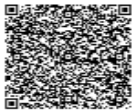


2025:PHHC:019526



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-5243 of 2025
Date of Decision:10.02.2025

Jasvir Kaur ...Petitioner
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Amandeep Singh Rai, Advocate, for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. S.P.S. Tinna, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 482 of the BNSS with a prayer to grant of anticipatory bail to her in case FIR No.60 dated 19.07.2024 registered under Section 306 IPC (Annexure P-1) at Police Station Jodhan, District Ludhiana.
2. The FIR in the present case was registered on the basis of the statement made by Harminder Singh son of Surjit Singh and the same has been reproduced below:-

*“Copy of statement: Statement of Harminder Singh son of Surjit Singh resident of Mini Chhapar P.S. Jodhan, District Ludhiana aged about 60 years Aadhaar Card No.8438-7724-9125 Mobile No.78883-40921.
Stated that I am resident of above said address and work as a laborer. I have three sons, Jagjit Singh, younger*

than him is Rajinder Singh aged about 35 years and younger than him is Amrinder Singh. My son Rajinder Singh is married to Jasvir Kaur daughter of Charanjit Singh son of Surjit Singh resident of Narangwal Kalan, Ludhiana who is residing at village Narangwal Kalan, since last 5 years. He is having a son namely Shivraj Singh aged about 2½ years. On 30.05.2024, we came to know that my son Rajinder Singh has passed away. Then we family and relatives reached at his house at Narangwal. The dead body of my son Rajinder Singh was lying in the refrigerator. My daughter-in-law Jasvir Kaur or any other member of her family was not present there. I felt that my son may be died due to heart attack due to which we got conducted proceedings under section 174 Cr.P.C but we later found out that my son Rajinder Singh had gone to his in-laws village Narangwal Kalan where his wife Jasvir Kaur, his mother-in-law Inderjit Kaur and Father-in-law Charanjit Singh, who always used to pick fights with my son, due to which my boy started remaining disturbed. About 15 days before his death, I came to know that above said persons had beaten up my son Rajinder Singh for some reason due to which my boy started living under depression and he ended his life by eating/drinking something poisonous because of the strained relationship between them. As such legal action may be taken against Jasvir Kaur daughter of Charanjit Singh, Inderjit Kaur wife of Charanjit Singh, Charanjit Singh son of Surjit Singh residents of Narangwal Kalan, and if any other person is involved in the death of my son, action should also be taken against him. Today, I

have recorded my statement in the presence of Hardev Singh son of Sher Singh, resident of Mini Chhapar and signed the same after hearing and understanding the same to be correct. SD/- Harminder Singh”

3. Learned counsel for the petitioner contends that Rajinder Singh, husband of the petitioner had committed suicide on 30.05.2024 and the FIR was got registered by Harminder Singh, father of the deceased after a delay of 01 month and 19 days, i.e., on 16.07.2024 by concealing the material facts. In fact, the petitioner was married to Rajinder Singh (deceased) since January 2019 and the family of the complainant was not happy with the dowry articles, given by the father of the petitioner and the petitioner was harassed and tortured for bringing less dowry. Ultimately, the parents-in-law of the petitioner started quarreling with her and Rajinder Singh (since deceased) in order to turn them out of the house. Aminder Singh, brother-in-law of the deceased also damaged house-hold articles of the petitioner and her husband and they were beaten up. Consequently, Rajinder Singh (since deceased) had lodged FIR No. 69 dated 27.08.2019 under Sections 323, 324, 506, 148 and 149 of IPC, Police Station Jodhan against Harminder Singh (father of the deceased), Aminder Singh (brother of the deceased), Jagjit Singh (brother of the deceased), Kamla Devi (mother of deceased) and Amanpreet Kaur (sister-in-law of the deceased). Petitioner Jasvir Kaur also filed a complaint under the provisions of the Protection of

Women from Domestic Violence Act, 2005. However, the matter was compromised between the parties on 25.02.2021. The petitioner and Rajinder Singh agreed to withdraw the FIR as well as domestic violence case and Rajinder Singh was given 1/4th share in the property. Ultimately, in order to settle the petitioner and her husband, the parents of the petitioner had purchased a five marlas house at village Narangwal and the petitioner and her husband started residing in the said house. A son was born to the petitioner in the year 2022. However, in May 2024, the complainant and his family members again started harassing and humiliating Rajinder Singh, husband of the petitioner and due to this, he was in depression. Ultimately, on 30.05.2024, when the petitioner had come to meet her parents at their house, Rajinder Singh committed suicide. The petitioner lodged a complaint dated 04.06.2024 with the SHO, Police Station Jodhan, Ludhiana for taking action against Harinder Singh, complainant, Kamla Devi (mother of the deceased) and Jagjit Singh (brother of the deceased) but no action was taken. Learned counsel further contends that even the parents of the petitioner had applied for grant of concession of anticipatory bail vide CRM M-39351-2024 titled as **“Charanjit Singh and another Vs. State of Punjab”** before this Court, which was allowed by this Court vide order dated 15.01.2025 (Annexure P-7). The petitioner is also having a young child aged

about 03 years and needs her care and attention. Thus, the case of the petitioner deserves sympathetic consideration by this Court.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by the petitioner on the ground that the petitioner is the main accused and the petition deserves to be dismissed by this Court. She had tortured Rajinder Singh in their house and it had become impossible to Rajinder Singh to live peacefully and due to the harassment meted out to him, he committed suicide.

5. I have heard learned counsel for the parties and perused the record.

6. In the present case, the petitioner is being prosecuted under Section 306 IPC, which has been reproduced below:-

"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."

7. The Hon'ble Supreme Court in '**Sanju @ Sanjay Singh Sengar v. State of Madhya Pradesh, 2002(2) RCR (Criminal) 687**', has discussed, as to what constitutes abetment and the relevant extract of the said judgment reads as under:-

"13. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the

quarrel that had taken place on 25th July, 1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased 'to go and die'. For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 Criminal Procedure Code, 1973 when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Criminal Procedure Code, 1973 is annexed as annexure P -3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him 'to go and die'. Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the

appellant on 25th July, 1998 derived the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly point out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below."

[Emphasis supplied]

8. The Hon'ble Supreme Court in '**Netai Dutta v. State of West Bengal, AIR 2005 (SC) 1775**', has held as under:-

"5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16.2.2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of the "abetment" have been stated in Section 107 of the Indian Penal Code. Section 107 says that a person abets the

doing of a thing, who instigates any person to do that thing; or 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, or the person should have intentionally aided any act or illegal omission. The explanation to Section 107 says that any willful misrepresentation or willful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.

7. Apart from the suicide note, there is no allegation made by the complainant that the appellant herein in any way harassing his brother, Pranab Kumar Nag. The case registered against the appellant is without any factual foundation. The contents of the alleged suicide note do not in any way make out the offence against the appellant. The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the First Information Report against the appellant disclosed

the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein. We find that is a fit case where the extraordinary power under section 482 of the Code of Criminal Procedure, 1973 is to be invoked. We quash the criminal proceedings initiated against the appellant and accordingly allow the appeal."

[Emphasis supplied]

9. The Hon'ble Supreme Court in '**S.S. Chheena v. Vijay Kumar Mahajan and Another, 2010(4) RCR (Criminal) 66**', has held as under:-

"26. In State of West Bengal v. Orilal Jaiswal, 1994 (3) RCR (Criminal) 186 : (1994) 1 SCC 73, this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

27. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) 2009 (4) RCR (Criminal) 196 :

2009 (5) R.A.J. 278 : (2009) 16 SCC 605, had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

28. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

29. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

30. When we carefully scrutinize and critically examine the facts of this case in the light of the settled legal position the conclusion becomes obvious that no

conviction can be legally sustained without any credible evidence or material on record against the appellant. The order of framing a charge under section 306 Indian Penal Code against the appellant is palpably erroneous and unsustainable. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under section 306 Indian Penal Code against the appellant is quashed and all proceedings pending against him are also set aside."

[Emphasis supplied]

10. In the present case also, it is apparent that the complainant had come to know about the death of his son Rajinder Singh on 30.05.2024. However, he got the FIR registered after a long delay of 01 month and 19 days on 19th July, 2024. The petitioner has also levelled allegations of harassment against the complainant side and had also moved a complaint (Annexure P-5) against the complainant side for abetting the suicide of Rajinder Singh, whereas, on the other hand, the complainant side has levelled the allegations of harassment against the present petitioner. Thus, the prosecution is yet to prove the case against the present petitioner before the trial court and it would be debatable issue as to whether the offence under Section 306 IPC is made out or not. Further, the prosecution could not bring on record any material to show that there was likelihood of the petitioner fleeing from the process of justice or repeating the offence.

The petitioner is a young lady, having three year old child and her custodial interrogation may not be required at this stage.

11. Without commenting any further on the merits of the case, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 482(2) of the B.N.S.S. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 482(2) of the B.N.S.S.

10.02.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No