



2025:DHC:1778



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 20th March, 2025**

+ CRL.REV.P. 153/2023, CRL.M.A. 4036/2023 & CRL.M.A. 8027/2023

MD.AYAZ

.....Petitioner

Through: Mr. Dinesh Kumar Goswami, Senior Advocate with Mr. Krishna Dutta Multani, Mr. Yash Giri and Mr. Anuj Shukla, Advocates.

versus

STATE OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP for the State along with Insp. Ravinder Singh

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant revision petition under Section 397 read with Section 401 of the Criminal Procedure Code, 1973 has been filed on behalf of the petitioner/applicant seeking setting aside of the order dated 23rd November, 2022 (hereinafter “impugned order”) passed by the learned Additional Sessions Judge, Saket District, Delhi (hereinafter “ASJ”) wherein charges were framed against the petitioner under Sections 498A and 306 of the Indian Penal Code, 1860 (hereinafter “IPC”).

2. The brief facts that led to the filing of the present petition are:

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- a. The petitioner and his wife (now deceased) solemnized their marriage on 15th November, 2007 in New Delhi in accordance with Muslim rites and rituals. Subsequent to their marriage, the petitioner and the deceased resided together at Okhla, New Delhi.
- b. On 10th December, 2020, at approximately 9:00 AM, an incident occurred at the couple's residence in which the wife suffered severe burn injuries. She was taken to Apollo Hospital, Jasola from where she was referred to Safdarjung Hospital for further treatment. Despite medical intervention, she succumbed to her injuries the same night at 11:45 PM.
- c. On 12th December, 2020, two days after the incident, the brother of the deceased lodged a complaint, alleging that the petitioner had subjected his wife to domestic violence and mental cruelty. The complainant also alleged that the petitioner had an extramarital relationship that contributed to the deceased's distress. Based on this, an FIR was registered under Sections 302 and 498A of the IPC and the petitioner was arrested on the same day at 9:30 PM.
- d. A post-mortem examination was conducted on 11th December, 2020 at Safdarjung Hospital which recorded 75% flame burns as the cause of death. No ante-mortem injuries or signs of physical assault were found.
- e. The Forensic Science Laboratory (hereinafter "FSL") report dated 4th April, 2022 did not detect petrol, kerosene or diesel residues on the deceased's clothing, hair or other exhibits collected from the scene.



The petitioner, however, suffered burn injuries on his hands, as recorded in his MLC report, indicating his proximity to the incident.

- f. Statements of witnesses, including neighbours and the minor son of the deceased, were recorded under Sections 161 and 164 of the CrPC. While some witnesses did not report any prior incidents of violence, the minor son alleged a history of physical abuse.
- g. After the completion of the investigation, a chargesheet was filed on 4th March, 2021, under Sections 302 and 498A of the IPC. During the proceedings before the ASJ, the charge under Section 302, IPC was dropped, but charges under Sections 498A and 306 of the IPC were framed *vide* impugned order.
- h. The petitioner was granted bail on 24th August, 2022 by this Court wherein it was noted that the case was based on circumstantial evidence and noted the absence of direct proof of abetment.
- i. The petitioner has filed the present revision petition under Sections 397 and 401 of the CrPC, seeking quashing of the charges framed under Sections 498A and 306 of the IPC.
3. Learned Counsel appearing on behalf of the petitioner submits that the learned ASJ passed the impugned order without considering the material on record and appreciating the facts of the case.
4. It is submitted that the allegations in the FIR, which were made two days after the incident, appear to be concocted and exaggerated, particularly in light of the fact that the deceased's family did not make any immediate accusations on the day of the incident. Moreover, the statements of



neighbours and independent public witnesses do not indicate any history of abuse or demand for dowry.

5. It is submitted that the deceased never lodged any complaint or reported any incident of cruelty to law enforcement authorities or any competent forum during her lifetime.

6. It is submitted that in order to sustain a charge under Section 306 of the IPC, there must be clear evidence of instigation, incitement or a deliberate act of abetment. In the present case, the deceased never made any dying declarations or any statement implicating the petitioner. It is further submitted that there is no suicide note, no documented history of mental trauma and no substantial evidence proving that the petitioner was responsible for pushing the deceased towards suicide, thereby amounting to abetment.

7. It is submitted that the FSL report did not detect petrol, kerosene or diesel, thereby negating the theory of forced immolation. Moreover, the MLC of the petitioner confirms that he suffered burn injuries, which strongly corroborates his version of events that he attempted to rescue the deceased from the fire.

8. It is submitted that the statement of the minor son recorded under Section 164 of the CrPC appears to be tutored, as his account contains inconsistencies and contradictions. It is further submitted that the post-mortem report does not corroborate his allegations of physical assault, further diminishing the evidentiary value of his statement.

9. Therefore, in view of the foregoing submissions, it is prayed that the



instant petition may be allowed and reliefs be granted as prayed for.

10. *Per Contra*, learned counsel appearing on behalf of the respondent vehemently opposed the instant petition submitting to the effect that the same is devoid of merit.

11. It is submitted that the petitioner used to frequently assault his wife. The minor son, in his statement under Section 164 of the CrPC, confirmed that the petitioner physically abused the accused. It is further submitted that the deceased confided in her family about her husband's extramarital affair and his mistreatment towards her.

12. It is submitted that the repeated quarrels and physical abuse created an environment of mental trauma which drove the deceased to self-immolation. It is further submitted that absence of direct evidence does not negate abetment, as it is a mental process which is often difficult to prove directly.

13. It is submitted that although the petitioner claims that the deceased caught fire while cooking, the condition of the kitchen did not exhibit any indications consistent with a fire accident occurring during cooking. It is further submitted that the FSL report did not detect petrol/kerosene but this does not conclusively rule out abetment, as other methods could have driven her to commit suicide.

14. It is submitted that while neighbours stated they never saw physical violence, this fact does not conclusively prove that cruelty did not happen within the privacy of the matrimonial home. It is further submitted that minor child's testimony clearly establishes prior abuse.

15. It is submitted that at the stage of framing of charges, the learned Trial



Court only has to see whether a *prima facie* case exists. The learned Trial Court found sufficient material on record for framing of charges under Sections 498A and 304 of the IPC.

16. In view of the foregoing submissions, it is prayed that the instant petition may be dismissed, being bereft of any merit.

17. Heard learned counsel for the parties and perused the record.

18. It is the case of the petitioner that the learned ASJ failed to consider material contradictions and the absence of direct evidence. It is contended that the instant FIR was lodged two days after the incident, raising concerns of fabrication. Moreover, no dying declaration or statement implicating the petitioner was made by the deceased, nor any suicide note or substantial evidence was placed on record establishing abetment of suicide. The FSL report found no traces of accelerants and the petitioner sustained burn injuries while attempting to save the deceased, contradicting allegations of forced immolation.

19. Additionally, the minor son's statement is allegedly tutored and inconsistent, and the post-mortem report does not corroborate claims of physical assault. Based on these grounds, the petitioner seeks quashing of charges under Sections 498A and 306 of the IPC.

20. The respondent opposes the petition asserting that sufficient *prima facie* material exists to sustain the charges under Sections 498A and 306 of the IPC. It is contended that the petitioner frequently subjected the deceased to physical abuse, which was corroborated by the minor son's statement under Section 164 of the CrPC. The deceased had confided in her family



about her husband's extramarital affair and mistreatment and the persistent cruelty and domestic strife drove her to self-immolation. While the FSL report did not detect petrol or kerosene at the place of incident, the respondent argues that abetment is a mental process that need not always be proven through direct evidence.

21. The respondent further contends that the petitioner's claim that the deceased caught fire while cooking is contradicted by lack of any burn marks in the kitchen, and the neighbours' statement denying physical violence do not negate the possibility of abuse behind closed doors. Lastly, at the stage of framing charges, the trial court only needs to determine a *prima facie* case and the learned ASJ found sufficient grounds to proceed with the trial.

22. In light of the above submissions, the core issue is whether the material on record *prima facie* justifies the charges under Sections 498A and 306 IPC, particularly in light of the allegations of cruelty and extramarital affairs, absence of direct instigation, the minor son's treatment, forensic findings and whether the learned Trial Court correctly applied the threshold from framing charges.

23. At the stage of framing of charges, the Court must determine whether a *prima facie* case exists based on the material placed before it. The scope of judicial scrutiny at this stage is limited and does not extend to a detailed evaluation of evidence as required in a full trial.

24. The Hon'ble Supreme Court in *Union of India v. Prafulla Kumar Samal*, (1979) 3 SCC 4, laid down the principles that the Trial Court has the



power to sift and weigh the evidence but only for the limited purpose of determining the existence of a *prima facie* case. If the material discloses grave suspicion against the accused that remains unexplained, the Court is justified in framing charges and allowing the trial to proceed. However, if two views are equally possible—one pointing towards guilt and the other towards innocence—the judge is justified in discharging the accused if the suspicion does not rise to the level of a *prima facie* case.

25. Recently, in ***Ghulam Hassan Beigh v. Mohammad Maqbool Magrey***, (2022) 12 SCC 657, the Hon'ble Supreme reiterated that while framing charges, the Trial Court must apply its mind and not act as a mere conduit for the prosecution. The Court must sift the material cautiously, ensuring that its analysis does not cross into the realm of a full-fledged trial.

26. Applying the settled principles governing the framing of charges, it is evident that the threshold required is the existence of a *prima facie* case based on the material placed before the Court. The prosecution has relied upon the statements of the deceased's family members, particularly her minor son, and allegations of cruelty, both physical and mental.

27. The deceased's brother and mother have alleged that the petitioner was engaged in an extramarital affair, which caused emotional distress to the deceased. Further, the minor son, in his statement recorded under Section 164 of the CrPC, has claimed that the petitioner had a history of physically assaulting the deceased, including an alleged incident on 9th December, 2020, the night before the incident.

28. While the probative value of these statements cannot be tested at this



stage, their existence is sufficient to create a grave suspicion against the petitioner regarding his alleged mistreatment of the deceased. Given that the deceased allegedly confided in her family and there are specific allegations of physical abuse, the allegations cannot be discarded at this stage.

29. Additionally, while the petitioner contends that the allegations are exaggerated and made after a delay of two days, such a delay does not, by itself, warrant the quashing of charges, particularly when the nature of allegations relates to domestic abuse, which is a serious offence and often remains unreported due to familial and societal constraints.

30. This Court is of the considered view that the learned ASJ, therefore, rightly framed charges under Section 498A of the IPC, as there is sufficient *prima facie* material to suggest that the deceased was subjected to cruelty, which necessitates a full trial.

31. The next question that arises before this Court is whether the allegations of abetment of suicide are sufficient to sustain the charge under Section 306 of the IPC.

32. The offence of abetment is defined under Section 107 of the IPC, which is reproduced as under:

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.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act

33. The language of Section 107 of the IPC underscores the necessity of an active role played by the accused that has a direct bearing on the deceased's decision to end their life. It suggests that mere presence or some form of negative interaction might not automatically constitute abetment unless it falls within the ambit of instigation, conspiracy, or intentional aid.
34. The Hon'ble Supreme Court in ***Ramesh Kumar v. State of Chattisgarh***, (2001) 9 SCC 618 has elaborated on the meaning of instigation, holding that:

“Instigation is to goad, urge forward, provoke, incite or encourage to do an act. To satisfy the requirement of instigation, a reasonable certainty to incite the consequence must be capable of being spelt out. A word uttered in a fit of anger or emotion, without intending the consequences to actually follow, cannot be said to be instigation.”

35. While the threshold for framing charges is lower than that required for conviction, it is not without its prerequisites. The Hon'ble Supreme Court has consistently held that mere allegations of harassment or domestic discord, in the absence of direct act of provocation, instigation or



inducement are insufficient to attract Section 306 of the IPC.

36. However, it is also recognized that persistent cruelty and psychological distress may create conditions where the deceased sees no option but to end her life, thereby justifying a charge under Section 306 of the IPC at the threshold stage of trial.

37. The primary contention of the prosecution, in this regard, is that the petitioner's alleged cruelty and extramarital affair created an environment of distress, which ultimately led the deceased to commit self-immolation. The prosecution seeks to establish that the emotional and psychological toll caused by the petitioner's conduct was so severe that it left the deceased with no alternative but to take her own life.

38. Before delving into the judicial precedents that interpret the scope and ingredients of Section 306 of the IPC, it is necessary to reproduce the provision itself for a clear understanding. Section 306 of the IPC reads as follow:

“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.”

39. The provision penalizes any person who abets the commission of suicide, making them liable for imprisonment up to ten years and fine. It contemplates a situation where the accused has played an active role by way of instigation, conspiracy or aid, in influencing the decision of another to take his/her own life.



40. The Hon'ble Supreme Court in ***Madan Mohan Singh v. State of Gujarat, (2010) 8 SCC 628***, has categorically held that to sustain a charge under Section 306 of the IPC, there must be a clear intention on the part of the accused to bring about the suicide, which must be reflected through a direct act of instigation, provocation or facilitation. In the present case, the prosecution has failed to show any such direct inducement on the part of the petitioner. The deceased did not make any statement implicating the petitioner before her death, nor is there any material indicating a specific act of incitement.

41. In ***Amalendu Pal alias Jhantu v. State of West Bengal, (2010) 1 SCC 707***, the Hon'ble Supreme Court reiterated that mere allegations of harassment are insufficient to bring an offence within the purview of Section 306 of the IPC.

“There must be proof of direct or indirect acts of incitement to the commission of suicide. Merely 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, conviction in terms of Section 306 IPC is not sustainable.”

42. This Court is mindful that Section 306 of the IPC requires instigation, facilitation or active participation in suicide. The Hon'ble Supreme Court has consistently held that mere harassment or matrimonial discord does not, by itself, constitute abetment unless there is a direct nexus between the accused's acts and the deceased's suicide. However, at the stage of framing charges, the Court is not required to ascertain guilt but only to evaluate



whether the material on record raises a *prima facie* case that justifies further judicial scrutiny.

43. There are certain aspects herein, which raise significant concerns and require a full-fledged trial to determine the extent of the petitioner's involvement in the deceased's death.

44. The statement of the minor son recorded under Section 164 of the CrPC, where he states that the petitioner physically assaulted the deceased on the night before her death. While the defence has argued that this statement is tutored, at this stage, it cannot be discarded outright and must be tested in trial.

45. Another aspect is the history of alleged cruelty in the matrimonial home. While occasional quarrels are common in any marriage, the deceased's family has alleged a sustained pattern of abuse. The learned Trial Court has rightly noted that persistent emotional distress could have impacted the deceased's state of mind and whether this amounted to abetment must be assessed through evidence.

46. The allegations of an extramarital affair also exist against the petitioner. The deceased's family has asserted that the petitioner's actions led to the deceased feeling humiliated and mentally distressed which pushed her into a state of extreme psychological turmoil, which is to be examined at the stage of trial.

47. The cumulative effect of these factors raises a strong suspicion that the petitioner's conduct may have contributed to the deceased's suicide. At this stage, it is not for this Court to conclusively determine the petitioner's



guilt under Section 306 of the IPC, rather, the key question is whether the material on record warrants the prosecution being allowed to lead evidence at trial. Given the circumstances surrounding the deceased's death, the statements of key witnesses and the alleged prior conduct of the petitioner, this case deserves further judicial scrutiny.

48. Accordingly, this Court is of the considered view that the learned ASJ has rightly framed charges under Section 306 of the IPC, as a *prima facie* case has been made out. The petitioner's conduct, as alleged, creates sufficient doubt that requires examination at the stage of trial.

49. In light of the foregoing discussion, this Court finds that the learned Trial Court has correctly exercised its jurisdiction while framing charges against the petitioner under Sections 498A and 306 of the IPC. The impugned order discloses no infirmity, as the material on record supports the existence of a *prima facie* case warranting trial. At the stage of framing of charge, the Court is only required to assess whether sufficient grounds exist to proceed and it is not expected to undertake a detailed evaluation of the evidence. The prosecution must, therefore, be given the opportunity to present its case in accordance with law.

50. This Court cannot, at this stage, engage in a meticulous appreciation of evidence or determine the veracity of the allegations, as that falls within the domain of the trial process.

51. In view of the above findings, this Court finds no reason to interfere with the impugned order of the learned Trial Court. Accordingly, the impugned order dated 23rd November, 2022 passed by the learned



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Additional Sessions Judge, Saket District, Delhi in SC 290/2021 is, hereby, upheld.

52. The present petition is accordingly dismissed alongwith pending applications, if any, and the trial shall proceed on its own merits, uninfluenced by any observations made in this order.

53. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

MARCH 20, 2025

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Click here to check corrigendum, if any

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