



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

CRIMINAL APPLICATION NO.528 OF 2020

Rekha @ Hema d/o Gajanan Sakharkar,
age – 22years, Occ. Education, R/o
Sakhara, Tq. Nandgaon Khandeshwar,
District Amravati at present c/o
Balkrushna Khade r/o Kamargaon, Tq.
Karanja Lad, District Washim.

... APPLICANT

VERSUS

1. The State of Maharashtra, through
the Police Station Officer, Police
Station Loni (Takli), Tq. Nandgaon
Khandeshwar, District Amravati.
2. Rahul s/o Balu Turuk, Age – 20
years, Occ. Education, R/o Sakhara,
Tq. Nandgaon Khandeshwar, District
Amravati.

... NON-APPLICANT(S).

Shri P.R. Agrawal, Advocate for the applicant.
Shri Doifode, Addl.Public Prosecutor for the State.
Non-applicant no.2 served.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATE : 15.04.2025.

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

Heard.

2. **ADMIT.**

3. In the present matter, a prayer is made for quashing of the charge-sheet bearing Sessions Case No.150 of 2024 pending on the file of Ad-hoc District Judge, Amravati arising out of First Information Report ('FIR') No. 112/2020 registered with the Loni Police Station, Amravati Rural for the offence punishable under Section 306 of the Indian Penal Code('IPC'), 1860.

4. From the FIR and the material collected during the investigation, it is evident that there was love affair between the deceased and the applicant. The deceased committed suicide on 14.04.2020, whereas FIR came to be lodged on 10.05.2020. It is alleged that the suicide note was recovered from the pocket of the deceased. The suicide note runs into six pages, however if the gist of the same is looked into, it says that the applicant used to give threats to the deceased that after the marriage of her sister she will destroy the family of the deceased and defame him in the society. It is further stated that she had also love relations with one Jitendra Murumkar.

5. As we have observed that the suicide note runs into six pages however except the repetition of the above allegation, there is nothing.

6. The 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.”

7. In the light of the above referred well settled position of law and considering the definition of abetment given under Section 107 of the IPC, it is evident that there needs to be clear *mens rea* to commit the offence. Furthermore, to attract and constitute the offence under Section 306 of the IPC, the requirement is that there should be material showing that the accused instigated, aided or abetted the deceased to commit suicide.

8. The suicide note shows that the applicant used to give threats to the deceased that she would destroy the deceased's family once her sister's marriage is over. Further, it says that she used to defame the deceased and thirdly, she had love relations with one Jitendra Murumkar when she had already love relations with the deceased. Thus, the suicide note does not disclose any instigation by

the applicant to the deceased or aiding him in committing the suicide. Furthermore, *prima facie* there is no such intention or motive of the applicant. In that view of matter since the pre-requisite are absent to constitute offence under Section 306 of the IPC, the application is allowed in terms of prayer clause i(a) -

“i-a) quash and set aside Session Case No.150/2024 pending on file of learned Ad-hoc District Judge-2 and Additional Sessions Judge, Amravati which is arising out of First Information Report dated 10/05/2020 registered with non-applicant no.1 Police Station i.e. Nandgaon Khandeshwar, Dist. Amravati vide Crime No.112/2020, registered with non-applicant no.1 Police Station for the offence punishable U/s. 306 of Indian Penal Code, 1860.”

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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