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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3297 OF 2024

1. Vijay Laxman Patil,
Age: 41 years, Occu.: Driver
2. Mohini Vijay Patil,
Age: 35 years, Occu.: Household,

Both R/o. Village Kedi Pra. Ja,
Tal. Amalner, Dist. Jalgaon.

... Applicants

Versus

1. The State of Maharashtra,
Through its Amalner Police Station,
Amalner, Tal. Amalner, Dist. Jalgaon
2. Satish Morchand Patil,
Age: 31 years, Occu: Service,
R/o. Gut No. 176/177, Ganesh Nagar,
Talwade, Pune.

... Respondents

.....

Mr. Vijay B. Patil, Advocate for Applicants
Mr. S.A. Gaikwad, APP for Respondent No.1 – State
Mr. N.S. Shah, Advocate for Respondent No.2

.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATED : 03 SEPTEMBER, 2025

JUDGMENT [Per Hiten S. Venegavkar]:-

1. Rule. Rule made returnable forthwith. With the consent of the learned advocates appearing for the respective parties, the matter is taken up for final hearing at the admission stage.

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2. The present applicants are arraigned as accused Nos. 5 and 6, respectively, in C.R. No. 05 of 2021 dated 06.01.2021, registered with Amalner Police Station, Taluka Amalner, District Jalgaon, for the offences punishable under Sections 306, 354, 448, 143, 323, 504, 506, and 427 read with Section 34 of the Indian Penal Code (hereinafter referred to as the 'IPC'). The applicants invokes inherent powers of this Court under Section 482 of the Code of Criminal Procedure (hereinafter referred to as the 'Cr.P.C.'), seeking quashing of aforesaid FIR along with charge-sheet and further consequential proceedings is Sessions Case No.08 of 2022, pending before the learned Sessions Judge, Amalner, District Jalgaon.

FACTUAL MARTRIX :

3. FIR No. 05 of 2021 was registered at the instance of one Satish Morchand Patil, the son of the deceased, Ushabai Morchand Patil. It is alleged that the Ushabai was residing alone in her house at village Khedi (*Khurd*). Since February 2020, her neighbours, namely (1) Bhagwan Pandit Patil, (2) Jyerndbai Bhagwan Patil, (3) Kamlesh Bhagwan Patil, (4) Amol Bhagwan Patil, (5) Vijay Laxman Patil, and (6) Mohini Vijay Patil, who are also related to the complainant, has been harassing Ushabai. On the occasion of some religious function in the house of Bhagwan Pandit Patil, Ushabai had come to the Amalner at

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Market for marketing. After completing the shopping, Ushabai returned to her house in the village and found that an offering (*Naivedya*) to god had been placed beneath the *Peepal* tree in front of her house. Ushabai, therefore questioned Kamlesh Bhagwan Patil as to why they have placed the offering at such a place where dog have spread it all over and likely to come under the feet of passersby. It is alleged that the accused persons got angry and started assaulting Ushabai with kicks and fist blows and were also hurling abuses. The Ushabai immediately informed the complainant about the incident over the phone. The aforesaid incident was also reported to Amalner Police Station by Ushabai. When the accused persons came to know about the said complaint, they also filed separate complaint against Ushabai. During the enquiry complaints, both the parties have summoned by Police. Parties arrived at a compromise and the complaints were resolved. It is further alleged that, in the month of April 2020, while Ushabai was filling water from public tap, she informed the neighbouring residents about the alleged incident of assault and abuse. Hearing the said talk, it is alleged then accused again gave abuses to deceased and threatened her to assault by saying that, 'nobody can do anything to us'. It is alleged that, at that time also, she was assaulted and abused. The aforesaid incident was also informed by Ushaba to her daughter Smita Umesh Baviskar and Durga Dinesh Patil on phone. It is further alleged that the informant

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told the deceased that there is lockdown all over due to corona and he is unable to come; and therefore, if any legal action is required to be taken, it can be done only after he visits the village.

4. The informant, thereafter, in the month of May 2020 visited the village and resided with the deceased Ushabai for almost one month. During this period, the aforesaid persons did not raise any quarrel either with the deceased or with the informant. When the informant enquired about the assault on the deceased by the aforesaid persons, they replied that the deceased herself had abused them without any reason and further threatened the informant. At that time, the deceased told the informant not to speak with them. The informant, thereafter, alleged that, from time to time the above named persons had raised quarrels with the deceased and have assaulted her thereby causing physical and mental harassment to her

5. On 09.10.2020 at about 10.30 a.m., when the deceased was cleaning her compound, Amol Bhagwan Patil and Mayur Pravin Patil addressed the deceased by saying that she had been assaulted several times, and even thereafter nothing had happened to them. It is alleged that, when the deceased tried to confront both of them, at that time, (1) Vijubai Pitambar Patil, (2) Jyerndbai Bhagwan Patil, (3) Bhagwan Pandit Patil, (4) Amol Bhagwan Patil, (5) Vijay Laxman Patil, (6) Mohini

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Vijay Patil, (7) Bhatabai Pravin Patil, (8) Mayur Pravin Patil and (9) Shamrao Dhudku Patil started assaulting the deceased and pelted stones towards the house. In the said physical assault, the clothes worn by the deceased were torn and her bed was also broken. The deceased immediately informed the said alleged incident to the informant.

6. It is further alleged that on 18.12.2020, the deceased was again assaulted and was threatened with her life. The said incident was reported by the deceased to the police station, however, no complaint or action was taken. This incident was informed to the informant by his friend Suraj Nandlal Patil.

7. On 26.12.2020, when deceased was in her house, all above named persons came with sticks and threatened by saying, “तु जर घरी आली तर तुला परत मारहाण करू” by uttering this threat they locked the house of deceased. The deceased in fear of getting assaulted, went to her relatives. Thus, from 01.01.2021, the informant had no contact with deceased.

8. It is alleged that on 04.01.2021, the informant made a telephone call to village Police Patil and enquired about the deceased. The Police Patil informed the informant that the deceased had come to the village on 02.01.2021 asking to open the doors of her house, which had been

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locked. The Police Patil showed his inability to open the lock. On 04.01.2021 at about 08.30 p.m., when the informant was at his workplace, his elder sister Smita Baviskar informed him on telephone that deceased had expired. The informant therefore called up his brother-in-law Dinesh Patil at Thane, who informed that the deceased had committed suicide by hanging herself in village house. The informant, therefore, immediately rushed to his village; the dead body was at the Gramin Hospital in Amalner. The informant, after two days, i.e. on 06.01.2021 at 01.00 p.m. lodged an FIR against (1) Bhgwan Pandit Patil, (2) Jyerndbai Bhagwan Patil, (3) Kamlesh Bhagwan Patil, (4) Amol Bhagwan Patil, (5) Vijay Laxman Patil, (6) Mohini Vijay Patil, (7) Vijubai Pitambar Patil, (8) Bhatabai Pravin Patil, (9) Mayur Pravin Patil and (10) Shamrao Dhudku Patil all residing at Khedi (*Khurd*), Taluka Amalner, District Jalgaon, alleging that all the aforesaid persons have conspired together and had assaulted the deceased and have abused and threatened her on 09.10.2020, thereby causing mental and physical harassment due to which she committed suicide by hanging herself.

9. Learned Advocate appearing for the applicants argued that the plain reading of the FIR and the allegations made therein does not constitute an offence under Section 306 of the IPC and on perusal of the

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entire charge-sheet, the necessary ingredients of Section 306 of the IPC are not made out. It was further argued that the prosecution's reliance on the suicide note is not justified, as the same is not part of the charge-sheet and the translated script, which is placed on record cannot be relied upon and in absence of the original suicide note. It is further prayed that the statements of the witnesses and the police papers clearly indicate that the deceased was hot-tempered and was always responsible for quarrels with the applicants and others. It was further argued that in the entire police papers and charge-sheet, there are absolutely no allegations against the applicant regarding any harassment caused to the deceased which left her with no option but to commit suicide.

10. To counter the arguments of the applicants' advocate, the learned prosecutor submitted that the material placed on record by way of the charge-sheet suggests that the deceased was constantly harassed through repeated incidents of assault and abuse. The deceased was an old lady staying alone in the village while her children were away for work. The learned prosecutor also argued that the translated transcript of the suicide note, originally written in the *Ahirani* script, is on record, wherein the deceased had clearly mentioned the harassment caused to her by the accused persons. According to the learned prosecutor, this is

not a fit case for the Court to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR.

11. We have also heard the learned Advocate for original complainant. Toeing the line of argument of the learned prosecutor, the learned Advocate for informant submitted that the deceased, who was an old lady staying alone in the village away from her children, was constantly abused, assaulted, and threatened by the accused persons. She had made several attempts to approach the local police station for filing complaints against the accused; however, the harassment did not stop and continued from time to time, due to which she was continuously under physical and mental pressure. The learned Advocate submitted that there is substance in the suicide note, which is part of the charge-sheet though in a transcribed version as the original was written in *Ahirani* script/language. He thus submitted that the application does not have any merits and hence is liable to be rejected.

12. We have considered the submissions made on behalf of all the parties, and we have also perused the entire record including the charge-sheet and the documents produced by the learned Advocate for the informant. Perusal of the complaint discloses that there was a constant dispute between the accused persons and the deceased on several counts. There had been frequent quarrels, and both parties have

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indulged in physical and verbal abuses. The record shows that both parties have filed police complaints against each other. On one occasion, the police had called both the parties and have given them understanding to maintain peace and not indulge in such quarrels or verbal abuses against each other. However, the said quarrels have continued even thereafter. Thus, it can be seen that on some or the other count the deceased and the accused persons were not getting along and regularly indulged themselves in physical and verbal fights.

13. The investigating officer, while registering an offence on the basis of the FIR, registered the same under Sections 306, 354, 448, 143, 147, 323, 504, 506, and 427 read with Section 34 of the IPC. It is therefore necessary to find out whether, on the basis of available material on record, the ingredients required to establish an offence under Section 306, which is the main offence among all, is made out?

14. In short, the aforesaid facts and circumstances can be summarised as under:-

The informant who happens to be the son of the deceased has lodged the subject FIR alleging therein that his mother, a widow residing in the neighbourhood of the accused persons, who also happens to be their relatives, was continuously subjected to harassment, and humiliation. On one occasion, her house was alleged to have been

locked by the accused persons, and therefore, she was compelled to stay at her relative's place in the neighbouring village. It is thus alleged that due to such consistent harassment ultimately she drove herself to end her life by hanging in her house on 04.01.2021. Assuming that the allegations made in the complaint are taken at their face value, the said allegations still have to be decided on the touchstone of the legal position pertaining to Section 482 of the Cr.P.C. and Section 306 of the IPC, as laid down by the Hon'ble Supreme Court.

15. The legal position as to scope of the petitions filed under Section 482 of Cr.P.C. are well established and settled in the landmark judgment of *State of Haryana and others vs. Bhajanlal and others*, reported in 1992 Supplementary (1) SCC 335, wherein the Hon'ble Supreme Court enumerated seven categories where quashing is justified. Out of seven categories, two categories, which are application to the present case are:

Category I - Where the allegations, even if they are accepted in their entirety, do not disclose any offence.

Category VII - Where a criminal proceedings are manifestly attended with *mala fide* and/or malicious intent.

The above principles guide the exercise of inherent powers, which are to be exercised either to prevent abuse of the process of law or to secure the ends of justice. Keeping these principles in mind, we proceed to analyze the legal position as far as Section 306 of IPC is concerned.

16. Recently, in ***Prakash and Others vs. State of Maharashtra and Another***, 2024 SCC OnLine SC 3835, the Hon'ble Supreme Court has held as under:

“26. Thus, this Court has consistently taken the view that instigation or incitement on the part of the Accused person is the gravamen of the offence of abetment to suicide. However, it has been clarified on many occasions that in order to link the act of instigation to the act of suicide, the two occurrences must be in close proximity to each other so as to form a nexus or a chain, with the act of suicide by the deceased being a direct result of the act of instigation by the Accused person.

27. This Court in the case of Mohit Singhal (supra) reiterated that the act of instigation must be of such intensity and in such close proximity that it intends to push the deceased to such a position under which the person has no choice but to commit suicide. This Court held that the incident which had allegedly driven the deceased to commit suicide had occurred two weeks prior and even the suicide note had been written three days prior to the date on which the deceased committed suicide and further, there was no allegation that any act had been done by the Accused-Appellant therein in close proximity to the date of suicide. This Court observed as follows:

11. In the present case, taking the complaint of the third Respondent and the contents of the suicide

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*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.***

12. Therefore, in our considered view, the offence punishable Under Section 306 Indian Penal Code was not made out against the Appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of law.”

17. In the case of ***Sanju @ Sanjay Singh Sengar v. State of Madhya Pradesh***, (2002) 5 SCC 371, the Hon’ble Supreme Court held that even direct words subsequent in a quarrel, such as ‘go and die,’ were insufficient to constitute abetment [Paragraph 12 of the same judgment].

18. In another judgment of ***S.S. Chheena v. Vijay Kumar Mahajan***, (2010) 12 SCC 190, the Hon’ble Apex Court has held as under:

“15. In order to properly comprehend the scope and ambit of Section 306 IPC, it is important to carefully examine the basic ingredients of Section 306 IPC. The said section is reproduced as under:

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

16. The word "suicide" in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. "Sui" means "self" and "cide" means "killing", thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

17. Suicide by itself is not an offence under either English or Indian criminal law, though at one time it was a felony in England. In England, the former law was of the nature of being a deterrent to people as it provided penalties of two types:

- Degradation of corpse of the deceased by burying it on the highway with a stake through its chest.*
- Forfeiture of property of the deceased by the State.*

This penalty was later distilled down to merely not providing a full Christian burial, unless the deceased could be proved to be of unsound mind. However, currently there is no punishment for suicide after the enactment of the Suicide Act, 1961 which proclaims that the rule of law whereby it was a crime for a person to commit suicide has been abrogated.

18. In our country, while suicide in itself is not an offence, considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 IPC.

19. "Abetment" has been defined under Section 107 of the

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Code. We deem it appropriate to reproduce Section 107, which reads as under:

107. Abetment of a thing.--A person abets the doing of a thing, who--

First. -- Instigates any person to do that thing; or

Secondly. -- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.--Intentionally aids, by any act or illegal omission, the doing of that thing.

20. Explanation 2 which has been inserted along with Section 107 reads as under:

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.

21. The learned Counsel for the appellant has placed reliance on a judgment of this Court in Mahendra Singh v. State of M.P., 1995 Supp (3) SCC 731. In Mahendra Singh, the allegations levelled were as under:

1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning.

The Court on the aforementioned allegations came to a definite conclusion that by no stretch the ingredients of

abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under Section 306 IPC merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

22. The learned Counsel also placed reliance on another judgment of this Court in Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618. In this case, a three-Judge Bench of this Court had an occasion to deal with a case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered "you are free to do whatever you wish and go wherever you like". Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in para 20 has examined different shades of the meaning of "instigation". Para 20 reads as under:

“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.”

In this case, the court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide by Seema may necessarily be drawn.

23. In State of West Bengal v. Orilal Jaiswal (1994) 1 SCC

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“17. the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears 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.”

24. This Court in *Chitresh Kumar Chopra v. State* (2009) 16 SCC 605 had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". 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 other. 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.

25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit

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

19. On the contrary, the latest judgment delivered on 18.08.2025 by the Ho'ble Apex Court in the case of ***Abhinav Mohan Delkar Vs. The State of Maharashtra***, MANU/SC/1103/2025, the court was dealing with the similar issue pertaining to Section 306 and 107 of the IPC on the ground of positive act and to close proximity of commissioning suicide. The Apex Court in this judgment considered various citations pronounced by the Apex Court from time to time and observed as follows:

“22. What comes out essentially from the various decisions herein before cited is that, even if there is allegation of constant harassment, continued over a long period; to bring in the ingredients of Section 306 read with Section 107, still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the extreme act of taking one's life. Figuratively, 'the straw that broke the camel's back'; that final event, in a series, that occasioned a larger, sudden impact resulting in the unpredictable act of suicide. What drove the victim to that extreme act, often depends on individual predilections; but whether it is goaded, definitively and demonstrably, by a particular act of another, is the test to find mens rea. Merely because the victim was continuously harassed and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation constituting abetment. Mens rea cannot be gleaned merely by what goes on in the mind of the victim.

23. *The victim may have felt that there was no alternative or option, but to take his life, because of what another person did or said; which cannot lead to a finding of mens rea and resultant abetment on that other person. What constitutes mens rea is the intention and purpose of the alleged perpetrator as discernible from the conscious acts or words and the attendant circumstances, which in all probability could lead to such an end. The real intention of the accused and whether he intended by his action to at least possibly drive the victim to suicide, is the sure test. Did the thought of goading the victim to suicide occur in the mind of the accused or whether it can be inferred from the facts and circumstances arising in the case, as the true test of mens rea would depend on the facts of each case. The social status, the community setting, the relationship between the parties and other myriad factors would distinguish one case from another. However harsh or severe the harassment, unless there is a conscious deliberate intention, mens rea, to drive another person to suicidal death, there cannot be a finding of abetment under Section 306.*

24. *We have already seen that even a rebuke to "go, kill yourself"; often a rustic expression against distasteful conduct, cannot by itself be found to have the ingredients to charge an offence of abetment to suicide. There is no uniformity in how different individuals respond and react under pressure. Many stand up, some fight back, a few runaway and certain people crumble and at times take the extreme step of suicide. To put the blame on the pressure imposed and the person responsible for it, at all times, without something more to clearly discern an intention, would not be the proper application of the penal provisions under Section 306.*

25. *In this context, useful reference can be made to Sections 113A & 113B of the Indian Evidence Act, 1872 providing statutory presumptions in aid of Sections 498A &*

*304B, respectively, of the IPC. When a woman dies by suicide within seven years of her marriage, if it is shown that she was subjected to cruelty by her husband or his relative, there arises a presumption that the husband or such relative abetted the suicide, in which event the penalty under Section 306 is attracted. The presumption under Section 113A was statutorily employed by the Parliament, realizing the menace and in an attempt to prevent domestic violence unleashed on women in the patriarchal society, by deterrence. This exercise would not have been necessary if Section 107 did provide for finding abetment without conscious instigation constituting mens rea. This Court held in **Mangat Ram v. State of Haryana**, (2014) 12 SCC 595, that the provision only enabled the court to presume on the abetment, having due regard to all other circumstances of the case and drawing such presumption is purely within the discretion of the Court.”*

20. Considering the above position of law, in respect of the offences punishable under Section 306 of IPC as laid down by the Hon’ble Supreme Court of India, we would like to place on record, certain dates and events along with the facts from the charge-sheet of the present case.

Date	Event
February 2020	Out of all the accused, six assaulted the deceased on account of her questioning them about the offering (<i>Naivadya</i>) in front of her house.
April 2020	The deceased was abused, threatened, and assaulted by a few of the accused persons
May 2020	The informant himself questioned the accused persons about the quarrels and assaults on his deceased mother. He was also threatened
09.10.2020	Amol Patil and Mayur Patil (main accused) along with other accused persons assaulted the deceased and pelted stones on the house of the deceased. In the said assault, the blouse of the deceased was torn and her bed was also broken.

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18.12.2020	The deceased was again abused, assaulted and threatened with her life.
26.12.2020	All the accused persons went to the house of the deceased with sticks and locked the house of the deceased. The deceased, due to fear, left the village and went to her relative.
02.01.2021	The deceased came back to the village and requested the Police Patil to open the lock, however, he did not open the lock.
04.01.2021	The deceased committed suicide by hanging herself in the village

21. Thus, on perusal of the aforesaid dates and events, the last incident of quarrel between the accused persons and the deceased have taken place on 26.12.2020. As per the narration give by the informant in FIR, the deceased have thereafter contacted him and informed him about the alleged incident and then have gone to her relatives and resided with them till 02.01.2021. The facts of the FIR also discloses that, on 02.01.2021, the deceased again visited her village and meeting village Patil requesting him to open the lock of her house door. The facts are unclear as to where the deceased resided between 02.01.2021 and 04.01.2021, but the inference can be safely drawn that as she committed suicide in her own house, that means she had entered the house and resided there till she decided to commit suicide on 04.01.2021. Thus, from 26.12.2020 till 04.01.2021, there was no contact or quarrel between the deceased and the accused persons. The live and proximate link between the acts of the accused and the decision of the deceased to commit suicide is absent. The interregnum

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between 26.12.2020 and 04.01.2021, unconnected with any act of the accused, breaks the chain of causation.

22. The prosecution as well as learned Advocate for respondent No.2 had tried to place reliance on the transcript of suicide note mentioned in the charge-sheet. We have gone through the said transcript, however, certain circumstances connecting the suicide note creates a doubt about its genuineness. Firstly, its absence from the spot during the spot panchanama, and the failure of the prosecution to seize the original note when the panchanama was carried out, casts serious doubt on its reliability. Secondly, the said suicide note is said to be produced by the informant with his handwritten statement addressed to Police Inspector Amalner, Police Station, District Jalgaon. The said written application/statement was produced before us by the learned Advocate for respondent No.2. The said statement is undated and merely makes reference to the suicide note written by the deceased. The said statement then goes to the extent of implicating Police Patil Shri Nilesh Chandrakant Patil and Yashwant Dhudku Patil. When we made query with the prosecutor as well as the learned Advocate for respondent No.2 as to when and from where the said suicide note was found by the informant, there was no satisfying answer given to us, except informing that respondent No.2 had produced it before the police. It appears that

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there is also no investigation by police to that effect. It is also shocking to note that the original suicide note does not form part of the charge-sheet, and it only makes reference to the translated portion. The reason provided for not annexing the copy of the suicide note to the charge-sheet is that the original suicide note was written in Ahirani script and hence the translated script was mentioned in the charge-sheet. We also tried to perused the entire charge-sheet to find out whether any supplementary statement of respondent No.2 is recorded under Section 161 of Cr.P.C. by the police in support of the said suicide note, however, there is none. In this backdrop, we are constrained to discard the existence of the suicide note, as mere production of a translated script without proof of authorship or seizure takes away its evidentiary value. Even if we tried to give reasonable benefit to respondent No.2 and proceed to consider the existence of the suicide note and its contents, it still reflects grievance and not instigation. Thus, in our view, Section 306 of the IPC cannot be invoked in the absence of abetment and its essential elements as defined under Section 107 of the IPC. The FIR speaks on long-standing quarrels between neighbours. Such quarrels, though confrontational, are part of social life and, by themselves, do not amount to instigation as required under criminal law to initiate penal action against the accused.

23. The FIR also mentioned several other offences along with the main offence punishable under Section 306 of IPC. Turning to Section 354 of IPC, the FIR contains absolutely no particulars of any specific Act of assault or criminal force. In the backdrop of vague allegations and lack of particulars of date, time or act for attracting Section 354 of IPC, Section 354 of IPC is not made out. The Hon'ble Supreme Court in the case of ***Aman Kumar and Another Vs. State of Haryana***, (2000) 4 SCC, 379, has held as under:

“13. There is no material to show that the accused were determined to have sexual intercourse in all events. In the aforesaid background, the offence cannot be said to be an attempt to commit rape to attract culpability under Section 376/511 IPC. But the case is certainly one of indecent assault upon a woman. Essential ingredients of the offence punishable under Section 354 IPC are that the person assaulted must be a woman, and the accused must have used criminal force on her intending thereby to outrage her modesty. What constitutes an outrage to female modesty is nowhere defined. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex. The act of pulling a woman, removing her dress coupled with a request for sexual intercourse, is such as would be an outrage to the modesty of a woman, and knowledge, that modesty is likely to be outraged, is sufficient to constitute the offence without any deliberate intention having such outrage alone for its object. As indicated above, the word

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'modesty' is not defined in IPC. The Shorter Oxford Dictionary (Third Edn.) defines the word 'modesty' in relation to woman as follows :

"Decorous in manner and conduct; not forward or lowe; Shame-fast; Scrupulously chast."

14. Modesty can be described as the quality of being modest; and in relation to woman, "womanly propriety of behavior; scrupulous chastity of thought, speech and conduct." It is the reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions. As observed by Justice Patterson in Rex v. James Llyod (1836) 7 C&P 317 in order to find the accused guilty of an assault with intent to commit a rape, court must be satisfied that the accused, when he laid hold of the prosecutrix, not only desired to gratify his passions upon her person but that he intended to do so at all events, and notwithstanding any resistance on her part. The point of distinction between an offence of attempt to commit rape and to commit indecent assault is that there should be some action on the part of the accused which would show that he was just going to have sexual connection with her."

24. Likewise in the case of ***Rupan Deol Bajaj (Mrs) and Another Vs.***

Kanwar Pal Singh Gill and Another, (1995) 694, the Hon'ble Apex Court

has held as under:

"13. Coming now to the moot point as to whether the above allegations constitute any or all of the offences for which the case was registered, we first turn to Sections 354 and 509 [PC, both of which relate to modesty of woman. These Sections read as under :

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either

description for a term which may extend to two years, or with fine, or with both.

509. *Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.*

14. *Since the word 'modesty' has not been defined in the Indian Penal Code we may profitably look into its dictionary meaning. According to Shorter Oxford English Dictionary (Third Edition) modesty is the quality of being modest and in relation to woman means "womanly propriety of behavior; scrupulous chastity of thought, speech conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions".*

15. *In State of Punjab v. Major Singh, AIR 1967 SC63 a question arose whether a female child of seven and a half months could be said to be possessed of 'modesty' which could be outraged. In answering the above question Mudholkar J., who along with Bachawat J. spoke for the majority, held that when any act done to or in the presence of a woman is clearly suggestive of sex according to the common notions of mankind that must fall within the mischief of Section 354 IPC. Needless to say, the 'common notions of mankind' referred to by the learned Judge have to be gauged by contemporary societal standards. The other learned Judge (Bachawat J.) observed that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From the above dictionary meaning of 'modesty' and the interpretation given to that word by this Court in Major Singh's case (supra) it appears to us that the ultimate test for ascertaining whether modesty has been outraged is the action of the offender such as could be perceived as one*

which is capable of shocking the sense of decency of a woman. When the above test is applied in the present case, keeping in view the total fact situation, it cannot but be held that the alleged act of Mr. Gill in slapping Mrs. Bajaj on her posterior amounted to 'outraging of her modesty' for it was not only an affront to the normal sense of feminine decency but also an affront to the dignity of the lady - "sexual overtones" or not, notwithstanding."

25. In the present case, the allegation in the FIR is that during the quarrel, blouse of the deceased was torn; this Act does not indicate that there was any criminal force with intent to outrage or that the act was accompanied by intention or knowledge. It might be during scuffle that blouse was torn. In absence of these requisites, Section 354 of IPC is also not made out.

26. Similarly, Section 323 of the IPC is not attracted for want of particulars of injury. To establish an offence under Section 323, proof of hurt is required. As neither injury particulars nor medical records are forthcoming, Section 323 of the IPC does not get attracted in the present case.

27. In respect of Section 506 of the IPC, a mere statement in the FIR that all the accused persons threatened the deceased does not attract the ingredients of the said provision. Section 506 requires a specific allegation and proof of a threat with the intent to cause alarm to the person threatened. The Apex Court in the case of ***Manik Taneja and***

Another Vs. State of Karnataka and Another, (2015) 7 SCC 423, held as under:

“11. Section 506 Indian Penal Code prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 Indian Penal Code is as under:

503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.”

28. Similarly, Section 427 requires proof of mischief causing loss of more than Rs.50. No such particulars are found on record before us.

29. Section 448 of the IPC contemplates unlawful entry into a house

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with intent to commit an offence. The allegation in the FIR is that the accused locked the house of the deceased from outside. In our view, Section 448 of the IPC requires unlawful entry into the house with criminal intent to commit an offence. The record does not indicate that there was any such intent of the accused persons. In fact, the deceased was found hanging in her own house, and therefore, even this allegation has been held to be disproved that her house was locked by the accused persons. The FIR is silent on all these particulars.

30. Section 504 requires intentionally provoking breach of peace. The particulars in the FIR discloses that there was a quarrel from both the sides and hence it cannot be said that the accused have intentionally instigate for provoking breach of peace as required under Section 504 of IPC, and in absence of the same, even Section 504 of IPC is not attracted.

31. Sections 143 and 147 of the IPC require proof that the assembly consisted of five or more persons with a common object as defined under Section 141 of the IPC. Mere relationship among the persons does not suffice to constitute such an unlawful assembly. The FIR mentions that all the applicants together quarrelled with the deceased, harassed, and abused him, but it does not disclose any material to show that there was a meeting of minds or any specific act by either of them

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aligned to an unlawful common object. In confrontational quarrel, to hold individuals under Sections 143 and 147 of the IPC without the necessary particulars as mentioned above, would amount to abuse of the process of law. In our view, even Sections 143 and 147 of the IPC are not attracted.

32. Similarly, Section 34 of the IPC postulates a prearranged plan and participation pursuant to such plan. Mere allegations against a group of persons, in the absence of specific particulars, cannot fasten constructive liability without any particulars to establish meeting of minds. On the present material on record, Section 34 of the IPC does not get attracted.

33. On a holistic appraisal, the allegations, even if taken in their entirety, do not constitute the offence as alleged. The prosecution is, therefore, an abuse of the process of law and falls within Category I of ***Bhajanlal's*** case (supra). The Court is conscious that a life has been lost and that the informant has lost his mother. Yet, criminal law cannot be stretched by sympathy. Its applicability must be proved within the four corners of the statute. The allegations disclose only confrontational quarrels. The suicide note is unreliable and the essential ingredients of Section 306 and companion offences are not satisfied to compel the applicants to stand trial. Hence, we proceed to pass the following order:

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ORDER

- [i] Criminal Application stands allowed.
- [ii] The proceedings in Sessions Case No. 08 of 2022, pending before the Court of Sessions Judge at Amalner, arising out of FIR vide Crime No.05 of 2021 dated 06.01.2021 for offence punishable under Sections 306, 354, 448, 143, 147, 323, 504, 506 427 read with Section 34 of the Indian Penal Code, registered with Amalner Police Station, Amalner, District Jalgaon, stands quashed and set aside as against applicant Nos. 1 and 2, namely: 1) Vijay Laxman Patil, and 2) Mohini Vijay Patil.
- [iii] Rule is made absolute in above terms.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE