



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

CRIMINAL APPLICATION NO.530 OF 2022

Manoj s/o Ramdasji Nimbhorkar, aged about 30 years, occu. Agriculturist, r/o Ward No. 3, Chinchargavhan, Post Rajura Bazar, Tahasil – Warud, Dist. Amravati.

... APPLICANT

VERSUS

1. State of Maharashtra, through P. S.O. Warud, Dist. Amravati.
2. Smt. Chandrakanta wd/o Rahul Raut, aged : 27 years, Occu. : Household R/o Chinchargavhan, Warud, Distt. Amravati.

... NON-APPLICANT(S).

Shri M.V. Rai, Advocate for the applicant.
Ms. Sneha Dhote, Additional Public Prosecutor for the State.
Shri Kailash J. Rawandhe, Advocate for non-applicant no.2.

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

DATE : 05.04.2025.

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

Heard. ADMIT.

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

3. By this application the applicant is challenging the charge-sheet No.38 of 2024 arising out of Crime No.193 of 2022 registered with the Police Station Warud, Amravati (Rural) for the offence punishable under Section 306 of the Indian Penal Code ('IPC') and praying for quashing of the same.

4. In short, the case of the prosecution is that on 13.03.2022, wife of the deceased lodged a complaint to the Police Station Warud, Amravati (Rural) stating that in the month of January 2022 there was a quarrel between the applicant and the deceased on the ground that heavy water was entered into the agricultural field due to negligence of the deceased. At that time, the applicant assaulted the deceased and threatened him from entering into his own agriculture field. Due to this act of the applicant, deceased Rahul was under continuous fear and stopped going to field.

5. It is stated by the complainant that on 13.03.2022 as-usual deceased (Rahul) left the house at around 4.30 a.m. to give water to his agricultural field, but did not return back at home. She received a phone call stating that Rahul has committed suicide in the agricultural

field.

6. After they reached to the spot, one Sagar Raut informed the Police Station about the suicide. At the time of Panchanama of the dead body, in the inner pocket of the pant (Chorkhisa) one suicidal note was found, wherein it is stated that as the applicant was threatening to kill him, he was under continuous fear. On that basis, offence punishable under Section 306 of the IPC came to be registered against the present applicant.

7. The applicant challenged the criminal proceedings registered against him by raising a ground that from the bare perusal of the FIR and charge-sheet, no offence is made out as the pre-requisites of Section 306 of the IPC are not present in the matter. Accordingly, it is prayed for quashing of the criminal proceedings registered against him.

8. Learned Addl. Public Prosecutor for the State strongly opposes the application by stating that in a suicide note there is a specific mention that deceased was threatened by the applicant and due to apprehension in his mind, committed suicide. Accordingly, the offence is rightly registered against the applicant and it is a fit case where detailed inquiry by way of trial is necessary to prove the accusation against the applicant, accordingly prayed for rejection of the

application.

9. Learned Counsel for non-applicant no.2 also opposed the application and reiterated the statement made by him before the Investigating Officer. According to the non-applicant no. 2 the deceased was under tremendous pressure, due to the threats given by the applicant. Hence the offence is made out under Section 306 of the IPC and application deserves to be rejected.

10. We have heard the Counsel appearing for respective parties and perused the record. According to us it will be apt to first consider the settled position of law in the matter and then consider the facts of the present case whether pre-requisites of Section 306 of the IPC are attracted in the matter to register offence against the applicant.

11. Hon'ble Supreme Court in 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 “goad”. 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. On the basis of said above judgment, the Hon’ble Supreme

Court recently in the case of *Prabhu vs. The State represented by the Inspector of Police and anr. (Criminal Appeal @ SLP (Crl.) Diary No.39981/2022) dated 30.01.2024* laid down the following principles :

“10. On a perusal of the above, and relying upon this Court’s previous judgments discussing the elements of Section 306 IPC, the following *principles emerge*:

10.1 Where the words uttered are casual in nature and which are often employed in the heat of the moment between quarrelling people, and nothing serious is expected to follow from the same, the same would not amount to abetment of suicide. [Swami Prahaladdas v. State of M.P 1995 Supp. (3) SCC 438, Paragraph 3; Sanju v. State of M.P (2002) 5 SCC 371, Paragraph 12]

10.2 In order to constitute ‘instigation’, it must be shown that 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. The words uttered by the accused must be suggestive of the consequence [Ramesh Kumar v. State of Chhatisgarh (2001) 9 SCC 618, Paragraph 20]

10.3 Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. [Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605, Paragraph 20].

10.4 There must be direct or indirect acts of incitement to the commission of suicide. The accused must be shown to have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide [Amalendu Pal v. State of West Bengal (2010) 1 SCC 707, Paragraph 1214]

10.5 The accused must have intended or known that the deceased would commit suicide because of his actions or omissions [Madan Mohan Singh v. State of Gujarat (2010) 8 SCC 628].

13. In the present matter, the case of prosecution is that before

13.03.2022 there was a quarrel of deceased Rahul with the applicant and therefore, he was under continuous apprehension of the applicant. But nothing came on record that after the alleged incidence, the applicant provoked the deceased to commit suicide or created such circumstances that the deceased was left with no other option except to commit suicide. On the other hand from the police complaint, it is revealed that on 13.03.2024, the deceased went to his agricultural field as per his daily routine. As such there is no direct evidence available on record to prove that the applicant has in any way instigated or provoked the deceased to commit suicide.

14. According to us, to attract the offence of abetment to suicide, it is important to establish that there is direct or indirect acts of instigation or incitement of suicide by the accused. Further, such instigation or incitement should reveal the clear *mens rea* to abet the commission of suicide and should put the victim in such a situation where he would have no other option but to commit the suicide. However, in the present case from the suicide note, it is not clear that any act of the applicant was of such a nature to put the deceased in such a position that he had left no other option but to commit suicide.

15. In the light of the above legal position, we have no hesitation to hold that no offence is made out against the present applicant under Section 306 of the IPC. On the contrary, we are of the view, there was no abetment on the part of the present applicant nor any of his acts and continuous course of conduct creates a situation which led the deceased no other option except committing suicide. Hence pre-requisites of Section 306 are not satisfied in the matter. According to us, the case of the applicant is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Prabhu (supra)*. In view of the aforesaid reasons, we proceed to pass the following order:

ORDER

- (a) The Criminal Application is allowed.
- (b) Charge-sheet No.38 of 2024 arising out of Crime No.193 of 2022 registered with the Warud Police Station, Amravati Rural for the offence punishable under Section 306 of the Indian Penal Code is hereby quash and set aside against the present applicant.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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