



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

CRIMINAL APPLICATION [APL] NO.1640 OF 2023
WITH
CRIMINAL APPLICATION [APL] NO.1451 OF 2023

CRIMINAL APPLICATION [APL] NO.1640/2023

Nepalchand s/o Mahadeo Tembhare,
Age : 66 years, Occ : Retired A.S.I.,
R/o. Shedepar Road, Deori, Tah. Deori,
Dist. Gondia. .. Applicant

.. Versus ..

1. State of Maharashtra, through its
Police Station Officer, Police Station,
Deori, Dist. Gondia.
2. Gyaniram s/o Dudharam Karanjekar,
Aged 52 years, Occ : Police Constable,
Buckle No.1154, R/o. Police Station,
Deori, Tah. Deori, Dist. Gondia
Mobile No.8999547049 .. Non-Applicants

WITH

CRIMINAL APPLICATION [APL] NO.1451/2023

Umesh s/o Nepalchand Tembhare,
Age : 35 years, Occ. Service,
R/o. Shedepar Road, Deori,
Tah. Deori, Dist. Gondia. .. Applicant

.. Versus ..

1. State of Maharashtra, through its
Police Station Officer, Police Station,
Deori, Dist. Gondia.

2. Gyaniram s/o Dudharam Karanjekar,
Aged 52 years, Occ : Police Constable,
Buckle No.1154, R/o. Police Station,
Deori, Tah. Deori, Dist. Gondia
Mobile No.8999547049 .. Non-Applicants

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Shri Abhinav A. Pannase, Advocate for Applicants.
Mrs. M.H. Deshmukh, APP for Non-Applicant No.1/State.
None for Non-Applicant No.2.

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**CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.**

DATED : APRIL 08, 2025.

COMMON JUDGMENT [Per : Anil S. Kilor, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for the parties, both the matters are taken up for final disposal. The facts are identical in both the cases.

2. This is an application filed under Section 482 of the Code of Criminal Procedure for quashing of Chargesheet No.83/2023 dated 20.04.2024 filed in First Information Report No.0142/2023 registered with Police Station, Deori, District-Gondia for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. The brief facts of the present case are as under :

The alleged First Information Report came to be registered on the basis of enquiry report in Marg No.02/2023. During the enquiry, it was revealed that there was a dispute of approach road to the field of the deceased between the accused and the deceased. It is alleged that the accused obstructed the approach road of the deceased by digging the same and this had been going on for last 5-6 years.

4. It is further alleged that the accused used to obstruct the approach way of the deceased to his field repeatedly and even a false case was filed against the deceased and, therefore, out of frustration, he committed suicide by consuming poison.

5. It is further alleged that on the date of incident i.e. 13.02.2023, the accused obstructed the approach way of the deceased to his field and also the another way, which was newly created for the purpose of approaching to his field. And because both the approach ways were obstructed, the deceased got frustrated and in apprehension that he would not be able to cultivate the land any more and he has lost his source of livelihood, he committed suicide.

6. We have heard the learned counsel for the respective parties.

7. Shri Pannase, the learned counsel for the applicants, submits that even if the allegations made in the First Information Report are taken on its face value as true, no offence constitute as three prerequisites namely, to instigate, to aid and abet to constitute the offence under Section 306 of the Indian Penal Code are absent. He accordingly prays for quashing of First Information Report in both the cases, as no offence constitute, as alleged.

8. On the other hand, Mrs. Deshmukh, learned Additional Public Prosecutor for non-applicant no.1/State strongly opposed the application and submitted that the allegations levelled against the applicants are sufficient to constitute the offence. He, therefore, prays that this court may not quash the chargesheet.

9. We have perused the chargesheet and the allegations made in the First Information Report. However, before adverting to the facts of the present case, it would be beneficial the law as regards the abetment, as defined under Section 306 of the Indian Penal Code.

10. The Hon'ble Supreme Court of India in the case of *Arnab Manoranjan Goswami .vs. The State of Maharashtra and others*,

reported in 2021 (2) SCC 427, has held thus :

“50. More recently in [M Arjunan vs State](#) (represented by its Inspector of Police), 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. vs State of Haryana](#), 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 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 vs State of Haryana](#), 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 vs State of Punjab](#), 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.

54. In [Narayan Malhari Thorat vs Vinayak Deorao Bhagat](#), this Court, speaking through Justice U.U. Lalit, reversed the judgment of a Division Bench of the High Court which had quashed criminal proceedings in exercise of the jurisdiction under Section 482. This was a case where the FIR was registered pursuant to the information received from the appellant. The FIR stated that the son and daughter-in-law of the appellant were teachers in Zila Parishad School. The respondent used to call the daughter-in-law of the appellant on the phone and used to harass her. Moreover, despite the efforts of the son of the appellant, the respondent did not desist from doing so.

11. From the above referred observations, it is evident that the essential ingredients of the offence punishable under Section 306 of the Indian Penal Code are to aid or instigate or abet the deceased to commit the suicide.

12. In light of the above referred well settled principles of law, if the case of the prosecution is considered, it is evident that it is alleged that the accused obstructed the approached road of the deceased by digging the same and this dispute had been going on for last 5-6 years. It is further alleged that the accused used to obstruct the approach way of the deceased to his field repeatedly and even a false case was filed against the deceased and, therefore, out of frustration he committed suicide by consuming poison. There are no specific allegations in the report as regards any positive act or intention of the applicants to instigate the deceased to commit suicide or to aid the deceased to commit suicide.

13. In the circumstances, considering the allegations made in the report and the material collected by the investigating officer during the investigation and in absence of prerequisites namely, to instigate or to aid or to abet, we are of the opinion that no offence constitutes under Section 306 of the Indian Penal Code. Accordingly, both the applications are **allowed**.

14. The Chargesheet No.83/2023 dated 20.04.2024 arising out of FIR/Crime No.0142/2023 dated 07.05.2023 registered against the applicants with Police Station, Deori, District-Gondia for the offence

punishable under Section 306 read with Section 34 of the Indian Penal Code, is hereby quashed and set aside.

15. Rule is made absolute in above terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)

Gulande