



IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 79 OF 2025

...

Santosh S/o Druvdas Sonbarse,
Aged about : 44 Years, Occ. Private,
R/o. Near T.V. Tower, Manavta Nagar,
Seminary Hills, Nagpur,
Tah. & Dist. Nagpur.

... **PETITIONER**

- - V E R S U S - -

State of Maharashtra,
Through Police Station Officer,
Police Station Gittikhadan,
Tah. & Dist. Nagpur.

... **RESPONDENT**

Mr. A.V. Band, Advocate for the Petitioner.

Mr. B.M. Lonare, A.P.P. for the Respondent/State.

CORAM : M.M. NERLIKAR, J.

DATE : OCTOBER 17, 2025.

2

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. The petitioner is challenging the order dated 05/06/2024, passed by the learned District Judge-2 and Additional Sessions Judge, Nagpur, whereby the application filed under Section 227 of the Code of Criminal Procedure was rejected. The petitioner further seeks discharge from Sessions Trial No. 533/2021, arising out of Crime No. 10/2019, registered at Police Station Gittikhadan, for offences punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. Brief facts of the case are that:

The petitioner is one of the accused in Sessions Trial No. 533/2021, arising out of Crime No. 10/2019, registered at Police Station Gittikhadan, Nagpur, for offence punishable under Sections 306 and 34 of the Indian Penal Code. The said

3

crime pertains to the alleged abetment of suicide of one Sadhana, the wife of the petitioner. The petitioner and the deceased married on 27/04/2012. Initially, the couple resided together peacefully; however, over time, matrimonial discord arose. It is stated that the deceased frequently quarreled with the petitioner and his family members and left the matrimonial home on several occasions. A complaint was previously lodged by the deceased before the Women's Cell, which was resolved by way of a compromise dated 20/11/2014. Under the terms of the compromise, the deceased undertook to reside peacefully and not to threaten about committing suicide.

4. On 28/12/2018, the deceased was found lying in her room and was declared dead upon arrival at the hospital. The petitioner, who was not at home at the relevant time, was informed of the incident by the deceased's sister. An Accidental Death Report (ADR) was registered on the same day. Subsequently, on 04/01/2019, the deceased's mother lodged a

4

report alleging that the deceased had been subjected to mental and physical cruelty by the petitioner and his family members, and that such harassment had driven her to take her own life. The report further alleged that there had been a prior demand for money from the deceased's parental family, and that the petitioner had issued threats. Based on the said report, a First Information Report (FIR) was registered under Sections 306 and 34 of the Indian Penal Code, 1860.

5. After completion of the investigation, a chargesheet was filed on 19/11/2020 against the petitioner and his family members. The petitioner's family members filed Criminal Application (APL) No. 1019/2021 before this Court, which was allowed by judgment dated 25/01/2024. This Court, after examining the material on record, observed that there were no specific allegations against the family members and found insufficient material to constitute abetment of suicide. Consequently, the proceedings against them were quashed.

5

6. Thereafter, the present petitioner filed an application under Section 227 of the Code of Criminal Procedure, seeking discharge, which came to be rejected by the learned Additional Sessions Judge, Nagpur, vide order dated 05/06/2024. Aggrieved by the said order, the petitioner has approached this Court by way of the present Writ Petition under Articles 226 and 227 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita), challenging the impugned order of rejection and seeking discharge from the criminal proceedings.

7. The learned counsel for the petitioner submits that, even if the contents of the First Information Report (FIR) are accepted at face value, the essential ingredients of Section 306 of the Indian Penal Code are not made out. He submits that the suicidal death of the deceased–Sadhana cannot be attributed to the petitioner, particularly when he himself had informed the

6

police about her death. The Accidental Death (AD) Report indicates that prior to leaving the house, a quarrel had taken place between the petitioner and the deceased on account of electricity consumption by other members, although the electricity bill was to be paid by the husband of the deceased. He submits that such an incident, in isolation, would not amount to abetment of suicide and cannot be said to have driven the deceased to take the extreme step.

8. The learned counsel further submits that there is no positive act on the part of the petitioner that would attract the provisions of Section 306 IPC. There is also no material suggesting the presence of intention or *mens rea* necessary to attract Section 306. He submits that, there is no *prima facie* satisfaction of the requirements of Section 107 of the IPC, which defines abetment. However, even there is no allegation of instigation or intentional aid on the part of the petitioner.

7

9. He further contends that even if the allegations in the F.I.R. are taken as it is, which demonstrates certain instances of harassment, mere harassment by itself is not sufficient to constitute abetment of suicide. There is no material demonstrating any active or direct role played by the petitioner which led the deceased to take her own life. He submits that *mens rea* or intention to abet cannot be presumed or inferred in the absence of specific material. In the absence of any such evidence showing that the petitioner actively abetted the commission of suicide, he prayed that petitioner be discharged by quashing and setting aside the impugned order passed by the learned District Judge-2 and Additional Sessions Judge, Nagpur.

10. On the other hand, the learned A.P.P. for the respondent submits that, prior to the commission of suicide, there was a quarrel between the couple. The marriage was solemnized in the year 2012, however, the deceased–Sadhana

8

committed suicide on 28/12/2018, i.e., within 7 years of the marriage. With regard to the allegations in the FIR are concerned, the same clearly indicate that the deceased–Sadhana was subjected to cruelty by the petitioner. It is alleged that the petitioner harassed the deceased on account of suspicions regarding her character. Further, after two years of marriage, a rift developed between the couple, sought intervention from the Apadgrast Mahila Margdarshan Dadat Kendra at Nagpur. The couple resided separately for approximately three months, and thereafter, a compromise took place between them at the said Kendra. The respondent's counsel also alleges that, prior to the suicide, the petitioner demanded a sum of Rs. 1,00,000/- from the deceased for the purpose of purchasing a JCB machine. The counsel further submits that, since the death occurred within 7 years of the marriage, the presumption under Section 113-A of the Indian Evidence Act would apply, and therefore, he submits that due to harassment, she has committed suicide. Therefore, it is argued that the ingredients of Section 306 of the Indian

Penal Code are made out, and lastly he submits that there is no merit in the petition, and the impugned order passed by the learned Additional Sessions Judge is based on sound reasoning, which does not require interference at the hands of this Court.

11. I have heard the learned counsel for both the parties. Before addressing the merits of the matter, it is pertinent to note that the law regarding Section 306 of the Indian Penal Code is well-settled. Section 306 of the IPC deals with the punishment for the offence of abetment of suicide. However, the definition of "abetment" is provided under Section 107 of the IPC. Therefore, it is necessary to reproduce both these provisions for better understanding. Sections 306 and 107 of IPC are reproduced below:-

“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.

10

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. ”

12. The essential ingredients that can be derived from **Section 306** read with **Section 107** of the Indian Penal Code are as follows:

- **Suicidal Death:** The death of the victim must be by a suicide.
- **Abetment** : There must be abetment of suicide, which requires a direct or indirect act of instigation, conspiracy, or intentional aiding of the victim to commit suicide.
- **Mens Rea** : There must be a requisite **mens rea** (intention or knowledge) to bring about the consequence of suicide. This means that the accused

11

must have acted with the specific intention or knowledge that their actions would lead to the victim's suicide.

13. Now, coming to the facts of the present petition, it is not in dispute that the marriage between the deceased, Sadhana, and the petitioner was solemnized in the year 2012. Out of the said wedlock, two children were born. It is also not in dispute that the deceased, Sadhana, filed a complaint with the Apadgrast Mahila Margdarshan Madat Kendra at Nagpur. After living separately for three months with the assistance of the said Kendra, a compromise was reached between the husband and wife. Although the compromise took place and the deceased, Sadhana, returned to cohabit with the petitioner, however, she continued to stay separately from the in-laws, and was residing on the first floor of the house.

14. It is not in dispute that on 28/12/2018, the deceased, Sadhana, committed suicide. Further, it appears that Sadhana's

12

sister came to meet her in the afternoon. Upon finding the door locked, she peeped through the window and saw Sadhana lying on the floor, with a saree wrapped around her neck. She immediately informed the petitioner, petitioner arrived at the scene, and together they took her to the hospital, where she was declared dead. Consequently, the petitioner informed the authorities, and an Accidental Death (AD) report was registered. However, the mother of the deceased lodged an FIR alleging harassment and cruelty. After completing the investigation, a charge-sheet was filed. It further appears from the record that the in-laws, against whom the FIR was registered, filed Criminal Application No. 1019/2021 before this Court for quashing the proceedings. This Court, by order dated 25/01/2024, allowed the application and quashed and set aside the proceedings pending before the Judicial Magistrate First Class, Court No. 10, Nagpur, arising out of Crime No. 0010/2019, registered with Police Station Gittikhadan. It further appears that the present petitioner, the

13

husband, filed an application under Section 227 of the Cr.P.C. for discharge. However, the Additional Sessions Judge, Nagpur, rejected the application by passing an order below Exh.-9. The present petition has been preferred against this order.

15. Upon hearing the learned counsel for petitioner and the learned A.P.P., and after reviewing the record, the question that arises is whether there is sufficient material before the Trial Court for the framing of charges ? To answer this question, the facts as narrated above can be considered. It is undisputed that the death occurred within 7 years of marriage, and Section 113-A of the Indian Evidence Act allows the Court to presume that a married woman's suicide was abetted by her husband or his relatives, subject to certain conditions. However, it must be borne in mind that this presumption is discretionary in nature. The phrase "may presume" is significant and denotes discretion, whereas the presumption under Section 113-B is the opposite, where the word "shall presume" is used. Therefore, it

14

can be concluded that the presumption under Section 113-A is not absolute but rebuttable. But before invoking this presumption, it is essential to satisfy the basic ingredients of Section 306, as discussed earlier. Specifically, there must be *mens rea* (intention or knowledge) on the part of the accused, and there must be clear evidence of instigation, abetment, or encouragement by the accused that directly led the deceased to commit suicide. Mere harassment, by itself, is not sufficient to demonstrate that the accused led the deceased to commit suicide.

16. From the material placed before me in the form of the charge-sheet, the FIR discloses instances of harassment and cruelty. However, this cruelty is not of such a nature that it can be said to have led the deceased to commit suicide. Initially, after two years of marriage, a rift arose between the husband and wife, which led to the matter being taken to the said Kendra. After living separately for three months, the deceased

15

joined the company of petitioner, which implies that from 2014 to 2018, up until the death of the deceased, both were living together peacefully with no apparent complaints. The allegations in the FIR are general in nature. From the material, the intention of the petitioner cannot be inferred in such a way so as to show that the alleged harassment led to the deceased's suicide. Further, the statements of the witnesses recorded by the Investigating Officer are identical in content to those in the FIR. The FIR discloses that a demand of Rs. 1,00,000/- was made for purchasing a JCB, though when that demand was made is unclear. The FIR states that the demand was made from the father of the deceased, while in the statement of the sister (Lata) to Police, it appears that the demand was made to her, as the deceased-Sadhana informed her about the same. However, the sister showed her unwillingness to comply with the demand as she had recently purchased a vehicle.

17. Though this is not the stage to consider these infirmities, I have mentioned these facts in order to assess the

16

veracity of the FIR. Apart from this, the allegations in the FIR are vague and insufficient to conclude that the ingredients of Section 306 IPC are satisfied. The Supreme Court, in the case of *Jayedeeptsinh Pravinsinh Chavda & Ors. VS. State of Gujrat, (2025) 2 SCC 116*, held in Paragraph Nos. 22, 23, 28, 29 and 30 as follows:-

“22. Section 306 of the IPC penalizes those who abet the act of suicide by another. For a person to be charged under this section, the prosecution must establish that the accused contributed to the act of suicide by the deceased. This involvement must satisfy one of the three conditions outlined in Section 107 of the IPC. These conditions include the accused instigated or encouraged the individual to commit suicide, conspiring with others to ensure that the act was carried out, or engaging in conduct (or neglecting to act) that directly led to the person taking his/her own life.

23. For a conviction under Section 306 of the IPC, it is a well-established legal principle that the presence of clear mens rea—the intention to abet the act—is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the accused that led the

17

deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide.

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 306 IPC cannot be sustained.*

29. *The act of abetment must be explicitly demonstrated through actions or behaviors 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*

18

accused's behavior and the tragic outcome. It is only through the establishment of this direct link that a conviction under Section 306 IPC can be justified. The prosecution bears the burden of proving this active involvement to hold the accused accountable for the alleged abetment of suicide. The same position has been laid down by this court in several judgments, such as:

- i. M. Mohan v. State;*
- ii. Amalendu Pal v. State of West Bengal;*
- iii. Kamalakar v. State of Karnataka.*

30. *Therefore, for a conviction under Section 306 IPC, 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 behavior 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.*

In the aforesaid judgment it is held that, mere harassment over trivial matters or a quarrel between the

19

husband and wife, by itself, is not sufficient to constitute abetment of suicide. It is necessary to show that the deceased was left with no other option but to end her life. Therefore, there is no *mens rea* (intention) to instigate the suicide of the deceased, Sadhana. From the material collected by the Investigating Agency, it appears that the petitioner did not possess the requisite *mens rea*, nor is there any positive or direct act on the part of the petitioner that could be construed as abetment, in the form of instigation or aid, in the commission of suicide by the deceased, Sadhana. Consequently, the ingredients of the offence punishable under Section 306 IPC are not made out based on the analysis of the material on record.

18. It is also noteworthy that after 2014, there was no further report of harassment or cruelty, and no complaints were lodged, which suggests that there is no proximity between the alleged harassment and the death of the deceased, Sadhana.

20

Additionally, one important fact is that two children were born out of the wedlock, which indicates that the couple was living happily. On the day of the incident, it appears that a quarrel took place between the couple regarding the electricity bill. However, even this incident could not have been the cause of the suicide. Furthermore, there is no evidence of intention or *mens rea*. Even assuming, for the sake of argument, that the quarrel triggered the deceased, Sadhana, to commit suicide, there is still no evidence of intention or *mens rea* on the part of the petitioner. In this view of the matter, there is no sufficient material to frame charges against the petitioner under Section 306 IPC. Therefore, the petitioner is entitled to be discharged. Hence, the following order:

ORDER

- (i) The Criminal Writ Petition is **allowed**.
- (ii) The order dated 05/06/2024 passed by the learned Additional Sessions Judge, Nagpur, in Sessions Trial No.533/2021, is quashed

21

and set aside.

- (iii) The petitioner/accused is hereby discharged from Sessions Trial No.533/2021 arising out of Crime No.10/2019 registered with Gittikhadan Police Station.
- (iv) Rule is made absolute in above terms.

[**M. M. NERLIKAR, J**]