



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

CRIMINAL APPLICATION NO.520 OF 2022

1. Vasant s/o Govindrao Khode, aged about 55 years, Occu. Service, r/o Vighnaharta Nagar, Behind NEEV Foundation, Wardha, Tq. Wardha, District Wardha.
2. Dhanraj s/o Vishwasrao Tayade, aged about 56 years, Occu. Service, R/o New Mahada Colony, D.P. No. 5, Wardha Tq. And District Wardha.

... APPLICANTS

VERSUS

1. State of Maharashtra, through PSO Wardha City, District Wardha.
2. Smt. Sangita wd/o Vivekrao Mahakalkar, Aged about 50, Occu. Service, R/o Isaji Layout, Sudampuri, Wardha, Dist. Wardha.

... NON-APPLICANT(S).

Shri Pankaj Navlani, Advocate for the applicants.
Ms M.H. Deshmukh, Addl.PP for the State.
Advocate S.N. Singh, Advocate for non-applicant no.2.

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

DATE : 15.04.2025.

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

Heard.

2. **ADMIT.**

3. The applicants are the employees of the Zilla Parishad. At the relevant time, when the deceased committed suicide applicant no.1 was working as Cluster Head whilst applicant no.2 was working as the Block Education Officer. Both the applicants chargesheeted for the offence under Section 306 of the Indian Penal Code ('IPC'). It is alleged that due to mental harassment meted out by the accused including the applicants, the deceased committed suicide. The suicide note of the deceased does not disclosed the specific allegations against the present applicants. At the same time, if the oral report lodged by the widow of the deceased is looked into, there are no allegations made against the present applicants. However, there is a mention that before commission of suicide the deceased called his wife(informant) and told her that if anything happens to his life, the accused person will responsible. Thus, the report as well as the suicide note do not disclose any role of the present applicants afftracting offence of abetment of suicide by the deceased.

4. There is a mention in the suicide note that the applicants

used to made complaints against the deceased, however during the investigation no complaint is found as alleged by the deceased made by applicants against the deceased. In this backdrop, the applicants are praying for quashing of the charge-sheet on the ground that no offence constitutes against them.

5. We have perused the charge-sheet and the material collected during the investigation by the Investigating Officer. It appears that the deceased was working as the Headmaster in the Zilla Parishad School at Kachnur. There was enmity between the co-accused i.e. accused no.1 and the deceased. On certain complaints of the deceased, enquiry was made by the officers of the Zilla Parishad. In none of the such enquiry reports submitted in relation to such enquiries, there is no allegation or observation made against the applicants.

6. From the charge-sheet it is evident that, on 15.06.2019, applicant no.1 lodged a criminal complaint against the deceased with the Police Station Ram Nagar, district Wardha for the offence punishable under Sections 294 and 506 of the IPC.

7. From the enquiry report dated 07.07.2019, it is evident that certain serious allegations were made against the deceased in

relation to his conduct with the fellows staff and as being Headmaster.

8. The record shows that the deceased removed some students from the School and because of this misconduct in performing his duties the Departmental Enquiry was conducted against him. However, the said Departmental Enquiry was dropped for the reason that the deceased committed suicide.

9. Thus, from the investigation carried out by the Investigating Officer it is evident that there is ample material not against the applicants but the deceased, showing his misconduct while performing his duties as a Headmaster.

10. 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.”

11. In the teeth of above referred well settled principles of law by the Hon’ble Supreme Court in the case of *Arnab Manoranjan Goswami v. State of Maharashtra (supra)* and considering definition of abetment under Section 107 of the IPC, we are of the considered view that in absence of pre-requisites to attract Section 306 of the IPC

against the applicants, it will not be just and fair to force the applicants to face the criminal trial. In the circumstances, this is a fit case to quash the charge-sheet against the present applicants. Accordingly, the application is allowed in terms of prayer clause (i) and (iii-a) qua the applicants :

“(i) to quash and set aside the F.I.R. No.431/22 registered against the applicants by the respondent no.1 i.e. Police Station Wardha, District Wardha for the offence punishable under section 306 r/w 34 of Indian Penal Code dated 16.03.2022.”

(iii-a) Upon persual of the chargesheet quash and set aside the chargesheet dated 21.10.2022 (Annexure-VI) in the interest of justice.”

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR , J.)

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