



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

CRIMINAL APPLICATION (APL) NO. 338 OF 2025

Shri Virendra S/o. Devidasrao Darne
Aged:50 Yrs., Occ.: Legal practitioner.,
R/o. Ashtavinayak Chowk, Sambhaji
Nagar, Yavatmal, Tahsil and District
Yavatmal.

...APPLICANT

// VERSUS //

1. **The State of Maharashtra,**
Through Police Station Officer,
Railway Police Station Badnera,
District Amravati

2. **Shashkant Rajeshwar Bhatt**
Aged : 60 yrs., Occu.: Service,
R/o Behind Ram Mandir,
Jai Hind Chowk, Yavatmal.

NON-APPLICANTS

Ms Parita Lakhani, Advocate for the applicant
Mr Sagar Ashirgade, APP for Non-applicant No. 1/State

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATED : APRIL 29, 2025.

ORAL JUDGMENT : (PER : ANIL S. KILOR, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Taken up for
final disposal with the consent of learned counsel for the parties.

3. In the present application, filed under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ("the BNSS.", for short), prayer is made for quashing the FIR No.33/2025 dated 24.03.2025 for the offence punishable under Sections 108, 3(5) of the Bhartiya Nyaya Sanhita, 2023 ("the BNS", for short), registered with Railway Badnera Police Station, District Amravati.

4. In the present matter, the offence came to be registered against in all 34 persons including the present applicant whose name appears at Sr. No. 27 in the report. If the allegations are looked into, it is evident that except some vague allegations that all the accused harassed the deceased, there are no details about the instances or incidents, if any, in relation to the present applicant or any other accused.

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

Similarly, in Rajesh v. State of Haryana AIR 2019 SC 478, 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 v. State of Punjab AIR OnLine 2020 SC 759, 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.”

6. In the teeth of the above referred observations of the Hon’ble Supreme Court of India and considering the allegations made in the FIR, we are of the opinion that there are no allegations as regard instigation, aiding or abetting the offence. Furthermore, there is nothing to *prima facie* show that there was any such

intention of the applicant to instigate or to aid the deceased in the commission of the alleged offence.

7. In the circumstances, in absence of pre-requisites to constitute the offence under Section 108 of the BNS, the application deserves to be allowed.

8. Accordingly, the criminal application is **allowed**.

9. The FIR No.33/2025 dated 24.03.2025 for the offence punishable under Sections 108, 3(5) of the Bhartiya Nyaya Sanhita, 2023 registered at Police Station Railway Badnera, Distt. Amravati is hereby quashed and set aside against the present applicant.

Rule accordingly.

Pending application, if any, also stands **disposed of**.

[PRAVIN S. PATIL, J]

[ANIL S. KILOR, J.]