



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

CRIMINAL APPLICATION (APL) NO.448 OF 2024

1. Akshay S/o Ashok Jaiswal, Aged about 28 years, Occ.- Service, R/o Bhamb Raja, Tq. & Dist. Yavatmal.
2. Nilesh Sudam Chavhan, Aged about 52 years, Occ.- Agri., R/o Darvha Road, Shrikrushna Nagar, Yavatmal, Tq. & Dist. Yavatmal.
3. Arun S/o Hari Jadhav, Aged about 48 years, Occ.- Service, R/o Near Subhash Nagar, Parijat Society Wadgaon, Yavatmal, Tq. & District Yavatmal.
4. Kisanlal Ramcharanlal Jaiswal, Aged about 70 years, Occ.- Agriculturist, R/o Bhamb Raja, Tq. & District Yavatmal.

...Applicants

// VERSUS //

1. The State of Maharashtra, Through the Police Station Officer, Police Station Lohara, District Yavatmal.
2. Monika W/o Amit Chandankhede, Aged about 35 years, Occu.: Household, R/o Vishwakarma Nagar, Road No.15, Behind Government Medical College, Lohara, Tq. Lohara, District Yavatmal.

... Non-applicants

Ms S.H. Bhagat, Advocate for Applicants.
Mr S.S. Doifode, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATE : 06/05/2025

ORAL JUDGMENT (Per : Anil S. Kilor, J.)

1. Heard.
2. **RULE.** Rule is made returnable forthwith. Heard finally by consent of the parties.
3. In the present application, a prayer is made to quash and set aside the First Information Report (hereinafter referred to as "FIR") No.381 of 2023 dated 14.09.2023 registered with Police Station Lohara, Dist. Yavatmal, for the offences punishable under Sections 306 read with Section 34 of the Indian Penal Code.
4. The brief case of the prosecution is that, because of the continuous harassment of the applicants, mother of the non-applicant No.2 committed suicide. The allegations made in the FIR shows that the deceased was working as a teacher from 1997 in Nehru Vidyalaya, Bhamb Raja. It is alleged that, she gave Rs.50,000/- to one Akshay Ashok Jaiswal, who was working as a Clerk in the said school, and who returned back Rs.40,000/- but he did not return Rs.10,000/-

Furthermore, he harassed and insulted her mother by refusing to repay the remaining amount.

5. It is further alleged that, the secretary of the school Nilesh Sudam Chavhan-applicant No.2 and President Kisanlal Ramcharanlal Jaiswal-applicant No.4, did not sign on the file relating to pension of the deceased and used to mentally tortured the deceased. It is further alleged that, the applicant No. 3 would prompt the deceased to insult her. With these allegations, the above referred crime came to be registered against the applicants.

6. The Hon'ble Supreme Court of India in the case of *Arnab Manoranjan Goswami v. State of Maharashtra and ors.* Reported in **AIR 2021 SC 1** has held thus :-

“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 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.”

7. From the above referred observations made by the Supreme Court of India, it is evident that to constitute the offence under Section 306 of the IPC, the pre-requisites namely to instigate, to aid or to abet are required and also the intention or motive. From the allegations made in the FIR, it is evident that, there are no allegations about such instigation, aiding or abetment even there is no mentioned about any motive or intention of the applicants.

8. In absence of pre-requisites, no offence constitutes as alleged against the applicants. In that view of the matter, we are of the opinion that, since no offence constitutes against the applicants, the applicants cannot be compelled to face the trial otherwise it would amount to abuse of process of law. Accordingly, we pass the following order:-

i) The Criminal Application is **allowed**.

- ii) The First Information Report No.381 of 2023 dated 14.09.2023 registered with Police Station Lohara, Dist. Yavatmal, for the offences punishable under Sections 306 read with Section 34 of the Indian Penal Code, is hereby quashed and set aside.

Rule is made absolute in above terms. No costs.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

C.L.Dhakate