

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

CRR 4048 of 2024

**Shreya Basak & Anr.
Vs.
The State of West Bengal and Anr.**

For the Petitioners	:	Mr. Sandipan Ganguly, Sr. Adv., Mr. Sourav Chatterjee. Sr. Adv., Mr. Aditya Tiwari
For the Opposite Party 2	:	Mr. Kallok Kumar Basu Md. Jannat Ul Firdous Mr. Rajsekhar Hota
For the State	:	Mrs. Rituparna De Ghosh Mr. Abhinaba Mukherjee
Heard on	:	07.04.2026
Judgment on	:	11.05.2026

Dr. Ajoy Kumar Mukherjee, J.

1. Petitioners herein have sought for quashing of proceeding being GR Case no. 3892 of 2022 presently pending before learned Sessions Judge, Barasat under section 306/506/34 of the IPC.
2. Petitioners' case is that deceased Arijit Samaddar had married petitioner no. 1 herein on 01.12.2021. Petitioner no. 2 is the father of the

petitioner no.1. Their further case is that soon after the marriage the petitioner no.1 discovered that her husband had epidermoid cysts covering both his scrotums, which he did not disclose to the petitioner no.1 prior to that marriage. She time and again requested her husband to consult physicians in order to have the said disease medically treated and cured. But the deceased was indifferent and refused to consult any doctor and on the contrary he used to ask the petitioner to leave her matrimonial home. Finding no other alternative the petitioner no.1 was constrained to leave her matrimonial home in the month of February, 2022 mainly due to indifferent attitude of her husband, though she had not initiated any litigation against her husband

3. Further case of the petitioners is that on 2nd July, 2022 petitioner no.1 went to her matrimonial home but her husband/deceased refused to reconcile and as such she left her matrimonial home along with her belongings on that very day. Therefore, after 2nd July 2022, the petitioner no.1 had no occasion to either physically meet or to speak to her husband. Unfortunately said husband of petitioner no.1 committed suicide on 19.09.2022 at his own residence

4. Opposite Party (in short OP) No.2 then lodged the instant FIR, alleging *interalia* that on 18.02.2022 the petitioner no.1 herein left her matrimonial home along with 5/6 bags and at that time the son of op No.2 namely deceased Arijit Samadder requested the petitioner to come back. However she informed that she was unwilling to resume matrimonial tie with him. On 02.07.2022 the petitioner no.1 along with her father, uncle and friend had come to her matrimonial home and brought back her articles and also gave

an acknowledgement receipt in her own hand writing. On 19.9.2022 said Arijit Committed suicide by hanging. After returning home defacto complainant found a diary wherein deceased had written that the petitioner no.1 and her relations are responsible for the death.

5. Being aggrieved by instant proceeding learned counsel for the petitioner, Mr. Gangully submits that from a bare perusal of suicide note of the deceased and seizure list and the handwriting expert's report dated 02.12.2022, it appears that even if such alleged suicide note is taken to be uncontroverted, the same does not make out any case of abatement to suicide. Infact the version of the Opposite Party in the impugned FIR that in the suicide note the deceased had held the petitioners responsible for his death, has been proved to be incorrect and malicious.

6. He further argued that from the FIR itself it is clear that the petitioner no.1 left her matrimonial home in February, 2022. Thereafter she went back to her matrimonial home on 02.07.2022, when she had to execute a receipt in writing while taking back some of her articles. Thus, after 02.07.2022 the petitioner no.1 had no occasion to either physically meet or spoke to her husband Arijit Samadder, who committed suicide two and half months thereafter i.e. on 19.09.2022 at his own residence where his parents namely the OP no.2 herein and his wife were only present. Therefore there is no live link and/or proximity of any act or omission of the petitioners with the purported suicide on 19.09.2022.

7. He further argued that nowhere in the FIR, charge sheet or the materials on record, it discloses any positive act or conduct of the petitioner which might have compelled the deceased to commit suicide. To constitute

the offence of abetment as specified under section 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 that the petitioners herein had a guilty mind and in furtherance of which they abated the suicide of the deceased. The ingredients of *mens rea* cannot be assumed to be ostensibly present but has to be visible and conspicuous. In the absence of any positive act on the part of the accused to instigate or aid in committing suicide, a case under section 306 of the IPC cannot be sustained. 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, no case of abatement to commit suicide, is made out.

8. He further argued that in the instant case there appears to be no nexus between the so called suicide and any of the alleged acts on the part of the petitioners. There is no proximity either. Petitioners are absolutely innocent and have been falsely implicated in the instant case due to grudge and to harass and humiliate the petitioner and to shield himself and his wife from being prosecuted. Therefore continuation of the impugned proceeding any further shall amount to abuse of process of the court and it is expedient in the interest of justice that the impugned proceeding shall be quashed.

9. Learned Counsel for the Opposite party no.2, Mr. Basu. argued that the son of the Opposite party No.2 had pimples on his private part but not virulent in nature nor infectious and he was capable of making physical relationship. On 25.02.2022 when the deceased husband went to the wife's paternal home at Barrackpore to take her back the petitioner no.1, abused

her. On 06.03.2022 deceased again went there but he was insulted. On 10.09.2022 both the petitioners threatened the victim. Thereafter on 19.09.2022 victim committed suicide. He further submits that aforesaid facts are required to be proved during trial at an appropriate stage

10. Mr. Basu further argued that reason for committing suicide was that the petitioners caused immense mental torture and subjected the son of the OP No.2 to mental cruelty. Petitioner no.1 put the victim in such embarrassing condition that he had to commit suicide. It is further alleged by the counsel for the OP that the petitioner took photograph of the pimples of victim's private part and made it viral. Two dairies were found lying on a table and in one diary the suicide note was found with direct allegation against the petitioners and others. Police seized both the dairies. However, reason best known to the investigating agency, they have not used the suicide note as necessary materials in the charge-sheet and the writing of the victim and entries in the said dairies have not been made part of the charge sheet. In such circumstances those dairies are required to be consulted and therefore he prayed for rejection of the instant Revisional Application.

Decision

11. On perusal of the FIR, it is clear that the prosecution case is entirely based on the suicide note, left behind by the deceased. Said suicide note was written in Bengali. The sum and substance of the suicide note is that the victim got tired due to suffering of mental pain since November, 2022. On 2nd July, one picture, calling it as his private part has been circulated to all. Victim's parents were also tortured and heckled by the family members

of the other side. Therefore, such condition has become unbearable for the victim, so he has decided to kill himself. He made following persons responsible in the suicide note;

- (i) Shreya Basak (wife)
- (ii) Payel Basak (her elder sister)
- (iii) Sushovan Basak (husband of her elder sister)
- (iv) Jatan Basak (father-in-law of her elder sister)
- (v) Ranjit Basak (her father)

12. During investigation police has examined four witnesses, out of which one of the relative of victim namely Jayanta Das has stated to police that due to insult by calling him impotent, victim decided to kill himself. Caretaker of the housing Goutam Mistry stated before police that said victim loved his wife too much but as she left matrimonial house, he has chosen to kill himself. Another caretaker Kokhan Mondal stated to police that he has heard from the parents of the victim that he committed suicide because of his wife. The other witness is seizure witness. Post mortem report states '*death is due to the effect of 'asphyxia' resulting from anti mortem hanging*'.

13. It is not in dispute that petitioner/wife left her matrimonial home in February, 2022 and thereafter only on one occasion she went to her matrimonial house on 02.07.2022, to bring her belongings, when allegedly victim refused to reconcile. It is the specific case of the petitioner/wife that after 02.07.2022 she had no occasion to either physically meet or speak to her husband/victim, who unfortunately committed suicide on 19.09.2022 at his own residence where only his parents were present. There is nothing to show that the petitioners herein threatened the victim on 10.09.2022. In the

suicide note, not only the petitioner no.1/wife is stated to be responsible but it also includes her father her married elder sister and her relatives and following the names appearing in the suicide note, all of them have been made accused in the criminal proceeding and have been charge-sheeted by the investigating agency.

14. There is absolutely no averment in the suicide note that the present petitioners had caused any harm to victim nor how each of them were responsible for abetting the victim to commit suicide. At best it appears that victim was very much dissatisfied with his wife and her family members but it may also be noticed that victim did not meet or speak to any of the accused persons after 02.07.2022

15. An offence under section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of 'abetment' have been stated in section 107 of the IPC which states 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.

16. In the alleged suicide note, except referring to the name of the petitioners, there appears to be no reference of any act or incidents whereby the petitioners herein is alleged to have committed any wilful act or omission or intentionally aided or instigated the victim in committing the act of suicide. There is no case that any of the petitioners have played any part or

any role in any conspiracy which ultimately instigated or resulted in the commission of the suicide by deceased Arijit Samadder.

17. Infact the impugned proceeding registered against the petitioners/accused persons without any factual foundation. The contents of suicide note do not in any way make out the offence against accused persons. ‘Abetment of a thing’ has been defined under section 107 of the Indian Penal Code. I deem it appropriate to reproduce section 107 which reads 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. Illustration A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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 facilitate the commission thereof, is said to aid the doing of that act.

18. In **Ramesh Kumar Case**, reported in **(2001) 9 SCC 618**, Supreme Court had examined different shades of the meaning of instigation. Para 20 of the judgment reads as follows:-

“Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

19. In ***State of West Bengal Vs. Orilal Jaiswal*** reported in **(1994) 1 SCC 73**, Supreme 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 him to end his life by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society to which he belonged and such petulance, discord and difference 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

20. In ***Chitresh Kumar Chopra Vs. State*** reported in **(2009) 16 SCC 605** the Apex Court had an occasion to deal with the aspect of abetment, where the Court held that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidality pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straight jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

21. Various authorities on this point has made it clear that in order to convict a person under section 306 IPC there has to be 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 this act must have been

intended to push the deceased into such a position that he committed suicide.

22. In this context it also needs to be reiterated that the essential ingredients of the offence under section 306 IPC are as follow:-

- (i) *the abetment*
- (ii) *the intention of the accused to aid or instigate or abet the deceased to commit suicide.*

23. The Act of the petitioners two and half months back even if tend to insultative to the deceased due to using any abusive language by any of them, will not by itself constitutes the abetment of suicide. There should be evidence capable of suggesting that the accused persons intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, there is hardly any chance of conviction of the petitioners under section 306 of IPC

24. In the instant case, victim might had hypersensitiveness to ordinary petulance, discord and differences in marital life, which is otherwise quite common to the society to which the victim belonged, but such discord in matrimonial life are not expected to induce a similarly circumstanced individual in a given society to commit suicide. No material has been placed before me by the prosecution to suggest that any of the accused persons had any intention to provoke insight or encourage the doing of the act by the latter. Moreover during investigation it has also not been revealed as to who circulated picture, calling it as private part of the victim or how it was circulated. On careful assessment of the evidence on record, I find that there appears to be no direct evidence to show that the petitioners jointly or any of

the petitioners had by his acts instigated or provoked the deceased to commit suicide or has not done any act which could be said to have facilitated the commission of suicide by the deceased. Since there is nothing to indicate even prima facie that any of the accused intended the consequence of the act i.e. committing suicide, it is no answer to say that whether accused persons had such intention or not can be gathered only after full-fledged trial

25. On perusal of suicidal note it appears that the deceased might have got frustrated due to marital discord and it may also be that, he became apprehensive about any insultation and/or any insultation that might be inflicted to his family members. However, such apprehensions/fear of insultation may led to frustration, which has been expressed in suicide note but by no stretch of imagination it can be considered sufficient to attribute to the petitioners an act or omission constituting the element of abetment to commit suicide.

26. The fact of the instant case are identical in many respect with the case of ***Shenbagavalli and Ors. Vs. Inspector Of Police Kancheepuram District***, reported in **2025 SCC Online SC 987** where the fact of the case was that soon after the marriage relationship between the couple deteriorated. It was alleged that on 10.11.2013, accused no. 1 to 6 came to the residence of the deceased and had a quarrel. They not only abused the deceased and his family with filthy language but also insulted the deceased by calling him impotent and infertile. The prosecution case was based on the assertion that the deceased was continuously subjected to harassment by accused no. 1 to 7, owing to which victim committed suicide on 09.12.2013. The FIR was

registered under section 306 of IPC and on completion of investigation a charge sheet was filed. On presentation of the charge sheet, a petition under section 482 Cr.P.C. was preferred before the High Court challenging the impugned criminal proceeding under section 306 IPC on the ground that no offence under that section is made out even going by the alleged suicide note, which was written on a torn page of the diary being maintained by the deceased. The High Court after considering submissions made by the parties proceeded to dismiss the application filed under section 482 Cr.P.C.

27. When the matter came up before the Apex Court, it noted that going by the suicide note accused no 7 along with two others had visited the houses of the deceased only once before the incident i.e. on 10.11.2013 and thereafter there has been no further contact with them. There is nothing on record to indicate that on the date of the unfortunate incident or anytime in close proximity thereof there was any act of instigation on the part of the appellants. The language employed in the suicide note does not reflect any direct inducement that left the deceased with no other recourse but to take such an extreme step. A reading of the contents of the suicide note suggests that the deceased may have been emotionally sensitive and possibly reacted with disproportionate gravity to the events in question. While the remark allegedly made, questioning the manhood of the deceased could be hurtful and may affect a person's dignity but it cannot, in itself and especially after a gap of nearly a month between the incident and the suicide be considered as a sufficient provocation that would impel an ordinary reasonable person to take such an irrevocable step.

28. While disposing the said case, Supreme Court has made clear observation that merely on the basis of the allegations of harassment and that too a month ago with in between there being no contact of any sort on the part of the appellants till the time of the occurrence, which can be said to have led or compelled the deceased to have committed suicide, the offence has not been made out. *Mens rea* cannot be presumed, but must be ostensibly present and visible which is missing in the present case. It involves a mental process of instigating a persons and without a positive act on the part of the appellants which cannot be said to either to instigate or aid in committing suicide, the ingredients of the offence cannot be said to have been present.

29. On the other hand to constitute offence under section 506 of the IPC the following ingredients are required to be satisfied

- (i) *the accused threatened someone with injury to his person reputation or property or to the person reputation or property of another in whom the former was interested.*
- (ii) *the accused did so with intent to cause alarm to the victim of the offence*
- (iii) *the accused did so to cause the victim to perform any act which he was not legally bound to do.*

For the reasons discussed above any of the ingredients of section 506 of IPC has also not been established in the present case and therefore continuance of further proceeding under section 506 of IPC also would be mere abuse of the process of the court.

30. Therefore even if all evidence on record, including the charge sheet and the witness statements are taken to be correct, there is no iota of evidence against the petitioners. I find that the acts of the petitioners, if any, are too remote and indirect to constitute the offence under section 306 IPC. This is also because there is no allegation against any of the petitioners of a

nature that the deceased was left with no alternative but to commit the unfortunate act of committing suicide. Even if the petitioner/wife expressed her dis approval towards restitution of marital relationship with deceased and had allegedly made any remark, such as questioning the manhood of the deceased, it does not gain the status of abetment. There needs to be a positive act that creates an environment where the deceased is pushed to an edge, in order to sustain the charge levelled against the petitioners.

31. Therefore, further continuance of the impugned proceeding in my view would be mere abuse of the process of the court, as also there is hardly any chance of conviction of any of the petitioners at the end of trial, on the basis of available materials.

32. CRR 4048 of 2024 is allowed.

33. The impugned proceeding being GR Case No. 3892 of 2022 arising out of Eco Park Police Station Case no. 222 of 2022 dated 19.09.2022 presently pending before learned Sessions Judge, Barasat is hereby quashed.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)