



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION NO.119 OF 2021**

Abhijit s/o Rajdip Sahu, aged about 21  
yrs, Occ. Education, r/o Lakhanwada,  
Tq. Patur, Dist. Akola.

... APPLICANT

**VERSUS**

1. State of Maharashtra, through P.S.O.  
Patul Police Station, Tq. Patur, Dist.  
Akola.
2. Gajanan s/o Janardhan Tayade, aged  
about 42 years, Occ. Agriculturist,  
R/o Chikhalgaon, Tq. Patur, Dist.  
Akola.

... NON-APPLICANT(S).

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Shri Amol G. Hunge, Advocate for the applicants.  
Shri A.R. Chutake, Addl.PP for the State.  
Ms. Kirti Deshpande, Advocate for non-applicant no.2 (appointed).

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**CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.**

**DATE : 24.04.2025.**

**ORAL JUDGMENT** : (Per : Pravin S. Patil, J.)

**RULE.** Rule made returnable forthwith.

2. By this application, the applicant is seeking quashment of charge-sheet bearing Special Case No. 135 of 2020 pending before the 2<sup>nd</sup> District and Sessions Judge, Akola arising out of First Information Report No.547 of 2020 registered with the Patur Police Station, District Akola for the offence punishable under Sections 306, 506 of the Indian Penal Code and Sections 3(2)(v) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 ('the Atrocities Act').

3. In short, the case of the prosecution is that the father of the deceased on 07.10.2020 lodged a report alleging that the deceased (daughter) was having love affair with the present applicant. However, the applicant had refused to marry her since she belongs to scheduled caste therefore, she was in mental stress. On 30.09.2020, at around 6.00 to 7.00 p.m., it came to know him that Priya committed suicide by hanging herself. It is further alleged that from the What's App chat of one Mayur, it is clear that the deceased due to break-up of relation with the applicant was of the opinion that her life has been ruined and therefore, she has committed suicide. As such, on the basis of these allegations, the offences came to be registered against the present

applicant.

4. The present applicant challenges the registration of offence stating that he is innocent and falsely roped in the instant crime. According to the applicant, the allegations levelled against him does not satisfy the prerequisites to constitute the offence under Section 306 of the IPC read with Section 3(2) of the Atrocities Act. Hence, he cannot be prosecuted for the alleged offences registered against him.

5. Learned Additional Public Prosecutor appearing for the State and learned Counsel appearing for non-applicant no. 2 strongly opposed the application by stating that, there is sufficient material available against the applicant to prosecute him in the matter. And on the basis of that material charge-sheet came to be filed. Hence, at this stage, it is not a fit case for interference by this Court by invoking inherent powers and therefore, same deserves to be rejected.

6. We have heard the rival submissions of the parties and perused the charge-sheet as well as material collected during the investigation by the Investigating Officer.

7. As per record, it is clear that deceased was in love relationship with the applicant. However, the applicant refused to convert the said relationship into the marriage. Therefore, the deceased

was in mental depression and under said depression, she has committed suicide.

8. There are no allegation against the applicant that he instigated, or committed direct or indirect act of incitement to commit suicide. It is also not alleged that the applicant has mens rea to abet the deceased to commit suicide. Hence, in absence of such allegation, no offence is made out under Section 306 of the IPC against the applicant.

9. From the record, it is clear that the deceased could not bear the mental pressure after refusal of proposal of marriage. From the prosecution story, it is clear that day by day she herself went into depression. As such, the deceased on her own went into mental depression and till last breath could not come out from mental trauma and ultimately committed suicide. Hence, even accepting the allegations made in the complaint in its entirety, offence under Section 306 is not made out against the applicant.

10. Recently, Hon'ble Supreme Court in the case of ***Prakash and ors. vs. State of Maharashtra 2024 SCC OnLine SC 3835***, while considering Section 307 and 107 of the IPC observed thus :

*“to attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused,*

*which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide. As such, the act of abetment requires the positive act of instigation or intentional aiding any person to commit suicide. Without such mens rea a charge under Section 306 of the IPC is not sustainable”.*

11. Hon’ble Supreme Court in the same case relied upon the case of ***Kamlakar vs. State of Karnataka in Criminal Appeal No.1485 of 2011 (decided on 12.10.2023)*** explained the ingredients of Section 306 of the IPC as under :

*"8.2. Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.*

*8.3. In Ramesh Kumar V. State of Chhattisgarh (2001) 9 SCC 618, this Court has analysed different meanings of “instigation”. The relevant para of the said judgement is reproduced herein:*

*“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.”*

8.4. *The essentials of Section 306 IPC were elucidated by this Court in M. Mohan v. State2, as under:*

*“43. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word “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 others. 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.*

*44. 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.*

*45. The intention of the legislature and the ratio of the cases decided by this Court are 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 this act must have been intended to push the deceased into such a position that he/she committed suicide.”*

8.5. *The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in Amalendu Pal alias Jhantu v. State of West Bengal (2010) 1 SCC 707 in the following paragraphs:*

*“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine*

*the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne 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 IPC is not sustainable.*

*13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”*

12. So also Hon’ble Supreme Court in the case of ***Prabhu vs. State represented by the Inspector of Police and anr. 2024 SCC OnLine SC 137***, has specifically observed thus :

*“23. Broken relationships and heart breaks are part of everyday life. It could not be said that the appellant by breaking up the relationship with Kousalya and by advising her to marry in accordance with the advice of her parents, as he himself was doing, had intended to abet the suicide of Kousalya. Hence the offence under Section 306 is not made out.”*

13. In the teeth of above referred well settled position of law we are of the considered view that in the present matter, non-applicant no.2 failed to establish the prerequisites to constitute the offence under Section 306 of the IPC against the applicant. Accordingly, it will not be just and proper to force the applicant to face the criminal trial. Hence, we proceed to pass the following order :

- (a) The Criminal Application is allowed.
- (b) Charge-sheet bearing Special Case No. 135 of 2020 pending before the 2<sup>nd</sup> District and Sessions Judge, Akola arising out of First Information Report No.547 of 2020 registered with the Patul Police Station, District Akola for the offence punishable under Sections 306, 506 of the Indian Penal Code and Sections 3(2)(v) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, is hereby quash and set aside.
- (c) No order as to costs.

13. Fees of the appointed Counsel be paid as per Rules.

**(PRAVIN S. PATIL, J.)**

**(ANIL S. KILOR, J.)**

*Trupti*