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

CRIMINAL APPLICATION (APL) NO.1589 OF 2022
AND
CRIMINAL APPLICATION (APL) NO.2 OF 2023

CRIMINAL APPLICATION (APL) NO.1589 OF 2022

1. Nazma Bi Mohammad Khan,
age: 58 years, occupation : housewife.

2. Reshma Parveen Nisar Khan,
age: 34 year,s occupation: housewife.

3. Nisar Khan Nazir Khan,
age: 40 years, occupation: business.

4. Saleem Khan Mohammad Khan,
age: 35 years, occupation : business.

5. Salman Khan Mohammad Khan,
age: 30 years, occupation: service.

Applicant No.1 to 5 are r/o Bibi Sahab Pura
near J.D.Chavre Vidhya,
mandir, ward no.27, Karanja,
taluka: Karanja &
district : Washim – 444 505. ….. **Applicants.**

:: **V E R S U S** ::

1. The State of Maharashtra,

through Police Station Officer,
Police Station-Murtizapur,
taluka Murtizapur & District: Akola.

2. Smt.Shahnaz Bi Issar Ali,
age: 40 yrs, occupation : housewife,
r/o village, Dhotra Shinde,
taluka: Murtizapur, district Akola. ….. Non-applicants.

CRIMINAL APPLICATION (APL) NO.2 OF 2023

Wasim Khan s/o Mohammad Khan,
age 32 years,
r/o Bibi Sahab Pura, near J.D.Chavre Vidhya
mandir, ward no.27, Karanja,
taluka & district: Washim – 444 505. ….. Applicant.

:: V E R S U S ::

1. The State of Maharashtra,
through Police Station Officer,
Police Station-Murtizapur,
taluka Murtizapur & District: Akola.

2. Smt.Shahnaz Bi Issar Ali,
age: 40 yrs, occupation : housewife,
r/o village, Dhotra Shinde,
taluka: Murtizapur, district Akola. ….. Non-applicants.

Shri Parvez Mirza, Counsel for the Applicants.
Shri N.B.Jawade, Additional Public Prosecutor NA No.1/State.
Shri Z.Z.Haq, Counsel for NA No.2.

CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.

CLOSED ON : 23/09/2025
PRONOUNCED ON : 26/09/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. Both these applications are preferred by the applicants for quashing of FIR in connection with Crime No.235/2022 registered with Murtizapur Police Station, district Akola under Sections 306 and 498-A read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.58/2025 pending before learned JMFC, Murtizapur, district Akola.

2. Facts of the case are as under:

On 18.6.2022, Crime No.235/2022 is registered against applicant Wasim Khan s/o Mohammad Khan in Criminal Application No.2/2023, who is son-in-law of the informant, and applicants in Criminal

Application No.1589/2022, who are his parents, brother, and sister-in-law. The marriage of daughter of the informant was performed with applicant Wasim Khan s/o Mohammad Khan on 5.4.2021. As per the allegations, they have incurred expenses of Rs.13.00 lacs, but after two months of the marriage, all the applicants started ill-treating her daughter by demanding Rs.5.00 lacs, but the informant and her deceased husband were not in a position to pay the said amount to the applicants. However, the applicants were harassing and ill-treating their daughter and, therefore, the deceased arranged amount of Rs.3.00 lacs and handed over the same to the applicants, but for remaining amount of Rs.2.00 lacs, they were again harassing their daughter. Being fed up with the said harassment to her daughter and the deceased, the deceased who is father-in-law of applicant Wasim Khan s/o Mohammad Khan has committed suicide

by consuming poison. On the basis of the said report, the police registered the crime against the applicants.

3. Both these applications are filed by the applicants on the ground that merely because the death of the deceased is due to the poisoning, they are falsely implicated in the alleged offence. In fact, no *prima facie* case is made out against them and, therefore, the FIR against them is not sustainable as there is no *mens rea* on the part of the applicants.

4. Heard learned counsel Shri Parvez Mirza for the applicants in both applications; learned Additional Public Prosecutor Shri N.B.Jawade for the State, and learned counsel Shri Z.Z.Haq for non-applicant No2 in both applications.

5. Learned counsel for the applicants submitted that as far as allegations are concerned, the same are

false and baseless. Even, accepting the allegations as it is, nowhere it reflects that what actually act or instigation was on the part of the applicants due to which the deceased has committed suicide. Though suicide note is seized by the investigating officer from the person of the deceased, but except names of the applicants, nothing is mentioned in the said suicide note. Moreover, the investigation papers show that to compare the handwriting of the deceased, the informant, despite notice given to her by the investigating officer, has not provided the handwriting of the deceased and, therefore, it would not be possible for the prosecution to prove that the suicide note is in the handwriting of the deceased. In such circumstances, it would not be in interests of justice to force the applicants to face the trial. In view of that, the FIR as well as the consequent proceeding deserves to be quashed as there is no *mens rea* on the part of the

applicants on the face of record and, therefore, the charge against the applicants cannot be sustained.

6. In support of his contentions, learned counsel for the applicants placed reliance on **Criminal Application (APL) No.935/2022 (Devidas s/o Tulshiram Wankhede vs. The State of Maharashtra and anr) decided by this court on 19.9.2025.**

7. *Per contra*, learned Additional Public Prosecutor for the State submitted that at the time of quashing of the FIR, what requires to be seen is, whether there was requisite *mens rea* and obviously, it is a matter of evidence. A strong suspicion is also sufficient to proceed against accused. He submitted that overall material shows that the applicants created sudden circumstances which compelled the deceased to commit suicide. At this stage, the court is required to evaluate

the material documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose existence of ingredients or not.

Thus, at this stage, material collected during the investigation, is sufficient to proceed against the applicants and, therefore, the applications deserve to be rejected.

8. Learned counsel for non-applicant No.2 submitted that there are specific allegations levelled against the applicants who has rebutted daughter of the informant and the deceased which compelled the deceased to commit suicide. At this stage, *prima facie* material is sufficient to proceed against the applicants and, therefore, the applications deserve to be rejected.

9. In support of his contention, learned counsel for the non-applicant No.2 placed reliance on the

decision in the case of **Meera vs. State by the Inspector of Police, thr. Votriyur Police Station, Chennai, reported in (2022)3 SCC 93.**

10. Having heard learned counsel appearing for the respective parties and perused the investigation papers, it reveals that as far as the allegations against the applicants are concerned, it is to the extent that applicant Wasim Khan s/o Mohammad Khan married with the daughter of the informant and the deceased. As per the allegations, the deceased has incurred huge expenses to perform the marriage. Their daughter was treated well initially for some day and, thereafter, she was ill-treated by all the applicants and, therefore, she was constrained to leave the matrimonial house. It is further alleged that as there was consistent demand from the applicants to pay Rs.5.00 lacs, the deceased somehow arranged amount Rs.3.00 lacs and paid to the applicants, but there

was no change in the behaviour of the applicants and they continued harassing their daughter. Therefore, the deceased has committed suicide by consuming poison. The suicide note was found along with the deceased. The said suicide note is in Urdu Language which was translated by one Nadim Ahmad Shaikh whose statement is also recorded. Recital of the said suicidal note shows that "मेरी बेटी के ससुरालवालो ने मेरी बेटी को इतना परेशान किया यहा तक के मैने उन्हे ३ लाख रुपये दिया ५ लाख मांगे थे फिर भी उन्हांने मेरी बेटी को आने घर रखनेसे मना कर दिया और बार बार पैसो की, मॉग कर रहे है, अब मै इतना परेशान हो गया हु के मुझे खुदखुशी करने के अलावा कोई चारा नही रहा, मेरी बेटी की तकलीफ मै बरदाश नही कर सकता, मुझे इन लोगोने खुदखुशी करने पर मजबुर कर दिया!"

Admittedly, the investigating officer has forwarded the said suicide note to the handwriting expert, but the General Diary Entry dated 7.9.2022 shows that despite notice was given to the informant and the

specimen handwriting by way of document, to ascertain handwriting of the deceased, was called from the informant, but she has not cooperated. The said General Diary Entry is on record. This entry itself is sufficient to show that no other document is available to compare the handwriting of the deceased with his specimen handwriting.

11. As far as the applicants in Criminal Application No.1589/2022 are concerned, they are parents, sister, and brother of applicant Wasim Khan s/o Mohammad Khan. Even accepting the allegations as it is, general allegation is levelled against them.

12. Before discussing as to the nature of the material collected during the investigation, it is necessary to see that what are the considerations as to the offence under Section 306 of the IPC.

13. Section 306 (Section 108 of the Bharatiya Nyaya Sanhita, 2023) of the Indian Penal Code defines abetment of suicide, which reads thus:

> **"306. Abetment of suicide.** - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
>
> Classification of offence. - The offence under this section is cognizable, non-bailable, non-compoundable and triable by Court of Session".

14. Section 107 of the Indian Penal Code (Section 45 of the Bharatiya Nyaya Sanhita, 2023) defines abetment of a thing, which reads thus:

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.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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. Section 108 of the Indian Penal reads thus:

> **108. Abettor.—**
>
> A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.
>
> Explanation 1.— The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.
>
> Explanation 2.— To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect

requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.— It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and

had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house, B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment, provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B

takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.— The abetment of an offence being an offence, the abetment of such an abetment is also as offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and,

as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.— It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the

manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

16. 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.

17. The said Sections 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 of the Indian Penal Code. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide.

18. A question arises as to when is a person said to have instigated another. The word “instigate” means to goad or urge forward provoke, incite or encourage to do “an act” which the person otherwise would not have done.

19. It is well settled that in order to amount to abetment, there must be *mens rea*. Without knowledge or intention, there cannot be any abetment. The knowledge and intention must relate to the act said to be abetted which in this case, is the act of committing suicide.

Therefore, in order to constitute abetment, there must be direct incitement to do culpable act.

20. The Hon'ble Apex Court in criminal appeal (**Prabhu vs. The State, Rep.By the Inspector of Police and anr), decided on 30.1.2024**, by referring the various earlier decisions, held that the physical relationship over a considerable period of time was out of mutual love between the appellant and the deceased and not based on the promise of marriage. In the said case, the Hon'ble Apex Court has considered its earlier decision in the case of **Kamlakar vs. State of Karnataka (Criminal Appeal No.1485/of 2011, decided on 12.10.2023** and explained ingredients of Section 306 of the Indian Penal Code and held, as under:

> "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 Chattisgarh**, reported in **AIR 2001 SC 383**, 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, AIR 2011 SC 1238**, 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 "goading". 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 selfesteem and selfrespect. 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 106 IPC were also discussed in **Amalendu Pal alias Jhantu vs. West Bengal AIR 2010 SC 512**, 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."

21. In the light of above said principles laid down by the Hon'ble Apex Court, it is well settled that to attract the provisions what is to be shown is that the accused have actually instigated or aided to the victim in committing suicide. There must be direct or indirect incitement to the commission of suicide and 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.

22. Applying the above principles to the facts of the present case and even accepting the case as it is, it reveals that the deceased has wrote the suicide note wherein it is mentioned that he has given Rs.3.00 lacs to the applicants.

23. Similar allegations are levelled by the informant as well as her daughter and various statements were recorded of the relatives.

24. There is no dispute that the applicants and the informant are related to each other. There is no dispute that the marriage of the daughter of the deceased and the informant was performed with applicant Wasim Khan s/o Mohammad Khan. There is no dispute that the death of the deceased was caused due to poisoning.

25. Thus, the death of the deceased is not natural death.

26. During the investigation, the investigating officer has recorded various statements of the witnesses. The allegation levelled against the applicants, as far as the demand is concerned, which is vague in nature and no specific instances are either narrated by the informant or by her daughter or in the suicide note. The nature of the harassment is also not mentioned in the statement or in the suicide note by the deceased. Even, accepting the allegations as it is and even accepting the facts that there was harassment at the hands of the applicants, there is nothing on record to show that they have in any manner abetted the deceased to commit suicide. No single instance or the exact words is narrated by which the applicants alleged to have committed the deceased to commit suicide. There is nothing on record to show that

the deceased had no any other alternative than to commit suicide and, therefore, he committed suicide and such types of circumstances are created by the applicants.

27. In the case of **Ayyub and others vs. State of Uttar Pradesh and another (Criminal Appeal No.461/2025), decided on 07.02.2025,** wherein also this aspect was considered by the Hon'ble Apex Court by referring its earlier decision and held that, we find none of the ingredients required in law to make out a case under Section 306 IPC to be even remotely mentioned in the charge-sheet or are being borne out from the material on record. The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased with no other alternative but to put an end to her life.

28. In **Mahendra Awase vs. The State of Madhya Pradesh, reported in MANU/SC/0078/2025,** wherein also this aspect is considered by the Hon'ble Apex Court and by referring the catena of decisions observed that, 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.

29. In the case of **Kamaruddin Dastagir vs. State of Karnataka,** reported in **MANU/SC/1266/2024,** while dealing with the provisions under Section 306 of the Indian Penal Code extensively, it is held that the very first

clause of Section 107 of the Indian Penal Code lays down that a person, who abets the doing of a thing, is a person who instigates any person to do that thing. Therefore, 'instigation' to do a particular thing is necessary for charging a person with abetment. In paragraph No. 25 it is observed that even in cases where the victim commits suicide, which may be as a result of cruelty meted out to her, the Courts have always held that discord and differences in domestic life are quite common in society and that the commission of such an offence largely depends upon the mental state of the victim. Surely, until and unless some guilty intention on the part of the accused is established, it is ordinarily not possible to convict him for an offence under Section 306 of the Indian Penal Code. While dealing with the situation on the basis of the facts before the Hon'ble Apex Court, it is held that the accused-appellant had simply refused to

marry the deceased and thus, even assuming there was love affair between the parties, it is only a case of broken relationship which by itself would not amount to abetment to suicide.

30. The Division Bench of this Court in **Criminal Application (APL) No.686/2021 (Monika vs. The State of Maharashtra and ors) decided on 6.6.2022** also by applying the various decisions held that on applying the parameters and while exercising the powers under Section 482 Cr.P.C. or under Section 226 of the Constitution of India, the power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this

Court in the cases of **R.P.Kapur** and **Bhajan Lal** has the jurisdiction to quash the FIR/complaint.

31. In the case of **Patel Babubhai Manohardas and ors vs. State of Gujrat, reported in MANU/SC/0321/2025** also the provisions under Section 306 and 107 are extensively considered and observed by the Hon'ble Apex Court that "attempt to commit suicide is an offence in India. Section 309 IPC says that whoever attempts to commit suicide and does any act towards such act, shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both. However, once suicide is carried out, the offence is complete. Considering the nature of the offence, obviously such a person would be beyond the reach of the law. Therefore, question of penalizing him would not arise but whoever abets the commission of such suicide would be penalized under Section 306 of IPC. Punishment

prescribed under Section 306 of IPC is imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine. What Section 306 IPC says is that if any person commits suicide, then whoever abets the commission of such suicide shall be punished as above.

32. It is further held that "therefore, the crucial word in Section 306 IPC is 'abets'. 'Abetment' is defined in Section 107 of IPC. As per Section 107 IPC, a person would be abetting the doing of a thing if he instigates any person to do that thing or if he encourages with one or more person or persons in any conspiracy for doing that thing or if he intentionally aids by any act or illegal omission doing of that thing. There are two explanations to Section 107. As per Explanation 1, even if a person by way of willful misrepresentation or concealment of a material fact which he is otherwise 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 clarifies that whoever does anything in order to facilitate the commission of an act, either prior to or at the time of commission of the act, is said to aid the doing of that act.

33. Section 114 IPC is an explanation or clarification of Section 107 IPC. What Section 114 IPC says is that whenever any person is absent but was present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such an act or offence and would be liable to be punished as an abettor.

34. By referring the decision of **Ramesh Kumar V. State of Chhattisgarh, reported in (2001) 9 SCC 618,** the Hon'ble Apex Court held that " 'instigate' means to goad,

urge, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. Where the accused by his act or omission or by his continued course of conduct creates a situation that the deceased is left with no other option except to commit suicide, then 'instigation' may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be 'instigation'.

35. The Hon'ble Apex Court further refers the judgment of **Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi), reported in (2009) 16 SCC 605** observed that to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage doing of an act by the other by 'goading' or 'urging forward'. This

Court summed up the constituents of 'abetment' as under and laid down the constituents as follows:

> (i) the accused kept on irritating or annoying the deceased by words, deeds or willful omission or conduct which may even be a willful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or willful omission or conduct to make the deceased move forward more quickly in a forward direction; and
>
> (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above.

36. Applying the above principles to the facts of the present case and even accepting the case as it is, it

reveals that the allegations against applicants in Criminal Application No.1589/2022 are only to the extent that they have ill-treated the daughter of the deceased and the informant and, therefore, the deceased was constrained to commit suicide.

On examination of the instant case on the touchstone of the principles laid down by the Hon'ble Apex Court, the entire material collected during the investigation, even accepting that the deceased has committed suicide as his daughter was harassed, no specific instances are narrated as far as harassment is concerned and, therefore, the suicide committed by the deceased is not immediate result of the act of the applicants. Thus, there was no proximity or nexus between the two acts.

37. As far as applicant Wasim Khan s/o Mohammad Khan in Criminal Application No.2/2023 is concerned, offence under Section 306 of the IPC is not made out against him.

38. A plain reading of Sections 107, 108, and 306 of the Indian Penal Code and applying it to the undisputed facts of the present case, it indicates that none of ingredients are attracted to the case in hand. The material appears to be insufficient for subjecting the applicants for trial in Application No.1589/2022 are concerned.

39. However, considering the statement of the daughter of the deceased and the informant, the offence under Section 498-A is made out *prima facie* against applicant Wasim Khan s/o Mohammad Khan and,

therefore, application of said Wasim Khan s/o Mohammad Khan deserves to be allowed partly.

40. In this view of the matter, we proceed to pass following order:

ORDER

(1) Criminal Application No.1589/2022 is **allowed**. FIR in connection with Crime No.235/2022 registered with Murtizapur Police Station, district Akola under Sections 306 and 498-A read with 34 of the IPC and consequent proceeding arising out of the same bearing RCC No.58/2025 pending before learned JMFC, Murtizapur, district Akola, is hereby quashed and set aside.

(2) Criminal Application No.2/2023 is **partly allowed**. FIR in connection with Crime No.235/2022 registered with Murtizapur Police Station, district Akola under Sections 306 and 498-A read with 34 of the IPC and

consequent proceeding arising out of the same bearing RCC No.58/2025 pending before learned JMFC, Murtizapur, district Akola, is hereby quashed and set aside to the extent of offence under Section 306 of the IPC only.

(3) The trial will continue against applicant Wasim Khan s/o Mohammad Khan under Sections 498-A of the IPC.

Applications stand **disposed of**.

(NANDESH S.DESHPANDE, J.) (**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede, PS !!

Signed by: Mr. B. R. Wankhede
Designation: PS To Honourable Judge
Date: 30/09/2025 10:31:47