



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3818 OF 2024

**SHESHRAO S/O BHIVCHAND PAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Mr. Bagdiya Vishal Amritlal, Advocate for Applicants
Ms. U. S. Bhosale, APP for Respondent-State
Mr. Akram Inamdar h/f Mr. Kazi S. S., Advocate for Respondent
No.2

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**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 19/06/2025.

P. C. :

1. By this application the applicants seek quashing of the FIR bearing Crime No.0399 of 2024 dated 29/07/2024, registered with Kalamnuri Police Station, District Hingoli for the offences punishable under Section 108 read with 3(5) of Bhartiya Nyaya Sanhita, 2023. Pursuant to the filing of the charge sheet, case is numbered as RCC No.118 of 2025, pending before Judicial Magistrate (First Class), Kalamnuri.

2. Second respondent, brother of the deceased, lodged FIR in short alleging that his family was having 7 Hectar 17 R land in Dhanora Shivar. In the year 1974, Government acquired 4 Hectar

61 R land for Isapur dam. Remaining agricultural land was in possession of the informant. Compensation of the said acquired land was received by them. Remaining 2 Hectore 56 R land was sold by his father Ambadas Digambar Chandrawanshi to Mahesh Shesherao Pawar and Santosh Shesherao Rathod jointly in the year, 1994. The land acquired by the Government for the dam was being cultivated by the informant. Thereafter, his father Ambadas expired in the year 2010. Thereafter, since last 5 years, the said land was not being given to the informant's family for cultivation. The said land was being allotted to Vimal Shesherao Pawar for cultivation. When the informant applied to the Collector's Office, he came to know that his father had given possession of the said land to Vimal Shesherao Pawar. Informant, therefore, challenged the handing over possession of land to Vimal by approaching Collector. Collector ordered that the said land should be handed over to the original owner i.e. to the legal heirs of his father. However, since this land is submerged in water, its measurement could not be done. He had applied to the land records office. Applicants approached the Tahsildar and the matter was pending before the Tahsildar. Though there was order passed by the collector to hand over the said land for cultivation to the informant's family, the applicants in collusion, did not allow the informant's family to cultivate the said land. When

the informant requested the applicants to hand over the possession of the said land to him, they were threatening to implicate him in false cases. Except the said land, they did not have any other source of livelihood. Therefore, the informant and his brother suffered mental harassment. On 29th July 2024 at around 6:00 a.m., he noticed a WhatsApp status posted by his brother Krushna, stating that he was going to commit suicide. Therefore, informant alongwith his relatives took search of his brother. In the field of Digambar Chandrawanshi, they saw Krushna hanging on a tree. Then he informed Police Patil. He, therefore, claimed that because of the harassment at the hands of applicants, his brother committed suicide. On completion of investigation, charge sheet was filed and the case is numbered as RCC No.118 of 2025.

3. Heard learned advocate for the applicants, learned APP for the State and learned advocate for the second respondent.

4. Learned advocate for the applicants submits that none of the ingredients of Section 306 of IPC are made out in the FIR or in the charge sheet and continuation of the prosecution is an abuse of process of court. In support of his argument, he relied on the case of **Ayyub and others vs. State of Uttar Pradesh, (2025) 3 SCC**

334 and case of **Arnab Manoranjan Goswami vs. State of Maharashtra and others, (2021) 2 SCC 427.**

5. Learned APP and learned advocate for the second respondent – informant strenuously opposed the application contending that there is sufficient material on record to show that due to instigation on the part of the applicants, deceased has committed suicide. They therefore, prayed for dismissal of the application.

6. With the assistance of learned advocate for the applicants, learned APP and learned advocate for respondent No.2, we have perused the application and the charge sheet.

7. Before evaluating the FIR and material contained in the charge sheet, it is apt to refer relevant provisions of IPC, which are reproduced below for ready reference.

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.*

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

First.- Instigates any person to do that things; 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.

8. The Apex Court in number of judgments, has reiterated that in order to make 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. It has been further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC. (see *Madan Mohan Singh vs. State of Gujrat*, (2010) 8 SCC 628)

For abetting an offence, the person abetting must have intentionally aided the commission of the crime. Abetment requires an instigation to commit or intentionally aiding the commission of a crime. It presupposes a course of conduct or action which (in the context of present discussion) facilitates another to end life. Hence, abetment of suicide is an offence expressly punishable under

Sections 305 and 306 IPC. {vide Common Cause vs. Union of India, (2018) 5 SCC1}

9. The essential ingredients of the offence under Section 306 of IPC are ; i) the abetment; ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act of instigate the deceased to commit suicide. Unless the ingredients of instigation / abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC. {See M. Arjunan vs. State, (2019) 3 SCC 315}.

10. Instigation is defined by the Apex Court in **Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618** as follows:

“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.”

11. In **Pawan Kumar Vs. State of H.P., 2017(7) SCC 780**, it is held :

“43. Keeping in view the aforesaid legal position, we are required to address whether there has been abetment in committing suicide. Be it clearly stated that mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a conviction in terms of Section 307 IPC is not sustainable. A casual remark that is likely to cause harassment in ordinary course of things will not come within the purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for the victim to put an end to life.

12. In **Arnab Goswami** (*supra*) the Apex Court has considered Section 107 and observed as follows :

“50. The first segment of section 107 defines abetment as the instigation of a person to do a particular thing. The Second segment defines it with reference to engaging in a conspiracy with one or more other persons for the doing of a thing, and an act or illegal omission in pursuance of the conspiracy. Under the third segment, abetment is founded on intentionally aiding the doing of a thing either by an act or omission. These provisions have been construed specifically in the context of Section 306 to which a reference is necessary in order to furnish the legal foundation for assessing the contents of the FIR. These provisions have been construed in the earlier judgments of this Court in *State of W.B. v. Orilal Jaiswal*, *Randhir Singh v. State of Pubjab*, *Kishori Lal v. State of M.P.* (“Kishori Lal”) and *Kishangiri Magalgiri Goswami v. State of Gujrat*. In *Amalendu Pal v. State of W. P.*, *Mukundkam Sharma, J.*, speaking for a two-Judge Bench of this Court and having adverted to the earlier decisions, observed :

“12. It is also to be borne in mind that 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 of IPC is not sustainable.”

51. *The Court noted that before a person may be said to have abetted the commission of suicide, they “must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide.” Instigation, as this Court held in Kishori Lal, “literally means to provoke, incite, urge on or bring about by persuasion to do anything.” In S. S. Chheena v. Vijay Kumar Mahajan, a two Judge Bench of this Court, speaking through Dalveer Bhandari, J., observed :*

“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 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.”

13. Keeping in mind the aforesaid settled legal position, we now proceed to consider the FIR and material contained in the charge sheet against the applicants. From the allegations in the FIR and

the material in the charge sheet, it is clear that there is absolutely no material to show that the applicants have instigated and abetted the suicide of the deceased by doing any positive act proximate to the time of occurrence. In view of the ratio in **Ramesh Kumar** (*supra*), we find no material on record to show that by taking the land of the deceased for cultivation from the revenue authorities and by contesting the litigation against family of the deceased the applicants have instigated the deceased to commit suicide. The essential ingredients of *mens rea* to prove the offence under Section 306 of IPC is conspicuously absent in the present case. From the material on record it cannot be said that by contesting the litigation against the family of the deceased and by taking the deceased's alluvial land for cultivation, the accused intended that the deceased should commit suicide. There is no iota of evidence on record to establish that the applicants had guilty mind and in furtherance of that state of mind, they abetted the suicide of the deceased. Thus, there is no evidence capable of suggesting that the applicants intended by their acts to instigate the deceased to commit suicide. At the cost of repetition it needs to be mentioned here that there is no evidence on record to show that the applicants have played active role by an act of instigation or by doing certain act to facilitate the commission of suicide by the deceased. Therefore, there is no

substance in the prosecution case that the applicants have abetted suicide of the deceased.

14. It is necessary to mention here that some of the videos of the deceased are seized by police from his cell phone by drawing panchanama. In one of the videos, the deceased is seen making allegations against revenue officers. He has made a grievance that he and his family were not getting their land for cultivation, he has stated that he has only one request to the government that Maratha community should be given reservation from OBC category and the offences registered against Maratha brothers at Antarwali Sarati should be withdrawn. He has also stated in the said video that government officers are corrupt. Though his family's land was acquired in the era of Nizam, they got meager compensation. The government still has funds for the said dam. There are total 42 villages submerged in the dam water and funds allotted to these villages are still lying with the government. False offences are registered against family etc.

One photo of the deceased was downloaded from his cell phone. He has written below the photo that, "he has committed suicide for Maratha reservation and for alluvial land, Manoj Patil's strong supporter Krushna Patil Chandraveshi." Below another

photo it is mentioned that “for getting Maratha reservation I am committing suicide. I do not have house, service or reservation.” The videos and photos are seized vide panchnama dated 04/10/2024, which is part of the charge sheet.

15. In the light of above, it appears that due to frustration and in support of Maratha reservation, the deceased has committed suicide. The informant appears to have implicated the applicants with a view to settle personal scores and to pressurize them as they were contesting litigation against his family.

16. In the backdrop of the above, even if the allegations made in the FIR and material collected during investigation in the form of charge sheet are taken as it is, they do not make out any ingredient of Section 107 and Section 306 of IPC. From the attending circumstances it appears that the FIR is lodged out of grudge and to settle personal scores against the applicants. The continuation of the prosecution against the applicants, is therefore, an abuse of process of law and court and the same is unsustainable.

17. In the result, the application is allowed. Proceedings of RCC No.118 of 2025, pending before Judicial Magistrate (First Class),

Kalumnuri registered on the basis of FIR at Crime No.0399 of 2024 dated 29/07/2024 with Kalamnuri Police Station, District Hingoli for the offences punishable under Section 108 read with 3(5) of Bhartiya Nyaya Sanhita, 2023, are hereby quashed and set aside

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)

VS Maind/-