IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.72 of 2021

Sunil Kumar Sinha, aged about 46 years, Son of Sidheshwar Prasad, resident of Bank of India Market, Hari Mandir Road, Hirapur, Dhanbad, P.O. & P.S. Dhanbad, District- Dhanbad.

… Petitioner

Versus

1. The State of Jharkhand
2. Akash Kumar, Son of Late Ramanuj Singh, resident of Village Shobhni, P.O. & P.S. Suryagarha, District- Lakkhisarai, State Bihar. … Opposite Parties.

For the Petitioner : Mr. Pratik Sen, Advocate.
Mr. Surya Harsh Mishra, Advocate.
For the State : Mr. Vineet Kumar Vashistha, Spl.P.P.
For the O.P. No.2 : Mr. Manoj Tandon, Advocate
Mr. Sidhrath Ranjan, Advocate.

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Cr.P.C. with the prayer to quash the entire criminal proceeding including the order taking cognizance dated 04.12.2020 passed in connection with Jainagar P.S. Case No.06 of 2019 by the learned Sub-Divisional Judicial Magistrate, Koderma whereby and whereunder the learned Magistrate has found *prima facie* case for the offence punishable under Section 306/34 of the Indian Penal Code against the petitioner.

3. The learned counsel for the petitioner submits that the case is next fixed to 08.12.2026 for appearance of the co-accused persons and charge has not been framed in this case.

4. The brief fact of the case is that the deceased was the Principal of +2 High School, Jainagar and the petitioner was a teacher in that school. On 04.01.2019, the deceased committed suicide by setting fire to himself. It is alleged that the petitioner and other teachers of the school were indulging in corrupt practices and when the deceased tried to stop them, they used to threaten and misbehave with the deceased. The deceased made complaint to the Deputy Commissioner, Koderma against the petitioner and other teachers. On the basis of the written report submitted by the son of the deceased Jainagar P.S. No. 06 of 2019 was registered and police took up investigation of the case and submitted Final Form because of lack of evidence but learned Sub-Divisional Judicial Magistrate, Koderma differing with the said Final Form bearing No. 55 of 2020 dated 23.06.2020 took cognizance of the offences vide order dated 21.07.2020 *inter alia* against the petitioner for having committed the offence punishable under Section 306/34 of the Indian Penal Code and directed to issue summons against the accused persons of the case including the petitioner.

5. Being aggrieved by the said order dated 21.07.2020, the petitioner herein filed Cr.M.P. No. 2041 of 2020 which was disposed of by the Co-ordinate Bench of this Court vide order dated 14.10.2020; whereby and whereunder the Co-ordinate Bench set aside the order dated 21.07.2020 passed by the learned Sub-Divisional Judicial Magistrate, Koderma and

remitted the matter to the court below to pass a fresh order in accordance with provision of law.

6. Pursuant to the order dated 14.10.2020 passed in Cr.M.P. No. 2041 of 2020, the learned Sub-Divisional Judicial Magistrate, Koderma vide order dated 04.12.2020 took cognizance *inter alia* against the petitioner for having committed the offence punishable under Section 306/34 of the Indian Penal Code and directed to issue summons.

7. Learned counsel for the petitioner relying upon the judgment of Hon'ble Supreme Court of India in the case of the **Madan Mohan Singh versus State of Gujarat** reported in **2010 8 SCC 628** para 13 and 14 of which reads as under:-

> *"13. It is absurd to even think that a superior officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so-called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Section 306 IPC, much more material is required. The courts have to be extremely careful as the main person is not available for cross-examination by the appellant-accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in the present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in Netai Dutta v. State of W.B. [(2005) 2 SCC 659 : 2005 SCC (Cri) 543] , this Court had quashed the proceedings initiated against the accused.*
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> *14. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are allowed to continue on such basis, it will be difficult for every superior officer even to work."*

Submits that it has been observed by the Hon'ble Supreme Court of India in the facts that case as there is no nexus between the so-called suicide and any of the alleged acts on the part of the accused persons and as there is no proximity in the two, offence punishable under Section 306 of the Indian Penal Code will not be made out. It next submitted that the even assuming for the sake of argument that the petitioner is a corrupt teacher used to indulge in corruption, though in respect of the same sufficient material could not be collected by the police in connection with the police case registered, still that cannot amount to commission of abetment of suicide in terms of Section 107 of the Indian Penal Code and even if the entire allegation made against the petitioner are considered to be true in their entirety, the offence punishable under Section 306/34 of the Indian Penal Code is not made out as there is absolutely no allegation against the petitioner that the petitioner ever incited the deceased to commit suicide. It is lastly submitted that the prayer, as prayed for in the instant Cr.M.P., be allowed.

8. Learned counsel for the State and learned counsel for the opposite party no.2 on the other hand vehemently oppose the prayer of the petitioner made in the instant Cr.M.P and learned counsel appearing for the opposite party no.2 by relying upon the judgment of the Hon'ble Supreme Court of India in the case of **Popular Muthiah v. State** represented by **Inspector of Police (2006) 7 SCC 296** para 54 of which read as under:-

> *"54. We have noticed hereinbefore that the jurisdiction of the learned Magistrate in the matter of issuance of process or taking of cognizance depends upon existence of conditions precedent therefor. The Magistrate has jurisdiction in the event a final form is filed (i) to accept the final form; (ii) in the event a protest petition is filed to treat the same as a complaint petition and if a prima facie case is made out, to issue processes; (iii) to take cognizance of the offences against a person, although a final form has been filed by the police, in the event he comes to the opinion that sufficient materials exist in the case diary itself therefor; and (iv) to direct reinvestigation into the matter. (See Abhinandan Jha v. Dinesh Mishra [(1967) 3 SCR 668 : AIR 1968 SC 117 : 1968 Cri LJ 97] and Minu Kumari v. State of Bihar [(2006) 4 SCC 359 : (2006) 2 SCC (Cri) 310 : (2006) 4 Scale 329] .)"*

Submit that therein it has been held by the Hon'ble Supreme Court of India that in the event of Final Form being filed, the Magistrate has jurisdiction *inter alia* to take cognizance of the offence against a person in the event the Magistrate comes to the opinion that the sufficient material exists in the case-diary itself thereof. So, in this case, the learned Magistrate having taken cognizance after finding sufficient material, no illegality has been committed by the learned Sub-Divisional Judicial Magistrate, Koderma.

9. The learned counsel for the opposite party no.2 next relies upon the judgment of the Hon'ble Supreme Court of India in the case of **State of Gujarat versus Afroz Mohammed Hasanfatta (2019) 20 SCC 539** para 39 of which reads as under:-

> *"39. For issuance of process against the accused, it has to be seen only whether there is sufficient ground for proceeding against the accused. At the stage of issuance of process, the court is not required to weigh the evidentiary value of the materials on record. The court must apply its mind to the allegations in the charge-sheet and the evidence produced and satisfy itself that there is sufficient ground to proceed against the accused. The court is not to examine the merits and demerits of the case and not to*

> *determine the adequacy of the evidence for holding the accused guilty. The court is also not required to embark upon the possible defences. Likewise, "possible defences" need not be taken into consideration at the time of issuing process unless there is an ex facie defence such as a legal bar or if in law the accused is not liable. [Vide Nupur Talwar v. CBI [Nupur Talwar v. CBI, (2012) 11 SCC 465 : (2013) 1 SCC (Cri) 689] .]"*

and submits that in case the Hon'ble Supreme Court of India reiterated the settled principal of law that for issuance of process against the accused, it has to be seen only whether there is sufficient ground for proceeding against the accused, the Court is not required to weigh the evidentiary value of the materials on record. So, in this case, the learned Magistrate having found sufficient ground for proceeding against the accused has rightly taken cognizance of the offence punishable under Section 306 of the Indian Penal Code. Hence, the prayer as prayed for in this criminal miscellaneous petition being without any merit be dismissed.

10. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to mention here that in the case of **M. Mohan versus State represented by Deputy Superintendent of Police** reported in (**2011) 3 SCC 626** the Hon'ble Supreme Court of India has held that there should be clear *mens rea* to commit the offence punishable under Section 306 of the Indian Penal Code. It is a settled principal of law that abetment as envisaged under Section 306 of the Indian Penal Code involves a mental process of instigating a person or intentionally aiding that person in doing a thing which led to commission of suicide and more active role which

can be described as instigating for aiding in doing up the thing is required before a person can be said to be abetting the commission of the offence punishable under Section 306 of the Indian Penal Code as has been held by the Hon'ble Supreme Court of India in the case of **Randhir Singh & Another versus State of Punjab** reported in **(2004) 13 SCC 129**.

11. Recently, the Hon'ble Supreme Court of India in the case of **Balaji Jaiswal versus State of Chhatisgarh & Another** reported in **(2026) SCC OnLine SC 602** para 11 and 14 of which reads as under:-

> *"11. From the aforesaid decision, it becomes clear that for sustaining a charge under Section 306 of the Penal Code, it has to be shown that the accused persons had contributed to the suicide by the deceased through some direct or indirect act. Section 107 of the Penal Code has thereafter been referred to hold that there ought to be some instigation or incitement that would reveal a clear mens rea to abet the commission of suicide, thus, leading the victim to such a position that he/she would have no other option but to commit suicide. There ought to be some material to indicate a positive act of instigation, which is a crucial component of abetment. Instigation or incitement on the part of the accused person has been held to be the gravamen of the offence of abetment to suicide. The act of instigation also has to be in close proximity to the act of suicide so as to form the nexus or a chain to indicate that the act of suicide was the direct result of the act of instigation by the accused person. Incidentally, the decision in Ramesh Kumar (supra) cited by the learned counsel for the first respondent has been considered and relied upon in Prakash (supra).*
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> *14. We, therefore, find that even after accepting the entire material on record at its face value, the ingredients of Section 306 of the Penal Code are not satisfied. Continuation of such criminal proceedings would, therefore, be a futile exercise resulting in the absence of process of law. We may reiterate what this Court said in paragraph 9 in Madan Mohan Singh v. State of Gujarat12 are as follows:—*
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> *"In the prosecution under Section 306, IPC, much more material is required. The Courts have to be extremely careful as the main person is not available for cross-examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one),*

> *it would be hazardous to ask the appellant/accused to face the trial."*
> *The proceedings, therefore, deserve to be quashed. The High Court failed to examine the material on record in the light of the law laid down in this regard. It, therefore, erred in not quashing the proceedings. The ratio of the decision in Dammu Sreenu (supra) relied upon by the learned counsel for the first respondent is clearly distinguishable as it arises from a challenge to the conviction of the appellant therein based on the evidence on record." (Emphasis supplied)*

has held that for sustaining a charge under Section 306 of the Indian Penal Code it has to be shown that the accused persons had contributed to the suicide of the deceased through some direct or indirect acts, Section 107 of the Indian Penal Code envisages that there ought to be some instigation or incitement that would reveal a clear *mens rea* to abet the commission of suicide.

12. Now coming to the facts of the case, the only allegation against the petitioner is that the petitioner is a corrupt teacher of the school in which the deceased was the Principal and the Principal complained against the petitioner and other corrupt teachers of the school and tried his best to stop them from indulging in corrupt practices, but he did not succeed and the petitioner and other teachers continued with their corrupt practices. This in the considered opinion of this Court even if, are considered to be true in its entirety, still cannot be treated as instigation or incitement for the deceased to commit suicide. Therefore, in the considered opinion of this Court, even if the entire allegations made against the petitioner are considered to be true in their entirety, the offence punishable under Section 306/34 of the Indian Penal Code is not made out against the petitioner. So certainly, learned Sub-Divisional Judicial Magistrate,

Koderma has committed grave illegality by taking cognizance of the offence punishable under Section 306/34 of the Indian Penal Code differing from the Final Report submitted by the police to the effect that material collected are insufficient to send up the petitioner for trial.

13. As already discussed above, since the materials are insufficient to show sufficient ground for proceeding against the petitioner; therefore this court has no hesitation in holding that the continuation of this criminal proceeding against the petitioner will amount to abuse of process of law and this is a fit case where the entire criminal proceeding including the order taking cognizance dated 04.12.2020 passed by learned Sub-Divisional Judicial Magistrate, Koderma in connection with Jainagar P.S. Case No.06 of 2019, be quashed and set aside against the petitioner.

14. Accordingly, the entire criminal proceeding including the including the order taking cognizance dated 04.12.2020 passed by learned Sub-Divisional Judicial Magistrate, Koderma in connection with Jainagar P.S. Case No.06 of 2019, is quashed and set aside against the petitioner.

15. In the result, this Cr.M.P., stands **allowed** to the aforesaid extent.

16. In view of the disposal of this Criminal Miscellaneous Petition, pending I.As., if any, also stands disposed of being infructuous.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 04th November, 2026
AFR/ Amar

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