



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

CRIMINAL APPLICATION (APL) No.1396 OF 2024

(Santosh Mahadev Kale and another Vs. The State of Maharashtra, through PSO, P.S. Akot
Gramin, Tq. Akot, Distt. Akola and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.B. Mirza, Advocate for Applicants.
Ms. Shamsi Haider, APP for Non-applicant No.1.
Mr. N.R. Tekade, Advocate for Non-applicant No.2.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATE : 25th APRIL, 2025.

1. The First Information Report No.217/2024, dated 24.5.2024 registered with Police Station Akot Rural, District Akola for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code was registered on the report lodged by non-applicant No.2 alleging that the applicants extended financial help of Rs.40,000/- to the husband of the complainant on a condition to pay interest over a same at 10%. It is further alleged that on 21.5.2024 the applicants came and demanded Rs.4,00,000/- and because of such demand deceased committed suicide. It is argued that the pre-requisite to attract Section 306 is absent and as such no offence constitutes against the applicants and, therefore, a prayer is made to quash and set aside the First Information Report.

2. Learned A.P.P. and learned counsel for non-applicant No.2 strongly opposed the application and

submits that there was a constant demand of money from the deceased and out of harassment he committed the suicide.

3. At this stage, it would be beneficial to reiterate the law as regards abetment. Section 107 of the Indian Penal Code relates to abetment and on reading of such provision it is evident that pre-requisites to constitute the offence of abetment are to instigate or aid or abet to do certain thing or act.

4. The Hon'ble Supreme Court of India in the case of **Arnab Manoranjan Goswami vs. The State of Maharashtra**, reported in **AIR 2021 SC 1** 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.”

5. In the above referred observations if the allegations made in the F.I.R. are considered, admittedly there are no allegation about any positive act or active role of the applicants to instigate the deceased or to aid the deceased or to abet the deceased to commit suicide. There are even no allegations as regards the intention or motive of the applicants.

6. In the circumstances, as pre-requisites are absent to constitute the offence under Section 306, we are of the opinion that it would be not just and proper to compel the applicants to face trial.

7. Accordingly, the application is allowed. The First Information Report No.217/2024, dated 24.5.2024 registered

with Police Station Akot Rural, District Akola for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, is hereby quashed and set aside.

8. Application is disposed of.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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