



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

Criminal Application (APL) No.397/2022

[Satish V State of Maharashtra and another]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.V. Sirpurkar a/b Ms. Garima S. Jain, Advocate for applicant.
Mr. Doifode, APP for State.

Coram : Anil S. Kilor and Pravin S. Patil, JJ.
Date : 25-03-2025.

This is an application filed by the applicant under Section 482 of the Code of Criminal Procedure for quashing of chargesheet No.167/2019 dated 01-11-2019 for the offence punishable under Section 306 r/w section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act registered with Police Station Buldhana.

ii. The informant, the wife of deceased lodged the complaint on 03-09-2019 with Police Station Buldhana city against the accused persons who are five in numbers for the offence punishable referred herein above.

iii. It is the case of the prosecution that the informant's husband Vishnu Jadhav committed suicide by hanging himself. She states that her husband told her that he had love affair with accused Vidhya Dhandade, who used to torture him and used to ask him to marry with her otherwise she would defame him in the society.

iv. The daughter of the informant told her that there is a memory card given to her by the deceased in which his audio clip was discovered. It is the further case of the prosecution that the deceased named all the five accused persons including the applicant. It is alleged that from the said audio clip it is evident that the applicant has mentally tortured and harassed the deceased on account of his love affair with Vidhya Dhandade.

v. We have heard learned Counsel for the respective parties.

vi. Learned Counsel for the applicant submits that no ingredients and pre-requisites are present in the instant matter to satisfy the requirement of abetment and to attract Section 306 of the IPC. He submits that the allegations against the applicant are vague and from the audio clip of which transcript is filed along with the chargesheet it is evident that out of frustration the deceased committed suicide. He, therefore, submits that prima facie no case is made out under Section 306 of the IPC.

vii. On the other hand, learned APP strongly opposed the application and he submits that the transcript of the audio recording of the deceased demonstrates the level of harassment and torture meted out to him by the accused and since no other option left with the deceased, he committed suicide. He, therefore, submits that the allegations made in the said audio clip would fall within the definition of 'Abetment'.

He, thus, submits that this is not a fit case to quash and set aside the chargesheet.

viii. Before adverting the matter on merit, it would be appropriate to reiterate the law as described by the Hon'ble Supreme Court to India in **Prakash and others Vs State of Maharashtra and another** (Criminal Appeal arising out of SLP (Cri.) No.1073/2023), wherein Hon'ble Supreme Court of India has held thus :-

"13. Section 306 of the IPC has two basic ingredients-first, an act of suicide by one person and second, the abetment to the said act by another person(s). In order to sustain a charge under Section 306 of the IPC, it must necessarily be proved that the accused person has contributed to the suicide by the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three conditions outlined in Section 107 of the IPC has to be satisfied.

14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well-established. 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.

15. The law on abetment has been crystallised by a plethora of decisions of this Court. Abetment involves a

mental process of instigating or intentionally aiding another person to do a particular thing. To bring a charge under Section 306 of the IPC, the act of abetment would require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the accused person being apparent from the face of the record, a charge under the aforesaid Section cannot be sustained. Abetment also requires an active act, direct or indirect, on the part of the accused person which left the deceased with no other option but to commit suicide.

16. xxxxx

17. This Court held that abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing. Therefore, without a positive act on the part of the accused to instigate or aid a person in committing suicide, conviction cannot be sustained. This Court further observed that 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 of IPC, there has to be a clear mens rea to commit the offence. Abetment also requires an active act or direct act which led the deceased to commit suicide seeing no other option and that act must have been intended to push the deceased into such a position that he committed suicide. However, this Court has cautioned that since each person reacts differently to the same provocation depending on a variety of factors, it is impossible to lay down a straightjacket formula to deal with such cases. Therefore, every such case has to be decided on the basis of its own facts and circumstances.

18. More recently, in the case of Jayadeepsinh Pravinsinh Chavda and others v. State of Gujarat, this

Court has 2024 SCC OnLine SC 3679 : 2024 INSC 960 relied on S.S. Chheena (supra) to hold that the element of mens rea cannot simply be presumed or inferred, instead it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law, that is deliberate and conspicuous intention to provoke or contribute to the act of suicide, would remain unfulfilled. This Court observed as follows:

“18. 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 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.”

ix. From the above referred observations it is thus clear that 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. if the accused by his acts and by his continuous course of conduct

creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide.

x. In the teeth of above well settled principle of law let us examine the allegations made in the present matter against the applicant.

xi. If the transcript of the audio clip of the deceased is considered, except vague allegations of harassment, nothing is stated against the applicant. There is nothing to show that there was any mens rea to commit offence. Further there is no direct act attributed to the applicant which led the deceased to commit suicide.

xii. Thus, in absence of pre-requisites to attract Section 306 of IPC, no offence attracts as alleged against the applicant. In the circumstances, we are of the opinion that the present application needs to be allowed and it is allowed.

xiii. Chargesheet No.167/2019 for the offence punishable under Section 306 r/w section 34 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act registered with Police Station Buldhana, is quashed and set aside.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)