



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

CRIMINAL APPLICATION NO.745 OF 2021

Shital Gowardhan Ghatale, aged about
38 years, Occu. Teacher/Service, R/o
Sutala Khurd, Taluka – Khamgaon,
District Buldhana.

... APPLICANT

VERSUS

1. State of Maharashtra, through Police
Station Officer, Jalamb Police
Station, Taluka – Shegaon, Dist.
Buldhana.
2. Varsha Prabhudas Bole, Age – 29
years, R/o Pahurjira Tq. Shegaon,
Dist. Buldhana.

... NON-APPLICANT(S).

Shri A.D. Bhate, Advocate for the applicant.

Mrs. Haider, Addl.PP for the State.

Ms Sonal Tripathi, Advocate h/f Ms Rutuja Narale, Advocate for non-
applicant no.2 (appointed)

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 applicant has been charge-sheeted for the offence punishable under Section 306 of the Indian Penal Code, which is sought to be quashed by way of present application filed under Section 482 of the Code of Criminal Procedure ('CrPC').

4. The brief facts of the case are that, the applicant is the widow and having two daughters. It is alleged that she had extra marital relations with the deceased, who was also the married one. So called suicide note is the What's App message sent by the deceased to his wife. The message does not speak about any role of the present applicant but there is a request made to wife that do not spare the applicant.

5. In the complaint, the wife of the deceased alleged that there was continuous harassment caused by the applicant and therefore, he commit suicide by consuming poison.

6. After investigation, the charge-sheet has been filed. On the face of record as stated above there is nothing mentioned against the

applicant more particularly about any harassment by the applicant to the deceased.

7. The suicide note is silent on such harassment. If the other material is considered, there is nothing on record to *prima facie* show that the applicant played active role or any positive role to instigate the deceased to commit suicide or she aided the deceased in commission of suicide. Therefore, the question arises at when the pre-requisites to attract and constitute the offence under Section 306 of the IPC are absent, is it just or proper to compel the applicant to face a criminal trial.

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. Thus, considering the definition of abetment under Section 107 of the IPC coupled with the judgment of the Hon’ble Supreme Court in the case of *Arnab Manoranjan Goswami v. State of Maharashtra (supra)*, we are of the considered view that in absence of pre-requisites to attract Section 306 of the IPC, it is a fit case for quashing the charge-sheet in question. Accordingly, the application is

allowed in terms of prayer clause i-a -

“i-a) quash the charge sheet (Annexure H) arising out of Crime No.132/2021 registered at Jalamb Police Station for offence under Section 306 of Indian Penal Code, 1860 as well as Sessions Case No.46/2022 pending on the file of Ad Hoc Additional Sessions Judge – I, Khamgaon.”

10. Fees of the appointed Counsel be paid as per Rules.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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