



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

CRIMINAL APPLICATION [APL] NO.875 OF 2022

[Pundlik Ramrao Dhamode and one .vs. State of Maharashtra and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K.S. Malokar, Advocate for Applicants.
Shri Ganesh Umale, APP for Non-Applicant No.1/State.
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CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.

DATE : APRIL 01, 2025.

P.C.

The applicants have been chargesheeted for the offence punishable under Section 306 r/w 34 of the Indian Penal Code. The Crime No.320/2021 was registered against the applicants on 02.09.2021 with the Police Station Hiwarkhed, District-Akola.

2. As per the suicide note of the deceased, the applicant no.1 is the grandfather and applicant no.2 is the father of his wife. It is alleged that the applicants forcibly took with them his wife and assaulted the deceased. This incident was took place two days prior to the suicide of the deceased. From the suicide note, it is evident that the deceased got disturbed because the applicants keep away his wife and out of emotions, he committed suicide.

3. On perusal of the chargesheet, we could not find any material which requires to constitute the offence under Section 306 of the Indian Penal Code against the applicants. The law in regard abetment is well settled and as discussed by the Hon'ble Supreme Court of India in the case of *Prakash and others .vs. The*

State of Maharashtra and another in Criminal Appeal No.5543 of 2024 (Arising out of SLP (Cri) No.1073/2023), reported in 2024 (15) SCALE 976, as follows :

17. This Court held that abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing. Therefore, without a positive act on the part of the accused to instigate or aid a person in committing suicide, conviction cannot be sustained. This Court further observed that the intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under [Section 306](#) of IPC, there has to be a clear mens rea to commit the offence. Abetment also requires an active act or direct act which led the deceased to commit suicide seeing no other option and that act must have been intended to push the deceased into such a position that he committed suicide. However, this Court has cautioned that since each person reacts differently to the same provocation depending on a variety of factors, it is impossible to lay down a straightjacket formula to deal with such cases. Therefore, every such case has to be decided on the basis of its own facts and circumstances.

18. More recently, in the case of [Jayedeepsinh Pravinsinh Chavda and Others v. State of Gujarat](#), this Court has 2024 SCC OnLine SC 3679 : 2024 INSC 960 relied on [S.S. Chheena](#) (supra) to hold that the element of mens rea cannot simply be presumed or inferred, instead it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law, that is deliberate and conspicuous intention to provoke or contribute to the act of suicide, would remain unfulfilled. This Court observed as follows:

“18. For a conviction under [Section 306](#) of the IPC, it is a well-established legal principle that the presence of clear mens rea—the intention to abet the act—is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and

explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide.”

20. *It could thus be seen that this Court observed that instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. It has been held that in order 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, however, a reasonable certainty to incite the consequence must be capable of being spelt out. Applying the law to the facts of the case, this Court went on to hold that a word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.*

4. In view of above referred observations of the Hon’ble Supreme Court of India, we are of the opinion that since there is no material available on record to prima facie constitute the offence under Section 306 of the Indian Penal Code, we find merit in the submissions of the learned counsel for the applicants that the present application needs to be allowed by quashing and setting aside the chargesheet.

5. Accordingly, the application is allowed.

6. The chargesheet dated 11.02.2022 in Crime No.320/2021 for the offence punishable under Section 306 r/w 34 of the Indian Penal Code registered with Police Station Hiwarkhed, Tah. Telhara, District-Akola, is hereby quashed and set aside.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)