



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

CRIMINAL APPLICATION [APL] No. 692 OF 2025.

1.Dhananjay Diwakarrao Pande,
Aged about 54 years, Occupation – Contractor,
resident of House No.30, Balaji Mandir,
Balaji Society, Yavatmal.

2.Vivek Madhukar Dharmadhikari,
Aged about 60 years, Occupation – Retired
Head Master, resident of House No.344,
Dhyaneswar Niwas, Awdhutwadi,
Near Itwari Square, Yavatmal.

3.Nilesh Ramesh Thakur,
Aged about 51 years, Occupation – Service,
resident of 31A, Mahavir Nagar-1,
Yavatmal.

4.Nilesh Sumersingh More,
Aged about 58 years, Occupation – Business,
resident of Anushri Park, Pimpalgaon,
Yavatmal.

... **APPLICANTS.**

VERSUS

1.State of Maharashtra,
through Police Station RPF Badnera,
District Nagpur Railway.

2. Shashikant Rajeshwar Bhat,
resident of Behind Ram Mandir,
Jay Hind Chauk, Yavatmal.

... NON-APPLICANTS.

Mr. M.N. Ali, Advocate for Applicants.
Mr. S.S. Hulke, A.P.P. for Non-applicant No.1.
None for Non-applicant No.2 – Served.

CORAM : ANIL L. PANSARE AND
M. M. NERLIKAR, JJ

DATE : AUGUST 04, 2025.

ORAL JUDGMENT (Per M.M. Nerlikar, J.) :

Heard. Issue Rule, returnable forthwith. Ms S.Z. Haider, learned A.P.P. waives service for Non-applicant No.1. Though served, none appears for Non-applicant No.2. With consent of the learned Counsel present for the parties, the application is taken up for final hearing.

2. This Criminal Application is filed by applicants for quashing First Information Report No.33/2025 dated 24.03.2025,

Rgd.

registered with Badnera Police Station, Nagpur Railway for offences punishable under Sections 108 and 3[5] of the Bhartiya Nyaya Sanhita, 2023 ('BNS' for short).

3. The said first information report is lodged by the non-applicant no.2 against 34 persons alleging that the deceased – Santosh Bhaskarrao Gore, who was working as an Assistant Professor with Bapuji Ane Mahila Vidyalaya, Yavatmal since last 8 years, has committed suicide by laying down on railway track in front of a moving train at Dhamangaon Railway Station. During investigation, a suicide note was seized and in the said suicide note, it was mentioned that due to mental harassment given by 34 persons, the deceased is committing suicide.

4. The learned Counsel for applicants has submitted that similarly circumstanced accused person in the same crime had approached this Court by filing Criminal Application Nos. 338, 652, 450 and 639 of 2025, praying to quash the first information report. It is further submitted that this Court by its judgment and order dated

29.04.2025 in Criminal Application No.338/2025, judgment and order dated 18.07.2025 in Criminal Application No.652/2025 and judgment and order dated 22.07.2025 in Criminal Application Nos.450 and 639 of 2025, was pleased to quash and set aside the said first information report against the applicants therein.

5. We have heard the learned Counsel for applicants and the learned A.P.P. for non-applicant – State. Though served, none appeared for non-applicant no.2.

6. The learned Counsel for applicants submits that the role assigned to the present applicants stand on the same footing as of the applicants in above applications i.e. Criminal Application Nos.338/2025, 652/2025, 450/2025 and 639/2025.

7. We have perused the suicide note, as also the investigation papers. After going through the same, we find that the role of present applicants appear to be the same, as of the applicants against whom the first information report is quashed by this Court.

We may refer here the judgment of Hon'ble Supreme Court in case of **Arnab Manoranjan Goswami .vrs. State of Maharashtra**, reported in **AIR 2021 SC 1**, wherein it has been held as under :

“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

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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.”

8. In view of this, considering the facts and circumstances, coupled with the aforesaid observations of the Hon'ble Supreme Court and further the allegations leveled in the first information report, as also the suicide note, we are of the opinion that there are no allegations as regards instigation, aiding or abetting the offence. We also find that the ingredients are not made out so as to constitute an offence under Section 108 of the BNS. Even we do not see any intention on the part of applicants to instigate or aid the deceased for commission of the alleged offence, therefore, in absence of the prerequisites to constitute the offence punishable under Section 108 of the BNS, we deem it appropriate to allow the prayer of the applicant. Hence, the following order.

ORDER

- (1) Criminal Application is allowed.
- (2) We hereby quash and set aside the First Information Report No.33/2025 dated 24.03.2025, registered with Badnera Police Station, Nagpur Railway, for the offences punishable under Sections 108 and 3[5] of the Bhartiya Nyaya Sanhita, 2023 (BNS), to the extent of present applicants.
- (3) Rule is made absolute in aforesaid terms.
- (4) Pending Misc. Applications, if any, also stands disposed of.

JUDGE

JUDGE