 605 (paragraph nos. 2,3,5,16,17 and 18)**
- b) **Mahendra K.C. vs. State of Karnataka and Another (2022) 2 SCC 129 (paragraph nos. 24 and 25)**
- c) **Geo Varghese vs. State of Rajasthan and Another (2021) 19 SCC 144 (paragrah nos. 20 and 21)**

14. It is further submitted that the petitioner used his connections to influence the investigation and compelled the witnesses to submit in their favour which is evident from the reasoning given in the rejection of petitioner no. 2's bail order dated 26.09.2014 by the Learned Additional Sessions Judge, which read as: *"....on my prima facie view the enquiry report therefore is flawed and is suspicious. Had this fact been brought to the notice of this Court while addressing arguments on anticipatory bail of co-accused G.K. Arora, I would have perused the dying declaration myself and perhaps would not have granted anticipatory bail to the co-accused G.K Arora.It appears that police was in connivance with the accused persons to shield them."*

15. Learned counsel for respondent no. 2 further submits that there is no merit on the claim of the petitioners for the requirement of a medical certification so as to determine the mental capacity of a person to give a dying declaration to the SDM, as this legal issue has already been debunked by the Hon'ble Supreme Court



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in **State of Madhya Pradesh vs. Dal Singh and Others (2013) 14 SCC 159**, wherein it was held that doctor's certification is not required so as to determine the mental state of a person/witness while recording dying declaration before an SDM.

16. Lastly, it is submitted that this petition is totally vexatious, frivolous and a gross abuse of process of law as it has been filed by the petitioners to stall the trial pending before the learned MM. That on account of the stay granted on the Trial Court proceedings by this Court on 19.12.2014, the petitioners are simply enjoying the stall of the proceedings by taking numerous adjournments.

REJOINDER ON BEHALF OF THE PETITIONERS

17. In rejoinder, learned counsel for the petitioners submitted that the memos given to the aforesaid witnesses namely Rakesh Khatri and Birander Singh, has no relevance in the present matter inasmuch as in the statements given by the said witnesses, it is not stated there that they had informed the deceased about these memos. It was again reiterated that there is no proximate and live-link between the suicide of the deceased and the termination which happened approximately 1 year and 6 months before the date of attempted suicide.

ANALYSIS AND FINDINGS

18. Heard the learned counsels for the parties and perused the record.

19. The English translation of the suicide note of the deceased dated 30.09.2013 recovered from the spot, is as under:

“To
The Commissioner / Smt. Sonia Gandhi Ji
Delhi Police Chairperson Delhi Pradesh Congress
Sub: Suicide due to denial of justice by V.C. (Delhi University), C.M.

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Government of Delhi

Sir,

My Principal and his assistants Shri Ravindra Singh (Sr. UDC), Smt. Rama Soin, Shri Ram Kumar, Shri Jagpal Singh Yadav and Bharatlal Meena since 2009-10 are continuously were mentally harassing me. Shri G.K. Arora, Principal and Shri Ravindra Singh are torturing me physically and mentally. Besides these two the above given names were pressurising me in different ways such as what will you loose if agree to the Principal. I opposed the wrong act of the Principal and made complaint to my Union DUKD against the Principal, they met the Principal and tried to make him understand but the Principal irritated on this and he started to torture me in many ways. I was regularly informing about the mis-deed of the Principal to the VC (DU), C.M. (Delhi Government), L.G., D.W.C, N.W.C., Human rights, DUKU, DUCALSA, Registrar DU and dean of colleges. But the Principal did not allow me to get justice anywhere. Delhi police and Delhi Women Commission told me that the matter relates to DU and it will go to the sexual harassment committee DU. I went there to APEX firstly they did not hear my case but later on at the instance of Delhi Police, DWC, DUKU, DUCALSA hearing of my case began and the evidence which was led in my favour they told everything. But in spite of repeatedly asking copy of the report has not been given to be till today. I am the complainant and the Principal is accused even then he has been given complete file of the proceedings. Now the Principal is threatening my witnesses on giving evidence and is going to take some action against them. I have already been terminated from the service on 13.3.12 so that my sexual harassment case is suppressed. Since the Principal has high approach, he is not allowing to get me justice fro anywhere. Now I have no other alternative but to commit suicide because now I am too much tired and because I do not have money to fight the case. For my death VC (DU), C.M. (Delhi Government) and college Principal and his associates are fully responsible. I asked for Justice again and again from the VC and C.M. but I did not get Justice from anywhere therefore I am going to take such a strong action. I tried too much to get Justice from them and waited for a long time.

Sir, in the end I want to say that I may not be saved alive and whatever parts of my body are found in good condition be donated and rest of the body be delivered to the students of medical college for practical. This is my last wish. I am writing whole thing in my sense. I hope from you that after my death you will be able to do justice to me inasmuch as for seeking justice I have run

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from pillar to post. If you will impart justice to me, women will have hope in you and those doing torture will be punished and will learn lesson. I hope that my name shall be kept secret so that I am not further defamed in the society.

With Thanks
Dated: 30.9.13

Applicant
Sd/- illegible
(Pavitra Bhardwaj)
Bhimrao Ambedkar College,
Yamuna Vihar, Delhi -94"

The statements (dying declarations) made by the deceased to the IO and the Learned SDM were also on the similar lines except for the fact that in addition to the allegation made in the suicide note, she further stated that the petitioners were threatening to kill her and her son and that she was frightened.

The true English translation of the statement (dying declaration) of the deceased dated 01.10.2013 given before the IO is as under:

"Statement of Pavitra Bhardwaj W/o Dharmender R/o A-31/69, Puri Gali No.4 Gurdwara Mohalla Maujpur Delhi-53 age 36 yrs. T.No. 9868050231, stated that I along with family reside at the above address I worked as Lab attendant in Bhim Rao Ambedkar Colelge Yamuna Vihar Delhi. GK Arora Principal of College and Ravinder Senior UDC had disturbed me. GK Arora Principal harassed me for physical attachment. I had made complaint against them to CM, LG, VC Delhi University, Human right commission, Rashtriya Mahila Aayog, Apex Sexual Harassment Committee of Delhi University but did not get justice from anywhere. I was heard in APEX, witnesses gave evidence but did not get justice. Principal began to threaten witnesses and Principal dismissed me from service on 13.3.2012, even then I keep on fighting for justice. I approached Delhi Govt but did not get justice from anywhere. Principal used to ask me to accept my wishes I will give you all benefits. Ravinder was also involved in all doings. They threatened to kill me and my son. I was frightened. I thought nothing will happen if I will not be alive. Therefore I bought kerosene oil and match box on the way and poured

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kerosene oil on myself and set on fire by match box opposite Delhi Sachivalya. I tried to commit suicide due to harassment by Principal GK Arora and Senior UDC Ravinder. Heard statement, is correct, I want justice RTI Pavitra Bhardwaj Sd English SI K.P. Singh P.S. IP Estate, 01/10/13."

The true English translation of the statement (dying declaration) of the deceased dated 01.10.2013 given before the Learned SDM is as under:

"Stated that I was disturbed my principal had made my life hell whose name is G.K. Arora and Ravinder Singh Senior UDC wanted to make physical relations with me but I did not want to make any relation with them. They harassed me because I had made complaints of torture against them to V.C., C.M., P.W.C., National Mahila Ayog, Human Right Commission, Registrar of DU but my FIR was not registered due to them. I had also made complaints against them in Delhi University Sexual Harassment Committee (Apex). I did not get justice from anywhere. The persons were also threatened by the principal who gave evidence in Apex Committee in my favour. The principal and UDC are of Bhim Rao Ambedkar College Yamuna Vihar Delhi and the principal threatened me either to accept my wish otherwise I will kill you and your son so I have no option other than to commit suicide. I took kerosene oil on way but I do not remember from where I took it. I took kerosene oil in plastic bottle I was dismissed from service by the Principal as I did not accept his wish. I wanted to bring it in knowledge of CM so I chose Delhi Sachivalaya to commit suicide I want justice.

Right Thumb Impression
Pavitra

Statement recorded before me
Sd/- 01.10.2013
B.L. Meena
Sub Divisional Magistrate
Kotwali Sub Division
14, Darya Ganj, New Delhi-2

Forwarded to SHO
I.P. Estate for n.a."

After due investigation, the report under Section 173 of the Cr.P.C. was filed before the Court of competent jurisdiction, wherein it was recorded as under:

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“...During the course of investigation statements of about a total of 53 witnesses have been recorded. Out of which statements of about 33 from Bhim Rao Ambedkar College and about 10 from outside the college have been recorded. Beside examination of above persons a total of about 19 students including female of Bhim Rao Ambedkar College joined the investigation and none of them stated adversely regarding moral character of Sh. G.K. Arora. 21 employees of Bhim Rao Ambedkar college favoured the principal and disclosed the indisciplined conduct of Mrs. Pavitra Bhardwaj while four of them stated about good conduct of Mrs. Pavitra Bhardwaj but have not stated anything about sexual harassment by Sh. G.K. Arora & Sh. Ravinder Singh. There are only two persons namely Sh. Birander Singh (Projectionist, Dept of Social Work) and Sh. Rajesh Khatri (Sr. Cartographer, Geog. Dept.) who narrated one incident of the former principal Sh. G.K. Arora wherein they saw Sh. G.K. Arora putting his hand on the shoulder of Mrs. Pavitra Bhardwaj. No act of sexual harassment reflects from the statements of above all the employees/person employees/person examined during investigation. Sh. Rajesh Khatri also stated that Mrs. Pavitra Bhardwaj was given undue favoritism by allowing officiating allowance against the University rules, but during investigation based on records this statement was found to be incorrect.

She was given officiating allowance for additional work as per norms for the period when Mr. Rajesh Khatri was on election duty (i.e. 27/11/07 to 20/3/08). Sh. Birander Singh has also stated that Mrs. Pavitra Bhardwaj made complaint to higher authorities regarding obscene activities of Mr. G.K. Arora for the incident of 14.06.10 as narrated by her. On examining the complaint dated 14/06/10 it was discovered that it was relating to payment of extra work, issuance of experience certificate, payment of LTC Bill, Child Fee etc. only and no allegations of any obscene act was mentioned in her complaint. On 14.06.10 a meeting of Non-teaching Advisory Committee was held in the College and conduct of Mrs. Pavitra Bhardwaj was discussed as she had tried to enter force fully in the principal's room while a meeting regarding admissions was going in the room and used abusive and unparliamentarily language, her conduct was condemned. Both Sh. Birender Singh & Sh. Rajesh Khatri had also given same statements in Apex Complaints Committee against Sexual Harassment, University of Delhi in Feb. 2013 i.e. after about 5 years of the incident. Mrs. Pavitra Bhardwaj had never made such allegation before 29.11.12 (i.e 8 Months after her dismissal on 13.03.12). On examination of a complaint dated 22/03/11 made by Mrs.

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Pavitra Bhardwaj relating to harassment by close aides of Principal, it is evident that Mrs. Pavitra Bhardwaj was not having any grievance of alleged sexual harassment against the principal till the date 22/03/11 of the said complaint. It was the indication of the deceased to allege false allegations of women related offence against the principal. This complaint was not substantiated as enquired by SHO/Jyoti Nagar. She filed a complaint dated 15.04.11 addressed to The Apex Complaints Committee against sexual harassment University of Delhi when she learnt of setting up of a disciplinary inquiry initiated against her in May 2011, wherein no act of sexual harassment could be established by the College Complaints Committee (CCC) as well as by the Apex Committee even after personal hearing given to her on dated 23/10/12, 25/10/12 in CCC and on dated 19/01/13 in Apex Committee. After she was issued chargesheet for disciplinary action on 06.05.11 she made a complaint dated 27.06.11 alleging sexual harassment in the subject only but did not explain it at all in the body of the complaint. Infact every subsequent complaint starting from 27.01.09 which she filed with the higher authorities she improved on the earlier version, added new allegations and also changed it for adding tone and tenor of sexual harassment allegations. Moreover a number of Notices/Memos had also been issued against Sh. Rajesh Khatri and Birander Singh by former principal Mr. G.K. Arora. Sh. Rajesh Khatri in his statement has stated that he hardly talk to Mrs. Pavitra Bhardwaj on mobile once or twice in week, while on perusal of the call details of Mrs. Pavitra Bhardwaj it is clear that there were continuous communication with her as checked for the last fifteen days before, her immolation bid. Besides examination of above persons & students some faculty members of Zakir Hussain college (where the principal Mr. G.K. Arora was earlier posted) also joined the investigation. According to them, in fact, the college principal was an acute disciplinarian and very hard working. However some students mentioned in their examination that Mrs. Pavitra Bhardwaj was abusive towards principal and other colleagues of college. One student even stated that Mrs. Pavitra Bhardwaj frequently threatened the principal to teach him a lesson. An Inquiry mandated by the Hon'ble L.G. Delhi has been conducted by Sh. B.L. Garg, Retired (ADJ) into the death of Mrs. Pavitra Bhardewaj, a former lab. Attendant, Bhim Rao Ambedkar College due to self immolation on 30.09.13. Inquiry Report of the Commission concluded that "This Commission is of the considered view that the deceased was a completely frustrated woman, the day she decided to end her life by self immolation. She had matrimonial problems with her husband

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and in-laws. She had open fronts with the college authorities by making false and frivolous complaints against the principal and senior employees of the college; she knew that she had made false complaints of sexual harassment against the Principal of the college and others, and that she was publically exposed that she was in the habit of making false and frivolous complaints relating to her chastity against all concerned including her father-in-law and the Principal. It seems that the deceased was not able to face the society and her own family members having made frivolous complaints in relation to her chastity and this appears to be the reason for the deceased to end her life in self immolation and thereby implicate authorities in governance named in her suicide note/dying declaration. Thus, judging from any angle, this Commission has arrived; at a conclusion that no individual or institutional is responsible in the suicide committed by the deceased in the incident of self immolation that took place on 30th September 2013. The Principal of the college does not seem to have made any unwelcome, verbal or non-verbal sexual advances against the deceased Ms. Pavitra Bhardwaj which might be responsible for the deceased to have committed suicide by self immolation. There does not seem to be any administrative, procedural and statutory lapses or negligent on the part of any authority or person that may have contributed to the suicide." A W.P. (CRL) 1957/2013 in the matter of Dharmendra Sharma Vs State NCT Delhi was filed in the High Court of Delhi by Sh Dharmendra Sharma (the husband of deceased Mrs Pavitra Bhardwaj) under article 226 of the Constitution of India praying for issuance of a writ, order or direction to direct the police to investigate the matter in a fair and proper manner, which has been dismissed by the Hon'ble High Court Of Delhi vide order dated 16/04/14

.....On 30.09.13 (day of self immolation bid) Mrs. Pavitra Bhardwaj had talked to persons on her mobile no. 9868205250 who have been examined but nothing incriminating is found so far. Late Pavitra Bhardwaj had left her mobile at home. There is no contact of mobile numbers of Sh. G.K. Arora (mobile no. 9868957605) and Sh. Ravinder Singh (mobile no. 9210914408) with late Pavitra Bhardwaj as checked from CDR for the period w.e.f 13.03.13 upto 30.09.13. Late Pavitra Bhardwaj Ex Lab Attendant was dismissed from the services of Bhim Rao Ambedkar College on 13.03.12 and she tried to commit suicide on 30.09.13 and died on 7.10.13. There is a gap of about one and a half years in this incident since her dismissal Since her dismissal she had not been in contact whatsoever with Sh. G.K. Arora,

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former Principal and Sr. Assistant Sh. Ravinder Singh of Bhim Rao Ambedkar College. Both have joined the investigation as and when called by I.O. in police station. The Documents produced by the husband of Late Pavitra Bhardwaj have been scrutinized and statements of her husband, mother and real brother have been recorded. As mentioned above in detail, investigation in the present case has been conducted covering all aspects related to the allegations. As per the investigations conducted, the allegations of physical and sexual harassment made by the deceased against Sh. G.K. Arora, the then Principal and Sh. Ravinder Singh, Sr. Assistant of Bhim Rao Ambedkar College have not been established. The enquiry report of the Apex Committee against sexual harassment, University of Delhi and the report of the enquiry Committee constituted by the National Commission for Women also suggest the similar one that the allegations of sexual harassment made by the deceased Pavitra Bhardwaj could not be proved. In letter dated 2.4.2013, Prof. I. Usha Rao, Proctor, University of Delhi (addressed to DCP/North-East, SHO/Bhajanpura, Dean University of Delhi, Chair person of Apex Complaint Committee and Principal of Bhim Rao Ambedkar College) stated that Mrs. Bhardwaj was threatening to commit suicide as she had been terminated by the Principal based on the findings of the enquiry committee in the college. During the course of investigation, it has been established that the deceased Pavitra Bhardwaj was dismissed from the services of Bhim Rao Ambedkar College on 13.03.12 on grounds of indiscipline and wilfull absenteeism from official duties and that she had been complaining against her dismissal to different authorities. Investigation conducted regarding her personal and family background also suggest that she was not maintaining good relations with her, husband and in-laws. These circumstances can certainly lead to frustration and development of suicidal tendencies. Moreover, there was no development of any specific circumstance created by the alleged persons immediately before the attempt of suicide on 30.09.2013, which could abet the commission of suicide by the victim as the victim and alleged persons were not in any direct or telephonic conversation/communication after the dismissal of the deceased on 13.03.2012. There was no immediate reason with her to immolate herself. None of the alleged persons was in her touch since long time. The possibility of making these allegations out of frustration and to teach a lesson to the alleged persons responsible for her dismissal, cannot be ruled out. However, the allegations made by the deceased before the SDM, which now has become a dying declaration can also not be completely ignored, but there are

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not sufficient evidence on record to file charge sheet against the alleged persons under section 306 IPC as the allegations have not been supported by the material taken on record and statements recorded u/s 161 Cr.P.C. From the recovered suicide note from the place of occurrence after the incident of self immolation which includes Vice-Chancellor DU, Chief-Minister of Delhi, Sh. G.K Arora former Principal, Sh. Ravinder Singh Sr. Assti., Sh. Ram Kumar Sr. PA, Mrs Rama Soin SO Admmn., Sh. Jagpal Singh & Bharatlal Meena office attendants of Bhim Rao Ambedkar College clearly suggest that she had come there with premeditated mind to immolate herself with the motive to attract the attention of administration. The basic ingredient of abetment is not fulfilled and alleged. persons cannot be made responsible for the act of deceased which she took in frustration. The entire documents and the statements obtained during the course of investigation have been placed before the hon'ble court along with this final report. The names of the alleged persons have been mentioned at SI. No. 12 of this final report as there is insufficient evidence for filing charge sheet and same is being forwarded for judicial verdict please.”

20. The Learned MM, after considering the aforesaid report and the protest petition, passed the impugned order making the following observations:

“8. After going through the relevant records and after considering the submissions made by both the parties, Court comes at the conclusion that at the stage of consideration on the charge-sheet, Court is not required to deeply scrutinize all the evidences and statements as well as other material available regarding the support of the victim or alleged accused as their defence, which is required at the time of final disposal of the case. At this initial stage all the statements in support of the prosecution as well as in support of the alleged accused persons are collected by the IO which are not came across the test of cross-examination. At this stage, Court is expected to see only the prima facie case of the prosecution. All the judgments cited by Ld. APP for the State are slightly differ from the peculiar facts and circumstances of the present case. In this case, in suicide note dated 30/09/2013, the victim made allegations against Sh. Ravinder Singh, Smt. Ram Soin, Sh. Ram Kumar, Sh. Jagpal Singh Yadav, Sh. Bharat Lal Meena and Sh. G.K. Arora regarding the mental torture. However she made allegations regarding physical as well as mental torture against Sh. G.K. Arora as well as Sh. Ravinder Singh. Thereafter in dying declaration dated 01/10/2013 which was recorded by the SDM, she

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specifically made allegations against Sh. G.K. Arora, Principal and Sh. Ravinder Singh, Sr. UDC that they had made her life very difficult and they were also sexual harassing her. She further clearly stated that because of their torture from different angles, she was compelled to commit suicide. The principle behind the admissibility of the dying declaration is that normally a person shall not tell lie at the time when he is going to die. In both, dying declaration as well as suicide note, the victim named both the alleged accused persons i.e. Sh. G.K. Arora, Principal and Sh. Ravinder Singh, Sr. UDC that because of their tortured & harassment, she had committed suicide; but they are kept in column no. 12 by the I.O. as not charge-sheeted. After going through the material available on record, Court thinks that in view of the facts and circumstances, there is sufficient prima facie material against accused Sh. G.K. Arora, Principal and Sh. Ravinder Singh, Sr. UDC to charge-sheet them and to summon them for the offence u/S 306 IPC. Issue summons to both accused for 29/09/2014.”

21. A perusal of the aforesaid record would reflect that the main consideration for summoning the present petitioners was the allegation made in the suicide note dated 30.09.2013 as well as the statements (dying declarations) dated 01.10.2013, wherein as per the Learned MM, specific allegations were made against the petitioners with respect to the harassment meted out to the deceased, both mentally and physically.

22. The present petitioners have been summoned by the Learned MM for the offence punishable under Section 306 of the IPC. The issue before this Court is whether in the background of the facts and circumstances of this case as has been detailed hereinabove, the allegations made against the petitioners would amount to abetment under the provision of Section 306 of the IPC.

23. The Hon’ble Supreme Court in **Prabhu vs. State Rep by the Inspector of Police and Another 2024 SCC OnLine SC 137**, while discussing the law on Section 306 of the IPC, has observed and held as under:

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“13. Section 306 of the Penal Code, 1860 talks about abetment of suicide and states that whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine.

14. Abetment is defined in Section 107 IPC and it reads 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.

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.”

15. In a recent judgment of this Court in Kamalakar v. State of Karnataka in Criminal Appeal No. 1485 of 2011 [decided on 12.10.2023], one of us (Vikram Nath J.) explained the ingredients of Section 306 IPC. The Court has held as follows:

“8.2. Section 306 IPC penalizes abetment of commission of suicide.

To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused’s actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person’s suicide.

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8.3. In *Ramesh Kumar v. State of Chhattisgarh*¹, this Court has analysed different meanings of “instigation”. The relevant para of the said judgment is reproduced herein:

“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.”

8.4. The essentials of Section 306 IPC were elucidated by this Court in *M. Mohan v. State*², as under:

“43. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word “instigation” and “goad”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. 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.

44. 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.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing



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no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.”

8.5. The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in *Amalendu Pal alias Jhantu v. State of West Bengal*³ in the following paragraphs:

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. **It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.**”

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

8.6. On a careful reading of the factual matrix of the instant case and the law regarding Section 306 IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not committed any positive or direct act to instigate or aid in the commission of suicide by the deceased.”

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16. On a perusal of the above, and relying upon this Court's previous judgments discussing the elements of Section 306 IPC, the following principles emerge:

17. Where the words uttered are casual in nature and which are often employed in the heat of the moment between quarrelling people, and nothing serious is expected to follow from the same, the same would not amount to abetment of suicide. [*Swami Prahaladdas v. State of M.P.*, 1995 Supp (3) SCC 438, Paragraph 3; *Sanju v. State of M.P.*, (2002) 5 SCC 371, Paragraph 12]

18. In order to constitute 'instigation', it must be shown that 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. The words uttered by the accused must be suggestive of the consequence [*Ramesh Kumar v. State of Chhatisgarh*, (2001) 9 SCC 618, Paragraph 20]

19. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. [*Chitresh Kumar Chopra v. State (Government of NCT of Delhi)*, (2009) 16 SCC 605, Paragraph 20]

20. There must be direct or indirect acts of incitement to the commission of suicide. The accused must be shown to have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide [*Amalendu Pal v. State of West Bengal*, (2010) 1 SCC 707, Paragraph 12-14]

21. **The accused must have intended or known that the deceased would commit suicide because of his actions or omissions** [*Madan Mohan Singh v. State of Gujarat*, (2010) 8 SCC 628]

22. Applying the above yardstick to the facts of the present case in question, even if we take the case as a whole and test the prosecution case on a demurrer, it could not be said that the actions of the accused instigated Kousalya to take her life or that he conspired with others to ensure that the person committed suicide or any act of the appellant or omission instigated the deceased resulting in the suicide."

(emphasis supplied)

24. In Mohit Singhal and Another vs. State of Uttarakhand and Others (2024) 1 SCC 417, the Hon'ble Supreme Court was dealing with a case seeking quashing of FIR for the offence punishable under Section 306 of the IPC, wherein



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the deceased had left a suicide note blaming the appellants therein for the suicide.

Relevant observations and findings of the Hon'ble Supreme Court is as under:

“Submissions

5. The submission of the learned counsel appearing for the appellants is that even going by the case made out by the third respondent, the deceased was under tension as he could not repay the amount borrowed by the third respondent and had received a notice from Sandeep, as cheque issued to Sandeep was dishonoured. The learned counsel submitted that taking the suicide note and complaint of the third respondent as correct, by no stretch of imagination, an offence punishable under Section 306 IPC is made out.

6. The learned counsel appearing for the State and the learned counsel appearing for the respondents supported the impugned judgment. Their submission is that the allegations in the suicide note are sufficient to make out a *prima facie* case against the appellants. Their submission is that the issue of whether the offence under Section 306 IPC is made out can be decided only after evidence is adduced.

Our view

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.

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 15-6-2017. After that, notice under Section 138 of the Negotiable Instruments Act, 1881, was issued by Sandeep to the deceased on 27-6-2017. The suicide note was written three days after that, on 30-6-2017. 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 15-6-2017, the appellants or Sandeep either met or spoke to the third respondent and her deceased husband.**



9. Section 306 IPC makes abetment to commit suicide as an offence. Section 107 IPC, which defines the “abetment of a thing”, reads thus:

“**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.”

(emphasis supplied)

10. 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.

11. 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 close proximity to the date of suicide. By no stretch of 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.”

(emphasis supplied)



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25. In the present case, it is a matter of record that the deceased was terminated from her services on 13.03.2012 and the date of her attempted suicide was on 30.09.2013. All the complaints that the deceased had referred to in her suicide note as well as the statements (dying declarations) had been enquired into and closed by various authorities, which have been brought on record by the IO in the chargesheet. In fact, the deceased herself in the suicide note states that all the complaints have been closed on account of influence made by petitioner no.1 but the fact remains that those complaints had been closed after appropriate enquiries. It is also matter of record that after the death of the deceased, there were two other authorities apart from Delhi Police which conducted enquiries into her death, i.e., National Commission for Women and Shri B.L. Garg Commission and the result of the said enquiries were also in favour of the petitioners and have been brought on record by the IO in the chargesheet.

26. It is also a matter of record that the petitioners were not in touch with the deceased since the date of her dismissal from services, i.e., on 13.03.2012. This fact has been conclusively brought on record in the chargesheet. It is not the case of respondent no. 2, that after the dismissal of service on 13.03.2012, the petitioners in any manner communicated with the deceased either personally or through any other mode. The tone and tenor of the suicide note as reproduced hereinabove reflects that the deceased basically blamed the system for not coming to her support on account of alleged influence yielded by petitioner no. 1. The incidents which have been referred to in the suicide note are all prior to her dismissal from service on 13.03.2012. The allegation with respect to the sexual harassment meted out by petitioner no. 1 has been elaborately dealt with in the

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enquiry committees set up post the death of the deceased, which have been duly incorporated in the chargesheet as mentioned hereinabove.

27. It is pertinent to note that in her statements (dying declarations) before the IO and the Learned SDM, the deceased stated that petitioners were threatening to kill her and her son. Apart from the fact that this was not there in the suicide note, the same has been investigated and it was given on record that there was no communication between petitioner and the deceased after her termination approximately 1 year 6 months back.

28. It is further pertinent to note here that in a letter dated 02.04.2013 by Prof. I. Usha Rao, Proctor, University of Delhi addressed to the DCP/North-East, SHO/Bhajanpura, Dean University of Delhi, Chairperson of Apex Complaint Committee and Principal of BRAC, she had informed to the said authorities that the deceased was threatening to commit suicide as she had been terminated by the Principal, i.e., petitioner no. 1 based on findings of the Enquiry Committee of the college. As noted hereinbefore, the deceased's service was terminated on 13.03.2012 and the date of the attempted suicide was on 30.09.2013 but there is nothing on record to demonstrate that the petitioners were in contact, in any manner, with the deceased post her termination and immediately before the attempted suicide. In fact no overt or covert act(s) has been attributed to the petitioners which was proximate to the time of the attempt to suicide by the deceased. It has also come on record that the deceased was embroiled in a matrimonial dispute with respondent no. 2. Both the deceased and respondent no. 2 had made complaints against each other and as well as their respective family

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members. The deceased had also made complaint against her father-in-law under Section 354 of the IPC.

29. With respect to specific role alleged to petitioner no. 2, the deceased had made a complaint on 22.03.2011 to the Principal of BRAC, i.e., petitioner no. 1 alleging personal inappropriate comments made on her by petitioner no. 2 and regarding the misdemeanour meted out to her by petitioner no. 2 while she was using the official telephone; however, when the matter was enquired by the Asst. Consultant, the University of Delhi and PS Jyoti Nagar, the allegations were found to be unsubstantiated and false. Apart from these, there were no other complaints against petitioner no. 2 by the deceased.

30. Learned counsel appearing on behalf of respondent no. 2 had argued that there was a live-link between the attempted suicide of the deceased and the harassment caused by the petitioners on account of the fact that two witnesses, namely, Rajesh Khatri and Birander Singh, who were employees of the same college had stated that on account of the fact that they had supported the deceased, memos dated 10.09.2013 and 24.09.2013 had been issued to them. Although, the aforesaid memos are close to the date on which the attempted suicide took place, i.e., 30.09.2013; however, the same cannot be categorised as an act of incitement on behalf of the petitioners to bring the case under Section 306 of the IPC. Similarly, letter dated 13.07.2013 written by Prof. (Dr.) Ved Pal Singh to petitioner no. 1 stating that the latter could not have terminated services of the deceased without approval of the Governing Body of the college is a matter of record. The perusal of the said letter would reflect that the concerned person who was the University Representative to the Governing Body of the college had raised



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objection with regard to the procedure followed by petitioner no. 1; however, nothing has been placed on record as to what was the outcome with regard to the said letter in respect to the proceedings which finally terminated the services of the deceased.

31. Learned counsel for respondent no. 2 has placed reliance on **Chitresh Kumar Chopra (*supra*)**, which was given in a different factual context. In the present case, the allegations made by the deceased in her various complaints had been enquired into and closed. In **Geo Varghese (*supra*)**, relied on by the learned counsel for the respondent no. 2, the Hon'ble Supreme Court in fact quashed the FIR under Section 306 of the IPC by observing as under:

“**40.** 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.

41. 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. A criminal trial is not exactly a pleasant experience and the appellant who is a teacher would certainly suffer great prejudice, if he has to face prosecution on absurd allegations of irrelevant nature.

42. Bearing in mind the factual aspects of the case delineated hereinabove and the legal principles enunciated by a series of pronouncements of this Court discussed hereinabove, we are of the view that the High Court was not justified in dismissing the application under Section 482CrPC for quashing the first information report in exercise of its inherent jurisdiction.

43. We are conscious of the pain and suffering of the complainant who is the mother of the deceased boy. It is also very unfortunate that a young life has been lost in this manner, but our sympathies and the pain and suffering of the complainant, cannot translate into a legal remedy, much less a criminal prosecution.”



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Similarly, in the case of **Mahendra K.C. (*supra*)**, relied upon by the learned counsel for respondent no. 2; the investigation in the concerned FIR was not complete and therefore, the Hon'ble Supreme Court was of the considered opinion that the FIR at that stage ought not to have been quashed. In the present case, the investigation as already pointed out, stands complete and a closure report has already been filed.

32. The power of Learned MM to take cognizance and summon the accused person(s) despite a closure report being filed *qua* them is not in dispute. It would be within the power of Learned MM to summon the accused person(s) despite the closure report if the material placed on record *prima facie* shows commission of the offence for which the FIR was registered. In the present case, the Learned MM has based his *prima facie* satisfaction on the basis of the suicide note and the alleged dying declarations of the deceased without appreciating the findings of the aforesaid Committees as well as the fact that after her dismissal on 13.03.2012, there was no material on record to show that the deceased was ever contacted by the present petitioners. Even the statements (dying declarations) on which the Learned MM relies upon also pertain to the same allegations made by the deceased prior to her dismissal on 13.03.2012. The Learned MM while passing the impugned order had not dealt with the issue as to how the contents of the suicide note would bring the case of the petitioners under Section 306 of the IPC, when the IO has taken a specific stand that the allegations made by the deceased and the evidence collected do not make out a case under Section 306 of the IPC.

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33. This Court is of the considered opinion that person holding a certain post, whether in private sector or public sector, in the course of duties have to take certain decisions which at time can be harsh causing hardship to an employee. The same cannot, in the absence of the requisite *mens rea*, be termed as an action which would amount to incitement/abetment in terms of Section 306 of the IPC. There cannot be an absolute rule and each case will depend on its facts and circumstance. At this stage, it will be apposite to refer to the judgment of the Hon'ble Supreme Court in **Madan Mohan Singh vs. State of Gujarat and another (2010) 8 SCC 628**. In the said judgment, the Hon'ble Supreme Court was dealing with a case seeking quashing of FIR under Sections 306 and 294(b) of the IPC, wherein the deceased was the employee of the appellant therein. In the said case the deceased had left a suicide note wherein, the deceased stated that his life had been ruined by the appellant's style of functioning. The Hon'ble Supreme Court had observed and held as under:

“12. 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 about the suicide of the person concerned 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. 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.

13. It is absurd to even think that a superior officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so-called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Section 306 IPC, much more material is required. The courts have to be extremely careful as the main person is not available for cross-examination by the appellant-accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or



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inferential one), it would be hazardous to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in the present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in *Netai Dutta v. State of W.B.* [(2005) 2 SCC 659 : 2005 SCC (Cri) 543], this Court had quashed the proceedings initiated against the accused.

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

15. It was tried to be contended by the learned counsel appearing on behalf of the complainant that at this stage, we should not go into the merits of the FIR or the said suicide note. It is trite law now that where there is some material alleged in the FIR, then such FIR and the ensuing proceedings should not be quashed under Section 482 CrPC. It is for this reason that we very closely examined the FIR to see whether it amounts to a proper complaint for the offence under Sections 306 and 294(b) IPC.

16. Insofar as Section 294(b) IPC is concerned, we could not find a single word in the FIR or even in the so-called suicide note. Insofar as Section 306 IPC is concerned, even at the cost of repetition, we may say that merely because a person had a grudge against his superior officer and committed suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under Section 306 IPC. It will still fall short of a proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant-accused to the effect that he had intended or engineered the suicide of the person concerned by his acts, words, etc. When we put the present FIR on this test, it falls short.

(emphasis supplied)

34. In the present case, as already mentioned hereinabove, all the complaints filed by the deceased were closed after due enquiry. The said complaints were dealt by different statutory bodies which were not under the immediate control of petitioner no. 1. The grievance of the deceased in the suicide note was in fact just

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not against the present petitioners but also against other persons mentioned therein. The said note even blamed the Hon'ble Chief Minister, Delhi as well as Vice Chancellor of Delhi University. The incident of attempted suicide has already been enquired into by the Enquiry Committee constituted by National Commission for Women and Shri B.L. Garg Commission apart from the present chargesheet in which the petitioners stand exonerated.

35. Therefore, in the facts and circumstances of the present case, the present petitions are allowed.

36. Accordingly, the summoning order dated 17.09.2014 passed by the Learned MM, Tis Hazari Courts is set aside.

37. Petitions are disposed of.

38. Pending application(s), if any, also stands disposed of.

39. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
JUDGE

OCTOBER 29, 2024/bsr/sn/kr

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