



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

CRIMINAL APPLICATION NO.353 OF 2022

Vaishali d/o Warlu Kasare, aged 31
years, Occu.: Service, R/o Kothari, Tq.
And Distt. Chandrapur.

... APPLICANT

VERSUS

1. The State of Maharashtra, through
Police Station Officer, Police Station
Kothari, District Chandrapur.
2. Govindrao s/o Bapurao Kadam, aged
64 years, Occu. Retired, Singhaniya
Nagar, Yavatmal, Dist. Yavatmal.

... NON-APPLICANT(S).

Shri K.S. Narwade, Advocate for the applicant.
Mrs. S.Z. Haider, Addl.PP for the State.
Shri A.C. Dharmadhikari, Advocate for non-applicant no.2.

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

DATE : 06.05.2025.

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

RULE. Rule made returnable forthwith.

2. The matter is taken up for final disposal by consent of

learned Counsel appearing for the parties.

3. By the present application, the charge-sheet no. 26 of 2022 arising out of First Information Report No. 186 of 2021 registered with the Kothari Police Station, District Chandrapur for the offence punishable under Sections 306, 504, 506, is sought to be quashed and set aside on the ground that there are no prerequisites present in the instant matter to constitute the offence under Section 306 of the IPC.

4. It is the case of the prosecution that the father of the deceased lodged a report with the Police Station Kothari alleging that his son committed suicide because of continuous harassment and torture by the applicant.

5. The applicant is the widow of the deceased. There was love affair between the applicant and the deceased and they got married.

6. Learned Addl.PP appearing for the State, while opposing the present applicant has placed much emphasis on the What's App chats and the dying declaration of the deceased.

7. We have, therefore, perused the What's App messages and the dying declaration. It is evident from the above referred material

that there was matrimonial discord between the applicant and the deceased. It further appears that the conduct of the deceased was not proper as per the applicant, and therefore, she used to tell him about the proper behavior. From the messages it appears that the intention of the applicant was not that the deceased should commit suicide but the intention was that he should not consume liquor or should not maintain extra-marital relations with other girls and to behave properly with the applicant.

8. Hon'ble Supreme Court in the case of ***Arnab Manoranjan Goswami v. State of Maharashtra and ors. AIR 2021 SC 1*** has held thus :

“ 50. More recently in M Arjunan v. State (represented by its Inspector of Police) (2019) 3 SCC 315, a two judge Bench of this Court, speaking through Justice R. Banumathi, elucidated the essential ingredients of the offence under Section 306 of the IPC in the following observations :

“7. The essential ingredients of the offence under Section 306 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 to 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.”

51. Similarly, in another recent judgment of this Court in Ude Singh and Ors. v. State of Haryana AIR 2019 SC 4570, a two judge Bench of this Court, speaking through Justice Dinesh Maheshwari, expounded on the ingredients of Section 306 of the IPC, and the factors to be considered in determining whether a case falls within the ken of the aforesaid provision, in the following terms :

“38. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

39. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of

accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, 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. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. 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. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.”

Similarly, in *Rajesh v. State of Haryana* AIR 2019 SC 478, a two judge Bench of this Court, speaking through Justice L. Nageswara Rao, held as follows :

“9. Conviction under Section 306 IPC is not sustainable 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. 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.”

In a recent decision of this Court in *Gurcharan Singh v. State of Punjab* AIR OnLine 2020 SC 759, a three judge Bench of this Court, speaking through Justice Hrishikesh Roy, held thus :

“15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Sec 107 of the IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased.”

9. In the teeth of above referred well settled principles of law and considered that none of the What's App chatting between the applicant and the deceased, or dying declaration suggest that there was any intention of the applicant, or she aided or instigate or abet the deceased in commission of suicide.

10. In the circumstance, we are of the considered view that in absence of pre-requisites to attract Section 306 of the IPC against the

applicant, it will not be just and fair to force the applicant to face the criminal trial. In the circumstances, this is a fit case to quash the charge-sheet against the present applicant. Accordingly, we pass the following order :

(a) The Criminal Application is allowed.

(b) Charge-sheet no.26 of 2022 arising out of First Information Report No. 186 of 2021 registered with the Kothari Police Station, District Chandrapur for the offence punishable under Sections 306, 504, 506 is hereby quash and set aside.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR , J.)

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