



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

Criminal Application (APL) No.1141/2024

Saurabh Ravindra Sahare,
Aged 27 years, Occ. Service, Resident of Siddhath Nagar,
Tarfail, Akola.

.... Applicants

- VERSUS -

1. The State of Maharashtra, through the Police Station Officer,
Dabki Road, Akola, Tahsil and District Akola.

2. Bhushan Prakash Shrinath
Aged 26 years, Occ. Private,
R/o. New Khetan Nagar near Ganesh Mandir,
Kaulkhed, Akola.

.... Non-applicants

Mr. S.U. Dable, Advocate for applicant.
Mrs. S. Haider, APP for State.
Mr. N.J. Patil, Advocate for non-applicant no.2.

**CORAM : Nitin B. Suryawanshi &
M.W. Chandwani, JJ.**

DATE : 21-01-2025.

ORAL JUDGMENT (Per Nitin B. Suryawanshi, J.)

Rule. Rule made returnable forthwith. Heard by consent of the parties.

ii. This application is filed under Section 482 of the Code of Criminal Procedure for quashing of First Information Report (FIR) vide Crime No.0148/2024 registered with Dabki Road Police Station, Akola for

offence punishable under Section 306 of the Indian Penal Code (IPC) and chargesheet filed pursuant to the completion of investigation.

iii. Non-applicant no.2 lodged FIR, in short alleging that, his father Prakash Shrinath had purchased electric auto rickshaw bearing No. MH 30 BC 3731 by obtaining finance of Rs.3,25,188/- from Cholamandalam Investment and Finance Company Limited. His father was regularly paying EMI of Rs.10,602/- from the date of purchase. On 09-03-2024 when non-applicant no.2 came back to his house Auto purchased by his father was standing in front of his house, however his father was not present and his father's Bullet was also missing. After some time he was informed by his uncle and brother that his father had met with an accident. He went to Government hospital along with them, there he saw dead body of his father in the ambulance. He was told that his father had committed suicide on 09-03-2024 between 7.00 pm to 8.00 pm by jumping in front of a train. Post mortem on the dead body was performed on the next day and thereafter he performed the funeral. On 12-03-2024 when he went to Police Station he was shown the chit recovered from the pant's pocket of his father. Wherein it was written by his father that he had obtained finance from Cholamandalam Investment and Finance Company Limited. Sahare (applicant) the Recover Officer is repeatedly threatening. Therefore by

pledging bullet an amount of Rs.50,000/- was given to Sahare. It is therefore alleged that because the loan installments were not regularly paid by his father and applicant insisted for payment of the installments due to which his father was required to pledge the bullet, fed up with the harassment of Sahare his father has committed suicide by writing a suicide note.

After registration of crime, investigation is conducted by non-applicant no.1 and chargesheet was filed on 26-06-2024 and the case is numbered as Regular Criminal Case No.733/2024 in the Court of Judicial Magistrate First Class, Akola. Hence, this application for quashing of these proceedings.

iv. Heard learned Advocate for the applicant, learned APP and learned Advocate for non-applicant no.2. Perused the FIR, chargesheet and the citations relied upon by learned Advocate for the applicant.

v. As per prosecution case admittedly deceased had obtained loan from Cholamandalam Investment and Finance Company Limited to purchase the Auto Rickshaw. Post dated cheques were given by him towards payment of installments. During the course of investigation documents are collected showing that post dated cheques given by deceased

bounced due to 'insufficiency of funds' in the account of deceased. Applicant since is the recovery officer of the Finance Company, was insisting that deceased should regularly pay the installments. It is thus clear that applicant was only doing his duty as a recovery officer to insist the deceased to regularly pay the installments. In these facts it cannot be said that applicant has abetted suicide of deceased.

vi. In similar facts this Court in Criminal Application (APL) No.1052/2018 (***Rohit Nawanath Nalawade vs State of Maharashtra and another***) quashed the FIR lodged against the applicant therein, an employee of finance company observing that :-

"13. On the aforesaid touchstone, if we consider the facts of the present case, admittedly, the allegations are only to that effect that the applicant demanded outstanding loan amount from the deceased which was the part of his duty being employee of the Finance Company. In view of that, the demand of outstanding loan amount from the person who was in default in payment of loan amount, during the course of employment as a duty, at any stretch of imagination cannot be said to be any intention to aid or to instigate or to abet the deceased to commit the suicide."

vii. In **Santoshkumar vs. State of Maharashtra** reported in **2020 SCC OnLine Bom. 914**, this Court observed thus -

“16. One of leading case on this issue is, Dilip s/o Ramrao Shirasao vs. State of Maharashtra reported at 2016 ALL MR (Cri.) 4328, this Court discussed in detail various pronouncements of the Honourable Apex Court. The ratio of the said is that it is incumbent upon prosecution to at least show prima facie case that accused had an intention to aid or instigate or abet deceased to commit suicide. In the absence of availability of such material, the accused cannot be compelled to face trial for the offence punishable under Section 306 of the Indian Penal Code.

17. Admittedly, in this case, the Loan Account of the complainant was showing outstanding to the tune of Rs.2,32,689/-. The said aspect is not denied by the prosecution. Sudhir Gawande, the deceased, was not having any loan outstanding in his name. Even, according to the prosecution, Sudhir Gawande, the deceased, went to the Bank of Maharashtra, Morshi Branch, District Amravati for loan. If previous loan amount is outstanding and if the applicant, who is Branch Manager of the said Bank, is refusing to grant any further loan, can be said as act of a vigilant and prudent banker and if he is not granting any further loan, it cannot be termed that by such act he instigated and/or abetted the person to commit suicide”

viii. In **Prabhu vs State Rep by the Inspector of Police and another,** reported in **2024 SCC OnLine SC 137**, it is held-

"13. Section 306 of the Indian Penal Code talks about abetment of suicide and states that whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine.

14. Abetment is defined in Section 107 IPC and it reads as follows:

“107. Abetment of a thing. —A person abets the doing of a thing, who— First.—Instigates any person to do that thing; or Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

15. In a recent judgment of this Court in *Kamalakar vs State of Karnataka* in Criminal Appeal No. 1485 of 2011 [decided on 12.10.2023], one of us (Vikram Nath J.) explained the ingredients of Section 306 IPC. The Court has held as follows:

"8.2. Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.

8.3. In Ramesh Kumar vs State of Chhattisgarh, this Court has analysed different meanings of “instigation”. The relevant para of the said judgment is reproduced herein:

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. 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. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

8.4. The essentials of Section 306 IPC were elucidated by this Court in M. Mohan vs State, as under:

“43. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word “instigation” and “goad”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self esteem and self respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.”

8.5. The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in Amalendu Pal alias Jhantu vs State of West Bengal in the following paragraphs:

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely 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, conviction in terms of Section 306 IPC is not sustainable.

13. 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.”

8.6. On a careful reading of the factual matrix of the instant case and the law regarding Section 306 IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not committed any positive or direct act to instigate or aid in the commission of suicide by the deceased.”

16. On a perusal of the above, and relying upon this Court’s previous judgments discussing the elements of Section 306 IPC, the following principles emerge:

17. Where the words uttered are casual in nature and which are often employed in the heat of the moment between quarrelling people, and nothing serious is expected to follow from the same, the same would not amount to abetment of suicide. [Swami Prahaladdas v. State of M.P 1995 Supp. (3) SCC 438, Paragraph 3; Sanju vs State of M.P. (2002) 5 SCC 371, Paragraph 12]

18. In order to constitute ‘instigation’, it must be shown that the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide. The words uttered by the accused must be suggestive of the consequence [Ramesh Kumar vs State of Chhatisgarh (2001) 9 SCC 618, Paragraph 20]

19. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. [Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605, Paragraph 20]

20. There must be direct or indirect acts of incitement to the commission of suicide. The accused must be shown to have

played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide [Amalendu Pas v State of West Bengal (2010) 1 SCC 707, Paragraph 1214]

21. The accused must have intended or known that the deceased would commit suicide because of his actions or omissions [Madan Mohan Singh vs State of Gujarat (2010) 8 SCC 628] "

xix. Applying the aforesaid ratio to the facts of the present case even if the prosecution case is accepted as it is there is no material on record showing direct or indirect acts of instigation, intentional aid on the part of applicant or to show that applicant has abetted suicide of deceased Prakash. Continuation of prosecution against the applicant is therefore an abuse of process of the law.

x. In the result, application is allowed. Proceeding of FIR vide Crime No.0148/2024 registered with Dabki Road Police Station, Akola for offence punishable under Section 306 of the Indian Penal Code (IPC) and proceedings of Regular Criminal Case No.733/2024 pending in the Court of Judicial Magistrate First Class, Akola are hereby quashed and set aside.

xi. Rule is made absolute in the aforesaid terms.

(M.W. Chandwani, J.)

(Nitin B. Suryawanshi, J.)