

03.
27.03.2025
Bd.
Ct.237

**CRR 2233 of 2023
IA No. CRAN 5 of 2025**

**Prosenjit Das & Ors.
-vs-
The State of West Bengal & Anr.**

**Mr. Sabir Ahmed
Mr. Sourin Chatterjee
Mr. Tasnim Ahamed
Mr. Dhiman Banerjee
Mr. Quazi Ezaz Ahmed ...for the petitioners.**

**Ms. Baisali Basu
Ms. Sonali Bhar
Mr. Sayeed Khan ... for the State**

The instant application has been preferred seeking quashment of the proceedings being G.R. Case No. 2835 of 2021, presently pending before learned Chief Judicial Magistrate, Murshidabad in connection with Berhampore Police Station Case No. 828 of 2021 dated 06.08.2021 under sections 306/34 of the Indian Penal Code.

The wife of the victim Dhananjay Mondal, lodged a written complaint contending that her husband was an employees of a NIPL Company as a tower technician. Her husband was entangled in a criminal case at the instigation of the petitioners being Nabagram Police Station Case No. 18 of 2021 dated 14.01.2021 under sections 399/402 of the Indian Penal Code and therefore her husband was arrested and thereafter he was released on bail. However due to such criminal case he was discharged from his employment and after termination from his employment, he was suffering from mental depression and thereafter on 15.08.2021 he

committed suicide. FIR makers allegation is that the present petitioners are responsible for the said unfortunate incident.

Being aggrieved by the aforesaid proceeding the petitioners contended that there is no indication that the petitioners were instrumentality in any manner whatsoever about registration of the Nabagram P.S. case and there was no connection or nexus with the petitioners with regard to such registration of the FIR and not even they have been cited as witnesses in the charge-sheet submitted in the above mentioned case being Nabagram Police Station Case No. 18 of 2021. The petitioners further state that the victim committed suicide at his own house and according to FIR he was suffering from mental depression. The primary allegation is that the petitioners have falsely implicated her husband in a criminal case, which would be negated from the FIR of the above-mentioned Nabagram Police Station Case which was initiated by police suo motu on 14.01.2021 and thereafter during investigation victim was arrested on 10.05.2021. During this integral period, the petitioners were not in touch with the said victim, neither there was any act, which may come within the purview of abatement as enumerated under section 107 of the Indian Penal Code. In fact, there was no such instigation on the part of the petitioners to do any act and the ingredient of instigation i.e., to goad, urge forward, provoke, insist or encourage to do an act are completely absent in the present case. In order to constitute an offence under sections 306/34, there has to be mens rea to commit such offence and the prosecution must make out a case that the act of accused persons must push the

deceased into such a situation that the victim had no other alternative but to commit suicide.

Mr. Ahmed, learned counsel appearing on behalf of the petitioners strenuously argued that in order to wreck vengeance upon the petitioners, the complaint has been registered which is based on surmises and conjectures and the sole intention of the defacto-complainant is to harass the petitioners who are in no way involved in the alleged offence. Moreover, the investigation conducted by the Investigation Officer does not substantiate the allegation and also does not fulfill the ingredients of the offences as alleged under sections 306/34 of the Indian Penal Code. He further contended that it would be evident from statement of witnesses recorded under section 161 of Cr. P.C. that other witnesses except the complainant have made hearsay statements. Accordingly, petitioners have prayed for quashing the entire proceeding.

Petitioners in this context relied upon Judgments of **(1) Ramesh Kumar -vs- State of Chattisgarh reported in (2001)9 SCC 618 paragraph 20, (2) Chitresh Kumar Chopra -vs- State (Government of NCT Delhi) reported in (2009) 16 SCC 605, paragraphs 13,15 to 19 (3) S.S.Chhena -vs- Vijay Kumar Mahajan and Anr. reported in (2010) 12 SCC 190, paragraphs 22 to 25 (4) M. Mohan -vs- State represented by Deputy Superintendent of Police reported in (2011)3 SCC 626, paragraphs 41,42,44 to 47, (5) Ude Singh and Ors. -vs- State of Haryana reported in (2019) 17 SCC 301, paragraphs 15 and 16. (5) Vajinath Kondiba Khandke -vs- State of Maharashtra & Anr. reported in (2018) 7 SCC 781,**

paragraph 6 and 7, (7) Nipun Aneja and Ors. -vs- State of Uttar Pradesh reported in 2024 SCC Online SC 4091, paragraphs 21 and 22, (8) Madusree Ghosh and Anr. -vs- State of West Bengal & Anr. reported in 2025 SCC Online Cal 1557, paragraphs 13 to 16, 18 to 21,23,26.

The private opposite party/complainant is not represented.

Ms. Basu, learned counsel appearing on behalf of the State placed the Case Diary and contended that investigation has already been culminated into a charge-sheet and as such the trial should continue and the truth will come out only after conclusion of the trial. As such, she opposed the prayer for quashment made by the petitioners.

I have considered the submissions made by both the parties. On perusal of the materials collected during investigation it appears that even if prosecution case is taken to be true it appears that victim has committed suicide out of mental depression for losing his job and being implicated in a criminal case by the police personnel, suo motu.

On perusal of the case diary of the said Nabagram Police Station Case No. 18 of 2021 dated 14.01.2021 under sections 399/402, it appears that the said FIR was lodged suo motu by one Sub-Inspector of Police, Mr. Ramananda Sarkar, who stated in the FIR that on the basis of source information, on 14.01.2021 at about 1.00 A.M. when the police team reached Khairagachi More they found eight to nine persons, who seeing police were tried to flee away from the spot. After a hot chase they managed to apprehend two persons among them and another six to seven

persons fled away from the spot. After arrest police recovered weapons from their possession.

During investigation the name and address of other persons including present victim transpired. It further appears that during investigation one sword was allegedly recovered from the possession of the victim Dhananjay Mondal @ Mithu and it was seized after preparation of seizure list. It further appears that after completion of investigation in the said Nabagram Police Station case police has submitted charge-sheet against five accused persons including the present victim Dhananjay Mondal on 18.06.2021. Thereafter on 5.8.2021 the victim committed suicide.

Post mortem report confirms that it was a suicidal death and no suicide note recovered during investigation. When the present case is considered in the well settled legal proposition of law, it appears that the FIR maker had only made casual reference the name of the petitioners. The statements recorded under section 161 of the Cr.P.C, only states that the petitioners have falsely implicated the victim and for which he lost his job and thereafter compelled to commit suicide.

I do not find anything to say that there was any persistent harassment or any such harassment coupled with pressure created such circumstances that any other person in victim's place would have certainly committed suicide. The materials so far placed before me does not reveal existence of the element of mens rea on the part of the petitioners. There is nothing in the complaint or in the materials collected during investigation, which could suggests that the petitioners had instigated the deceased to commit suicide.

Though the above mentioned Nabagram Police Station Case was initiated by the police suo motu but even if going beyond that if the statement of the witnesses is taken to be true that they have implicated the victim in false criminal case, it does not reflect the requisite mens rea.

Needless to say when section 306 of IPC is read with section 107, it is clear that in order to constitute offence of abatement of suicide, following ingredients are required to be satisfied:-

- (i) Direct or indirect instigation
- (ii) Abatement has close proximity to the commission of suicide.
- (iii) Clear mens rea to abet the commission of suicide is apparent.

Upon perusal of all the documents placed on record, I do not find any case even prima facie against the petitioners. There is even remotely no allegation against the petitioners that they had done anything in the nature that the deceased was left with no alternative but to commit the unfortunate act of committing suicide.

Even from the submissions of the petitioners it appears that the place of employment of petitioners and the alleged victim are also different. There appears to be no indication how the petitioners are saddled with the allegation of abatement for unnatural death of complainant's husband. There has to be mens rea to commit such offence by the petitioners and the act of petitioners must be in such a nature which pushed the deceased into such a situation to commit suicide. Even allegation of implicating victim in the said case by the petitioners does not

remotely stand. In ***State of West Bengal -vs- Orilal Jaiswal, (1994) 1SCC 73*** it was held that if it transpired to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society, to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide, should be found guilty.

Mere evasive allegation on suspicion about false implication in a criminal case by the petitioners and thereby causing termination of his job, which allegedly caused his frustration, without even mentioning date time or place of such occurrence of positive action, proximate to the time of occurrence, on the part of petitioners, which led or compelled the victim to commit suicide, conviction under section 306 is not possible. In fact it cannot be said from the facts and circumstances of the case that the petitioners intended to instigate the commission of suicide by the victim.

In view of such discussion, I am constrained to conclude that the prosecution has miserably failed to make out that the petitioners herein had abated the victim to commit suicide and from the available materials there is hardly any chance of conviction of the petitioners at the end of trial.

In such circumstances, the continuance of further proceeding will be a mere abuse of the process of the Court.

CRR 2233 of 2023 thus stands allowed.

Berhampore Police Station Case No. 828 of 2021 dated 06.08.2021 under sections 306/34 of Indian Penal Code corresponding to G.R. Case No. 2835 of 2021 thus stands quashed.

In view of disposal of the main application, the connected application being CRAN 5 of 2025 also stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)