



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

Criminal Application (APL) No. 1 of 2025

Sohail Idris Mirza

Age: 35 Years, Occ. Private

R/o BB Wing 903, Rachna Sahira,

Wardha Road, Chinchbhavan, Nagpur

... Applicant

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer, Police Station
Lakadganj, District Nagpur

2. Sarthak Ajay Gupta,
Aged about 28 years, Occ. Business
R/o 49-A, Shri Tulsi Niwas,
Nehru Putla, Lakadganj, Nagpur

... Non-applicants

Shri S.S.Sohoni, Advocate for the applicant.

Ms. Shamsi Haider, APP for the non-applicant/State.

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

DATED : 7th APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of the Code of Criminal Procedure, the applicant is challenging the registration of First Information Report dated 29th June, 2023 with Police Station

Lakkadganj, Nagpur vide Crime No. 0462 of 2023 for the offence punishable under Section 306 of Indian Penal Code.

3. It is the case of the applicant, that the deceased used to come to his office regularly and would request him to give work of loans. Applicant initially gave him work but later on in the year 2022 found that deceased was a drug addict and taken many personal loan and credit cards from many banks, therefore, the deceased was under constant pressure due to his bad habits and pressure of creditors for repayment of loan.

4. Applicant was/is having Rs.50,000/- outstanding against deceased and same was confirmed by deceased in his WhatsApp chat dated 12th April, 2023. Last talk between applicant and deceased was of 20th June, 2023.

As such, there was neither any harassment nor an active or direct action on the part of applicant in aiding or instigating or abating the deceased to commit suicide.

5. In the present case, offence being registered under Section 306 of Indian Penal Code against the applicant, thus, it will be appropriate to

first consider Sections 306 and 107 of Indian Penal Code. The same are reproduced as under:

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.

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.

6. From the bare perusal of abovesaid provision, it is clear that in the commission of offence of suicide, 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 of abetment. To satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide.

7. Recently, Hon'ble Supreme Court in the case of *Mahendra Awase Vs. State of Madhya Pradesh* decided on 17th January, 2025 in *Criminal Appeal No. 221 of 2025* had occasion to consider the identical matter wherein also on the basis of suicide note the offence was registered against the accused person therein. The Hon'ble Supreme Court in the said case has observed as under:

19. Applying the above principle to the facts of the present case, we are convinced that there are no grounds to frame charges under Section 306 IPC against the appellant. This is so even if we take the prosecution's case on a demurrer and at its highest. A reading of the suicide note reveals that the appellant was asking the deceased to repay the loan guaranteed by the deceased and advanced to Ritesh Malakar. It could not be said that the appellant by performing his duty of realising outstanding loans at the behest of his employer can be said to have instigated the deceased to commit suicide. Equally so, with the transcripts, including the portions emphasised hereinabove. Even taken literally, it could not be said that the appellant intended to instigate the commission of suicide. It could certainly not be said that the appellant by his acts created circumstances which left the deceased with no other option except to commit suicide. Viewed from the armchair of the appellant, the exchanges with the deceased, albeit heated, are not with intent to leave the deceased with no other option but to commit suicide. This is the conclusion we draw taking a realistic approach, keeping the context and the situation in mind. Strangely, the FIR has also been lodged after a delay of two months and twenty days.

20. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for Section 306 IPC [Now Section 108 read with Section 45 of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed

more in the breach. Section 306 IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law laid down by this Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306.

8. In the teeth of abovesaid legal provision and law laid down by Hon'ble Supreme Court of India, we have perused the record and considered the submission of rival parties.

It is clear from record that, informant in his police report stated that deceased was working in Banking Sector and was addicted to alcohol, cigarette and drugs. On 24th June, 2023, he was with his friend Pahal since 9 p.m. onwards. In late night of 25th June, 2023 he returned back to house. Then he entered in his room and committed suicide. In the suicide note, it is stated that present applicant used to harass him by

asking to repay the outstanding amount towards him, applicant had taught him how to consume drugs etc.

Question therefore falls for our consideration whether the suicide note and allegations raised therein constitute an offence of abetment to commit suicide.

9. After going through the suicide note, it is apparent that, applicant was asking the deceased to repay the amount. However, it does not mean that applicant was intended to instigate the commission of suicide. Certainly, no act is attributed to applicant, which left the deceased with no other option except to commit suicide. Furthermore, in present case prosecution failed to demonstrate intention of the applicant to provoke, instigate or encourage to commit suicide by deceased. Hence, no offence is made out under Section 306 of Indian Penal Code against the applicant.

10. In view of above reasons, we are of the considered opinion that no case is made out against the applicant and accordingly present application deserves to be allowed. Hence, we proceed to pass the following order.

- i. Criminal application is allowed;
- ii. The First Information Report dated 29th June, 2023 registered with Police Station Lakkadganj, Nagpur vide Crime No. 0462 of 2023 for the offence punishable under Section 306 of Indian Penal Code is hereby quashed and set aside against the applicant - **Sohail Idris Mirza.**

Rule is made absolute in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]