



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

CRIMINAL APPLICATION NO.774 OF 2021

1. Ajaykumar Pandurang Kapkar, aged about 45 years, Occ. Agriculturist, r/o Armori, Tq. Armori, Dist. Gadchiroli.
2. Shankar Pandurang Makde, aged about 40 years, Occ. Agriculturist, R/o Saygaon, Tq. Armori, District Gadchiroli.

... APPLICANTS

VERSUS

1. State of Maharashtra, through its Police Station Officer, Police Station, Armori, Tq. Armori, District Gadchiroli.
2. Tikaram Paikaji Pradhan aged about 36 years, Occ. Agriculturist, r/o Saigaon, Tq. Armori, District Gadchiroli.

... NON-APPLICANT(S).

Shri S.K. Patil, Advocate for the applicants.
Shri Chutake, Addl.PP for the State.
Respondent 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 this case, the allegations in the report lodged by the uncle of the deceased and registered as Crime No.165/2021 dated 25.05.2021 with Armori Police Station, District Gadchiroli for the offences punishable under Section 306, 504, 506 read with Section 34 of the Indian Penal Code (IPC) are that, the present applicants lodged a report with the Police a day prior to the alleged incident of suicide, alleging that the deceased had stolen mobile phone of applicant no.1 and Rs.10,000/-. The deceased was working as a laborer with applicant no.1. It is further alleged that after lodging of the report, the applicants went to the house of the deceased and threatened him of dire consequences, if he failed to return the mobile stolen by him. On next day, the deceased committed suicide by hanging himself.

4. Except this allegation, there are no other allegations alleging any positive act or any active role of the applicants to instigate or to aid or to abet the deceased to commit suicide.

5. Thus, on the ground no necessary ingredients are available to constitute the offence under Section 306 of the IPC, the charge-sheet

in question is sought to be quashed by the application filed under Section 482 of the Code of Criminal Procedure.

6. 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.

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 teeth of above referred well settled principles of law discussed by 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 will not be just and fair to force the applicants to face the trial. In these circumstance, this is a fit case to allow the present application in terms of prayer clause i-a] -

“i-a] quash and set aside the proceeding bearing RCC No.22/2025 pending before the learned Judicial Magistrate First Class, Armori, District Gadchiroli in Crime No.165/2021 (Annexure-C) for the offences punishable under Section 306, 504, 506, 34 of the Indian Penal Code against the applicant.”

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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