

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.88 OF 2024

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Sajina Jabbar Pullokotil

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Rajiv Chavan, Sr. Advocate, Ms. Sonam Pandey, Ms. Asmi Desai i/b Ms. Sonam Pandey and Mr. Umesh Vaishya for the applicant.

Ms. Kranti T. Hiwrale, APP for the State – respondent.

Ms. Savita Mohite, API, Koparkhairne Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2025

P.C.:

1. This revision application is filed under Sections 401 read with 397 of the Code of Criminal Procedure, 1973. The applicant challenges the order passed by the learned Assistant Sessions Judge, Belapur, Navi Mumbai below Exhibit 8 in Sessions Case No.181 of 2023. By the said order, the discharge application filed by the applicant in respect of the offence punishable under Section 306 of the Indian Penal Code came to be rejected.

2. The prosecution case in brief is as follows. On 11 May 2022, the informant Abin Babu lodged a First Information Report. He stated that his elder sister, Babi alias Babita (the deceased), was working as a nurse in Mumbai. She was residing at Room No. 642,

Vimal Villa, 2nd Floor, SS-I, Sector-2, Koparkhairne, Navi Mumbai, along with the present applicant (accused No.1) Sajina P.J. alias Pilku.

3. It is alleged that about 15 to 20 days prior, the deceased informed the informant over phone that the applicant had an affair with accused No.2, Narayan Thakur, who was also serving at Fortis Hospital, Vashi. The deceased advised the applicant not to continue in such relationship. The applicant did not listen, and the deceased thereafter informed their parents. On this, the applicant became angry, assaulted the deceased, and even bit her hand. The deceased sent photographs of her injuries to the informant. On the advice of the informant, she considered lodging a police complaint. She also requested the informant to ask the applicant to shift to a hostel. A few days later, when the informant inquired, the deceased stated that the applicant was refusing to leave the room and quarrels were frequent. Four days prior to the incident, the deceased made a video call to the informant. She was weeping and told him that both the applicant and accused No.2 had assaulted her. On 9 May 2022, between 7:30 p.m. and 8:10 p.m., the deceased again spoke to the informant and told him that she was beaten by both accused, that accused No.2 had cut her hair and broken her mobile phone. On the next day at about 3:00 p.m., Sindhu, a friend of the deceased, called the informant and informed that the deceased had committed suicide by hanging. The police found a suicide note written in Malayalam, wherein the deceased had held both accused responsible for her death.

4. Learned Senior Counsel for the applicant relied upon the suicide note (translated copy produced before the trial Court), the post-mortem report, and witness statements. He argued that though the deceased suffered injuries in a quarrel one day before the incident, the essential ingredients of Section 306 read with Section 107 of IPC are absent. The allegations against the applicant are that she quarreled, assaulted, broke the mobile phone of the deceased, and caused harassment. In the suicide note, the deceased alleged that the accused ruined her career, caused financial loss, and took her jewellery. On that basis, she blamed them for her suicide. Learned counsel submitted that even if the allegations are accepted, they do not establish instigation as required under law. He relied upon the judgments of the Supreme Court in *Sajjan Kumar v. Central Bureau of Investigation*, (2010) 9 SCC 368, and *Abhinav Mohan Delkar v. State of Maharashtra & Ors.* (2025 SCC OnLine SC 1725). He submitted that mere harassment is not enough. There must be material to show intention and mens rea. The situation created by the accused must be such that the deceased was left with no option but to end her life.

5. He further relied upon the judgment of the Supreme Court in *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618. In that case, the Apex Court explained the scope of Section 306 IPC. It was held that instigation means to provoke, incite, or urge a person forward to commit an act. For instigation, direct words are not always necessary. What is required is that the facts and circumstances must clearly show that the accused incited the

deceased to commit suicide.

6. On the other hand, learned APP opposed the application. She drew attention to the suicide note and submitted that its contents themselves disclose the ingredients of Section 306 IPC. She submitted that the witness statements, post-mortem report showing injuries, and other charge-sheet material clearly establish prima facie instigation. At this stage, only a strong suspicion is sufficient for framing charge. Proof beyond reasonable doubt will be required at trial, but not at this stage. She therefore submitted that the learned Sessions Judge has rightly rejected the discharge application.

7. On perusal of the charge-sheet and the material on record, it is clear that the deceased committed suicide on 10 May 2017. The proximate incident relied upon by the prosecution is said to have occurred on 9 May 2017. The record, however, shows that on that day there was a quarrel between the applicant and the deceased in which both sides sustained injuries. The post-mortem report (column 17) elaborates the injuries suffered by the deceased. The medical papers also record that the applicant herself suffered injuries on her forehead resulting in nasal bleeding. This shows that the incident was in the nature of a mutual quarrel, not a unilateral act of instigation by the applicant.

8. The statement of the brother of the deceased records that the deceased had disclosed to him about quarrels and harassment by the accused persons. While such statements indicate that the relationship between the deceased and the accused was strained,

they do not by themselves establish that the applicant intended, incited, or provoked the deceased to commit suicide.

9. The material further indicates that the deceased had expressed that her career was ruined, that she had suffered financial loss, and that her jewellery had been taken. These are serious allegations, but they show grievance and dissatisfaction rather than evidence of an act of abetment under Section 107 IPC. For constituting an offence under Section 306 IPC, the prosecution must show a live link between the conduct of the accused and the suicide, such that the accused intended or could reasonably foresee that their acts would drive the deceased to take her own life.

10. In the present case, the allegations made in the FIR and the suicide note, taken at their highest value, disclose that there were quarrels between the deceased and the applicant; that the applicant had assaulted her; and that her mobile phone was broken. The material also shows that the deceased was under mental stress due to the strained relationship with the applicant and co-accused. These facts certainly indicate harassment and ill-treatment.

11. However, for an offence under Section 306 IPC, it is not enough to show harassment alone. The law requires that there must be clear and cogent material to establish that the accused had either instigated, provoked, or intentionally aided the deceased in committing suicide. Section 107 IPC defines abetment. It requires (i) instigation, or (ii) engaging in conspiracy with the intention that suicide be committed, or (iii) intentional aiding by

act or illegal omission. Unless one of these three categories is satisfied, an offence under Section 306 IPC cannot be sustained.

12. On scrutiny of the entire material, I do not find these requirements fulfilled. The prosecution has not brought prima facie material to show that the suicide was the direct and immediate consequence of harassment or that the quarrel on 9 May 2017 was the proximate cause that finally drove the deceased to the extreme act of ending her life. The law as explained by the Supreme Court in *Abhinav Mohan Delkar (supra)* and in *Ramesh Kumar (supra)* makes it clear that continuous harassment, however distressing, cannot by itself be equated with abetment unless there is clear evidence of mens rea. The Supreme Court has observed that mens rea cannot be presumed merely on the basis of what went on in the mind of the victim. The victim may have felt helpless or without alternatives, but that subjective state of mind cannot substitute for proof of intention on part of the accused.

13. In the present case, no material is placed to show that the applicant ever intended that the deceased should commit suicide. There is no allegation of any act by the applicant immediately preceding the suicide which could be said to have created a situation of “no escape” for the deceased. The suicide note attributes blame upon the applicant and co-accused, but mere attribution of blame is not sufficient in law. The requirement of mens rea, that is, the guilty intention to instigate or aid the commission of suicide, is missing.

14. The real test is whether the accused, by his actions, intended or could reasonably foresee that the victim would be driven to commit suicide. In the present case, that test is not satisfied. The material only discloses harassment and quarrels, not any act of instigation or abetment in law. Therefore, in my opinion, the Sessions Court was not justified in rejecting the discharge application filed by the applicant below Exhibit 8 in Sessions Case No.181 of 2023.

15. Accordingly, the application below Exhibit 8 in Sessions Case No.181 of 2023 is allowed to the extent of the offence under Section 306 IPC. The applicant stands discharged from the offence under Section 306 IPC. However, the trial for the remaining offences disclosed in the charge-sheet shall continue in accordance with law against the applicant and the co-accused.

16. The revision application stands disposed.

(AMIT BORKAR, J.)