

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

Present:

The Hon'ble Justice Rai Chattopadhyay

CRR 506 of 2024

Sefali Shil @ Sil & Anr.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Suman Sehanabis (Mandal),
: Mr. Salok Sah

For the O.P. No. 2 : Mr. Bhaskar Roy Mahasoi,
: Ms. Madhushri Dutta,

For the State : Ms. Aditi Shankar Chakraborty (Ld. APP),
: Mr. Ujjwal Luksom,

Heard On : 13.02.2025.

Judgment On : 13.02.2025.

Rai Chattopadhyay, J.

1. The instant application by petitioner is to seek quashing of the proceedings in connection with the Tufangunj Police Station Case No. 834/22 dated 2/10/2022, lodged under section 306 of the IPC. The connected GR Case No. 1138 of 2022 is now pending in the Court of learned Additional Chief Judicial Magistrate at Tufangunj, Cooch Behar.

2. FIR as above has been lodged by the father of the deceased contending and alleging inter alia that his third son has consumed poison at about 11:30 AM on September 30, 2022. Immediately thereafter he was removed to Cooch Behar SJN Hospital, where the said person has breathed his last. The informant has mentioned that the wife of the deceased person has always been habitually inflicting mental torture upon the said deceased person, during his lifetime. As a result of the said torture, the said person has committed suicide. That, the wife of the deceased has not even attended the last rights of the deceased person. The complainant has also stated in the FIR that the mother of the said wife of the deceased person as well as her sister have been involved in inflicting mental torture to the deceased person during his lifetime, so much so to drive him to commit suicide. Thus, the two petitioners have been implicated in the criminal case, as above.

3. Ms. Suman Sehanabis (Mandal) has appeared for the petitioners. He has submitted that the FIR would not disclose any offence, so far as the present petitioners are concerned. He says that the allegations against the present petitioners, as made in the said First Information Report is only general in nature and that general and omnibus allegations should not compel the person against whom those are made, to face trial, as per law. She thereafter refers to an earlier police case lodged by the daughter of the petitioner No.1, that is, the wife of the deceased person, on October 1, 2022. By referring to the same, she has submitted that immediately after death of her husband on September 30, 2022, the wife has lodged an FIR on October 1, 2022, implicating therein the de facto complainant of the present case and others.

She says that in such view of the fact the present criminal case, which has been lodged only after the F.I.R. lodged by the daughter of the present petitioner No.1, appears to be frivolous, malicious, and only in order to wreck vengeance. In that view of the matter, according to the learned advocate appearing for the petitioners, to proceed further in connection with GR Case No. 1138 of 2022, against the petitioners, would tantamount to abuse of process of the Court. Hence, she insists that by espousing power under section 482 of the Cr.P.C., this Court quashes the criminal proceeding against the present petitioners.

4. The above submissions of the petitioners are, however, disputed and denied by the State. According to Mr. Ujjwal Luksom, who has represented the State in this case, the serious nature of offence as alleged against the petitioners and also the fact that charge-sheet has already been filed in this case, thereby bringing the prima-facie materials against the petitioner already on record, demand that the petitioners be committed for trial, as expeditiously as possible. Reliance has been placed on the statement of the witnesses, as available in the case diary, which were recorded during investigation under section 161 of the Cr.P.C., to buttress the submissions that, in this case, it would not be appropriate to say that there is no prima-facie material as regards the cognizable offence, against the present petitioners. It is submitted that the witness's statements show otherwise that the witnesses have eloquently spoken about the involvement of the present petitioners in commission of the alleged offence. Hence, according to the State, there is no merit in the present case and the same may be dismissed.

5. Heard both and perused the record and the case diary.
6. The well settled principles of law, as to when the Court should interfere into the criminal proceeding in exercise of its inherent power as per section 482 of the Cr.P.C. can be crisply mentioned to be :-

When the allegations made in the F.I.R., even if taken at their face value and accepted in entirety do not prima facie constitute any offence or make out any case against the accused persons, that the allegations against the accused persons do not disclose a cognizable offence justifying an investigation, that uncontroverted allegations made in the F.I.R. and the evidence collected in support of the same do not disclose commission of offence by the accused persons or make out a case against him/them, that the allegations made in F.I.R. are inherently improbable and absurd or that there is an express legal bar for continuance in a criminal proceeding against the accused persons or that the entire proceeding is result of mala fide intention and marred with malice or motive to wreck vengeance.

Now this Court is to examine on the anvil of the principles as led down by the law and the Constitutional Courts, if the petitioner's challenge as to the maintainability of the criminal proceeding against them, is worth subsisting and being upheld by this Court.

7. The petitioners are the mother-in-law and the sister-in-law of the deceased person. The FIR says that they are involved in torturing the deceased person during his lifetime, though without specifying any particulars about the same. The statements of the witnesses as available in the case diary, adds no input further regarding the same. Of course, in accordance with the law, the FIR needs not to be an encyclopaedia of the every minute details of the facts

involved, but materials to that extent, as to prima facie constitute the offence against the accused persons, are needed to be scribed therein, in order to substantiate its worth, justification and legality. There is scarcity of such essential material details in the present FIR, so far as the allegations against the present petitioners are concerned.

8. As regards the ingredients of offence under section 306 IPC are concerned, the law in this regard too, is well settled. The Court may refer to the decision of the Supreme Court in *Ude Singh v. State of Haryana* reported in (2019) 17 SCC 301, as follows:-

“15. Thus, “abetment” involves a mental process of instigating a person in doing something. A person abets the doing of a thing when:

(i) he instigates any person to do that thing; or

(ii) he engages with one or more persons in any conspiracy for the doing of that thing; or

(iii) he intentionally aids, by acts or illegal omission, the doing of that thing. These are essential to complete the abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do anything.

16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused

is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide.”

In this regard, the case of ***Jayedeeptsinh Pravinsinh Chavda v. State of Gujarat*** reported in (2025) 2 SCC 116 may also be mentioned :-

“28. *It is essential to establish that the death was a result of suicide and that the accused actively abetted its commission. This can involve instigating the victim or engaging in specific actions that facilitated the act. The prosecution must prove beyond doubt that the accused played a definitive role in the abetment. Without clear evidence of an active role in provoking or assisting the suicide, a conviction under Section 306IPC cannot be sustained.*

29. *The act of abetment must be explicitly demonstrated through actions or behaviours of the accused that directly contributed to the victim's decision to take their own life. Harassment, in itself, does not suffice unless it is accompanied by deliberate acts of incitement or facilitation. Furthermore, these actions must be proximate to the time of the suicide, showcasing a clear connection between the accused's behaviour and the tragic outcome. It is only through the establishment of this direct link that a conviction under Section 306IPC can be justified. The prosecution bears the burden of proving this active involvement to hold the accused accountable for the alleged abetment of suicide.*

30. *Therefore, for a conviction under Section 306IPC, there must be clear evidence of direct or indirect acts of incitement to commit suicide. The cause of suicide, especially in the context of abetment, involves complex attributes of human behaviour and reactions, requiring the court to rely on cogent and convincing proof of the accused's role in instigating the act. Mere allegations of harassment are not enough unless the accused's actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide.*

31. *The court examines whether the accused's conduct, including provoking, urging, or tarnishing the victim's self-esteem, created an unbearable situation. If the accused's actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation. Each case demands a careful evaluation of facts, considering the accused's intent and its impact on the victim.”*

9. Since the FIR and other materials have to contain the bare minimum details on the face of it, so far as commission of the alleged cognizable offence by the accused persons are concerned, in view of the materials on

record, vis-a-vis the ingredients of the offence as alleged against the petitioners are concerned, one can hardly find any materials, much less than any strong prima-facie materials, against the present petitioners.

10. It is also required to be discussed that revolving the incident of suicidal death of a person, case and counter case have arisen. Three consecutive days were very eventful, when on September 30, 2022, the son of the present de facto complainant has committed suicide. Immediately thereafter on the subsequent day, that is on October 1, 2022, the wife of the deceased has lodged an FIR, with allegations against the present de facto complainant and others. On the day thereafter, that is, on October 2, 2022, the instant FIR was lodged, approximately about 48 hours after the incident. There is, however, no plausible reason detectable for such delay in filing the FIR, by the present de facto complainant. Hence, one cannot ignore the possibility of malice and grudge to have prompted the de facto complainant to file the instant case against the petitioners as a result of the previous criminal case filed against him and others.
11. For the reasons as discussed above the Court finds it not proper and not in compliance with the manner in which the law is settled, to render the present petitioners to be sent up to face trial in the present case. That would be a gross abuse of the Court's process, so far as this case is concerned. Hence, the instance is found to be the fit case in which the Court should interfere and in exercise of the power under section 482 Cr.P.C., quash the entire criminal proceedings against the present petitioners.

12. The revision being CRR No 506 of 2024 is allowed. The criminal proceedings against the present petitioners, pursuant to the Tufangunj Police Station Case No. 834/22 dated 2/10/2022 and the connected GR Case No. 1138 of 2022, which is now pending in the Court of learned Additional Chief Judicial Magistrate at Tufangunj, Cooch Behar, is quashed.
13. Urgent certified website copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)