

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION

Present:

The Hon'ble Justice Tirthankar Ghosh

C.R.R. 187 of 2025

Sri Sanjay Sarkar and others
versus
The State of West Bengal and another

For the Petitioners : Mr. Milindo Paul,
Mr. Nabankur Paul,
Ms. Sutapa Sen Paul,
Ms. Bedashruti Bose,
Mr. Subham Das,
Mr. Bodhisatya Ghosh.

For the State : Mr. Nilay Chakraborty, APP,
Mr. Tapan Bhattacharjee.

For the Opposite Party No.2. : Ms. Suman Sehanabis (Mondal)
Ms. Aritri Chakraborty.

Heard On : 13.06.2025 & 19.06.2025.

Judgement On : 19.06.2025.

Tirthankar Ghosh, J. :

The present revisional application has been preferred challenging the proceedings arising out of Kotwali Police Station Case No.241 of 2024 dated 02.04.2024 under Sections 306/34 of the Indian Penal Code

corresponding to G.R. Case No. 1573 of 2024 wherein the investigating agency, on conclusion of investigation, has submitted charge-sheet before the jurisdictional court.

The accusation as is reflected from the brief facts of the case stated by the investigating officer in the charge-sheet reflects as follows :

The informant's father Kalidas Halder took loan of Rs.9,00,000/- from Choramandalam Finance Ltd. about 1-1 ½ years ago and failed to pay the EMI amount towards the said loan. For failure of repayment of loan, the accused persons created mental pressure upon the complainant's father and his family members; as a result of which, for about a week, the complainant's father stayed outside his house and on 31.03.2024 at about 05.00 hrs., the said Kalidas Halder consumed alcohol at his work place i.e. Dutta Bhai Dharmakata, Mohitnagar, Haldibari to commit suicide. He was admitted at Jalpaiguri Super Speciality Hospital and on 04.04.2024 at about 17.00 hrs., the victim died and before his death, he penned down a suicidal note. The informant/complainant as such believed that because of the mental torture inflicted by the representatives of the non-banking financial company, his father committed suicide. Over the incident and the information furnished, Inspector-in-Charge, Kotwali Police Station initiated the case and after commencement of investigation, the investigating officer visited the place of occurrence, examined the

available witnesses, recorded their statements under Section 161 of the Code of Criminal Procedure and also seized one green and white colour plastic container containing small quantity of liquid, original suicide note of Kalidas Halder and one green covered exercise book containing written pages. The bed head tickets were collected from Jalpaiguri Medical College and Hospital. The expert analysis reported that the writings and the signature are of the same person. It was also ascertained in course of examination of different witnesses that the deceased Kalidas Halder took a loan of Rs.9,00,000/- from Choramandalam Finance Company and failed to pay EMI in the month of March, 2024 when the accused persons being the company's representative pressurized him to pay the amount and started mentally torturing him day by day. As a result, the deceased consumed poison to commit suicide.

Learned advocate appearing for the petitioners submitted that there is no credible evidence of provocation or incitement by the accused persons, there is neither any proof of direct or indirect acts of incitement, instigation, conspiracy nor any intentional aid that led the victim to commit suicide which is essential in case of an offence committed under Section 306 of the Indian Penal Code. Additionally, it was submitted that the complainant has admitted that the loan of Rs.9,00,000/- was availed from Choramandalam Investment and

Finance Company Limited against equitable mortgage of Plot No. 1448, L.R. Khatian No. 3133, 3134, L.R. J.L. No. 18, Mouza Patkatha, Village Naya Busty, P.S. Jalpaiguri as security of the mortgaged debt. The tenor of the complaint, according to the petitioners, reflects that the deceased failed to pay the monthly installment towards the outstanding loan and consequently loan account was declared as Non Performing Asset. The informant has, instead of repaying the loan amount, initiated the instant proceedings for shielding himself from the liability and the persons who have been implicated in the instant case, were working and performing by way of adhering to their duties. Further even if the contents of the suicide note is taken as a whole and presumed to be correct, no offence under Section 306 of the Indian Penal Code has been made out so far as the petitioners are concerned, who are the Branch Business Manager, Recovery Officer and Area Business Manager respectively of the said Finance Company.

Learned advocate for the petitioners in order to fortify his arguments relied upon the following judgements :-

- i) Geo Varghese Vs. State of Rajasthan and another reported in (2021) 19 Supreme Court Cases 144,
- ii) Shaila Singh Vs. State of Chhattisgarh reported in 2023 SCC OnLine Chh 4132,

- iii) Rohit Vs. State of Maharashtra - an unreported judgement of Bombay High Court and
- iv) a judgement of coordinate Bench of this Hon'ble Court dated 11.07.2023 in Tushar Manna Vs. Ananda Sarkar (CRR 1072 of 2020).

Learned advocate appearing for the *de facto* complainant/opposite party no.2, on the other hand, submitted that the original suicide note which has been seized by the investigating authority, itself reflects that due to constant pressure and humiliation as well as unbearable mental torture inflicted upon the deceased by the accused persons, the father of the *de facto* complainant was forced to commit suicide. Consequently the charges of abetment do sustain and as such, the findings of the investigating officer under Section 306 of the Indian Penal Code are in strict adherence to the provisions of law. Further, according to the *de facto* complainant/opposite party no.2, the QDEB examinations which on comparison and analysis arrived at a conclusion that the hand-writing and the signature in the suicide note are of one and the same person. As such, the preliminary evidence required at this stage of consideration of charges has been established by the investigating agency and interference at this stage may result in gross miscarriage of justice. Factually, it has been canvassed on behalf of the opposite party no.2 that the victim only failed to pay the

installment for the month of March, 2024 for which the highhandedness of the bank officials led to the untimely death of the father of the *de facto* complainant. Further, the plea of the accused persons relating to discharging their official duties cannot be accepted as the modalities in respect of the bank authorities for recovery of the loan amount, has been laid down by the Reserve Bank of India. Learned advocate for the *de facto* complainant/opposite party no.2, as such, submits that the prayer of the petitioners for quashing of the proceedings at this stage would deprive the *de facto* complainant/informant to establish his case in a court of law.

Learned advocate for the *de facto* complainant/opposite party no.2 in order to fortify her arguments relied upon the following judgements :-

- i) ICICI Bank Vs. Shanti Devi Sharma and others reported in 2009 (6) AIR Bom R 726 and
- ii) Mohd. Hadi Raja Vs. State of Bihar and another reported in AIR 1998 Supreme Court 1945

Learned advocate appearing for the State, on the other hand, has produced the case diary and supported the case and cause of the *de facto* complainant/opposite party no.2. It has additionally been submitted that the prosecution in order to prove its case has relied upon ten witnesses, six of such witnesses are persons who have been privy to

the act and action of the bank officers as also the sufferings of the deceased. The recovery of the suicide note which is reflected even in the report under Section 173 of the Code of Criminal Procedure would go to show that the prosecution has made out a watertight case which calls for progress and termination of the case at this stage may result in failure of justice.

I have considered the submissions advanced on behalf of the petitioners, the State and the *de facto* complainant/opposite party no.2. Before proceeding with the overall assessment of the case, I am of the view that since the parties to the litigation has emphasized on the suicidal note, an analysis and assessment of the same is required. The contents of the suicide note which has been referred to in the case diary was in the form of a letter addressed to the Inspector-in-Charge, Kotwali Police Station, Jalpaiguri which read that the outcome of such fatal incident is because of the representatives of Chola mandalam Finance Company who are responsible as for default in only one installment, they have been harassing him (deceased) and all his family members. It was further contended that on 30.03.2024 at about 10.30 p.m., the petitioners by different means, tried to mentally torture and harass the deceased. One Subhankar Dey Sarkar along with 3 to 4 of his associates came at the residence of deceased and harassed him. It was further stated that according to the Rules, after evening hours, the recovery

agents of the finance company cannot approach the person who has taken loan and the recovery agents of the said finance company had also been to his place of work. As he was unable to face the torture and humiliation, he was compelled to complain to the administration and prayed that his statement may be considered to be FIR.

The charge-sheet also reflects that the prosecution has also relied upon ten witnesses amongst whom five of the witnesses, apart from the complainant, stated that the accused persons had been creating pressure for repayment of the loan and to the extent that they had been calling up the deceased and threatening that if the deceased could not repay the amount, he should commit suicide.

I have taken into account the statement of the witnesses, the suicidal note, the submissions of the learned advocates as well as the judgments relied upon by the learned advocates appearing for the petitioners and the *de facto* complainant.

Learned advocate for the *de facto* complainant has relied upon the rules of the Reserve Bank of India for recovery in respect of loan as well as the judgment reported in (2009) 6 AIR Bombay R 726 (*ICICI Bank V. Shanti Devi Sharma & Ors.*) wherein in paragraph 13, the Hon'ble Bombay High Court was pleased to record that RBI has expressed concern about number of litigations filed against the bank in the recent past for engaging recovery agents who have purportedly violated the law.

The Reserve Bank of India, in the letter dated 24.04.2008, has stated the guidelines on engagement of recovery agents.

Learned advocate for the *de facto* complainant has also relied upon the judgment of the Hon'ble Supreme Court in *Mohd. Hadi Raja V. State of Bihar and Another* reported in *AIR 1998 SC 1945* wherein the Hon'ble Apex Court was pleased to hold that even the protection of sanction cannot be afforded to a delinquent bank official purporting to act in discharge of his official duty wherein an offence has been committed.

Learned advocate for the petitioner has relied upon the judgement of Geo Varghese (*supra*) which dealt with the contents of the suicide note. In paragraph 39 of the said judgment it was observed as follows :-

“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 order to appreciate the overall circumstances of the case wherein an offence has been alleged to have been committed under

Section 306 of the Indian Penal Code, the thrust would be on the issue relating to abetment. The parameters of abetment which have been stated under Section 107 of the Indian Penal Code refers that a person abets the doing of a thing who instigates any person to do that thing or engages with one or more other person or persons in any conspiracy for the doing of that act. The explanation to the Section 107 of the Indian Penal Code also states that any wilful misrepresentation or wilful concealment of material facts may also come within the parameters of abetment.

In the instant case, if we assess the materials collected by the investigating agency, admittedly there has been a loan, the deceased was a defaulter and the present petitioners being officers of the bank demanded the amount for which there was default. The present petitioners are, according to the records of the prosecution, itself associated with Cholamandalam Finance and Investment Company Ltd. and the same has not been disputed by any of the parties. The suicidal note, which is the very fulcrum of the prosecution case and wherein it has been stated that immense mental torture and harassment was inflicted upon the deceased for recovery of the loan and which subsequently the investigating officer relied upon for charging the present petitioners, require an assessment. The overt act of the petitioners as such would be relevant for assessment. In this case even if

the suicidal note is accepted to be true, what is found from the contention of the deceased is that there was 'harassment and mental torture'. The said mental torture and harassment was for the purpose of demand of the loan amount. The petitioners were officers of the bank who had the authority to demand the amount. The nature of mental torture and harassment which has been the genesis of foundation of the present case, as such, is to be assessed on the background of the loan which has been taken. Consequently, what is important, at this stage, is to assess the sensitivity of the person who claims that he has been subjected to mental torture and harassment. Mere repeated demands or steps taken for recovery of the loan amount without any overt acts and not being expressed in the materials available in the case diary or relied upon by the prosecution will result in abetment, as each and every person have different temperament and their sensitivity towards any statement or situation would be different.

I have taken into account the locus of the present petitioners who are bank officials, the suicidal note as claimed by the prosecution and the *de facto* complainant, the statement of the witnesses and the background of the case which had its genesis in the loan which was taken by the deceased. Having considered the act and action complained of against the petitioners and the charges for which they have been called upon to face the trial, I am of the view that the prosecution has

failed to make out any case for abetment which led to the commission of suicide of the deceased. Consequently, I am of the view that further continuance of the proceedings arising out of Kotwali Police Station Case No. 241 of 2024 dated 02.04.2024 would result in abuse of the process of law and the same as such is liable to be quashed. Thus, further proceeding of the aforesaid case is quashed.

The revisional application being CRR 187 of 2025 is hereby allowed.

Pending connected application, if any, is consequently disposed of.

Case diary be returned to the learned advocate appearing for the State.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)