



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 454 OF 2025

Suvarna W/o Jawaharlal Kakani
Age: 42 years, Occu.: Nil,
R/o. Bazarpeth, Wambori, Tq.Rahuri,
District : Ahmednagar.

....Appellant
(Ori. Complainant)

Versus

1. The State of Maharashtra
2. Arvind S/o. Chandrakant Ghodke
Age : 52 years, Occu.: Business,
R/o. Wambori, Tq.Rahuri,
District Ahmednagar.

....Respondent
(Resp.No.2-Ori. Accused)

.....
Advocate for Appellant : Mr.Narayan B. Narwade
APP for Respondent no.1 : Mr.PP.Dawalkar
Advocate for Respondent no.2 : Mr.N.C.Garud

.....
CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 15 APRIL, 2026

PRONOUNCED ON : 17 APRIL, 2026

JUDGMENT :

1. Original informant at whose instance Crime No.13 of 2018 was registered at Rahuri Police Station and case was tried for commission of offence under Sections 306, 504 and 506 of the Indian Penal Code (IPC) and under Section 39 of Maharashtra Money Lending Business Act, 2014, hereby takes exception to judgment and order dated

05-04-2025 passed by learned Additional Sessions Judge, Ahmednagar in Sessions Case No.234 of 2018, thereby acquitting present respondent from above charges.

CASE OF PROSECUTION IN TRIAL COURT

2. In brief it is the case of prosecution that, at around 2008- 2009 informant's husband namely Jawaharlal borrowed loan from one Rajiv Gandhi Patsanstha, Wambori. On receiving set back in business, he could not repay the loan. Therefore, he executed mortgage cum sale deed in favour of accused. Deceased had paid Rs.15,00,000/- towards repayment of loan, but since six months prior to the incident, accused was frequenting to shop of deceased and putting up demand of money and also used to issue threats. Informant's husband succumbed to the pressure of demand and threats and committed suicide on 03-01-2018.

Therefore, present appellant/original informant lodged report with Police, which was made basis of registration of crime for above sections and on investigation, accused was chargesheeted and tried vide above session case, however, the said case ended up in acquittal and hence, the instant appeal by original informant by invoking Section 372 of the Code of Criminal Procedure.

SUBMISSIONS

On behalf of appellant :

3. Learned counsel for appellant would point out that deceased, who was husband of informant, had borrowed loan for business purpose. That, inspite of executing mortgage cum sale deed and inspite of repayment of Rs.15,00,000/- towards loan, there was persistent and excess demand by accused. That, deceased was under tremendous pressure because of consistent and persistent demand. That, there was no other reason for him to commit suicide. Learned counsel pointed out that even there was suicide note authorized by deceased, but the contents of the same are not correctly appreciated by learned trial Court. In spite of clinching evidence in the form of suicide note wherein it was explicitly written that there was pressure, threat by accused, there is failure to appreciate contents of the said note.

4. The learned counsel further submitted that inspite of evidence of witness PW4 namely Bharati Zavar, who had categorically stated that there was insistence for return of money and then in the presence of this witness, there was demand as well as abuse and threat, testimony of said witness has not been correctly appreciated.

Learned counsel submits that learned trial Court failed to consider and appreciate that there was abetment and inducement to commit suicide by the accused. That, that was the only reason to end up life, but learned trial Court erred in acquitting the accused by failing to appreciate and apply the settled legal position.

On behalf of Respondent no.2/Accused :

5. In answer to above, learned counsel for respondent no.2/original accused, while justifying the order of acquittal, would submit that prosecution has miserably failed to bring home the charges. According to him, evidence of prosecution was lacking essential ingredients like instigation, abetment, inducement so as to attracts rigors of Section 306 of the IPC. He pointed out that, suicide note is not relatable to the alleged suicide dated 03-01-2018 as it was of 06-09-2017 and there was no nexus between alleged suicide note and said suicide. He pointed out that, learned trial Court has correctly appreciated the entire evidence of prosecution and has assigned reasons in paragraph 28 to 30 of the judgment to which he invited attention of this Court and finally, canvassing in favour of impugned judgment, he prays to dismiss the appeal for want of merits.

6. This being appeal under Section 372 of the Cr.P.C., this Court is called upon to re-appreciate the entire evidence adduced by the prosecution in trial Court.

**BRIEF ACCOUNT OF SUM AND SUBSTANCE OF PROSECUTION
IN TRIAL COURT**

7. **PW1** Suvarna Kakani, who is informant testified at exh.44 about her husband conducting trading business at Wambori and he obtaining loan from Rajiv Gandhi Pat Sanstha. She deposed that, because of their inability to repay loan, her husband executed mortgage cum sale deed of property worth Rs.41,60,000/-. That, amount of Rs.15,00,000/- was paid, but still accused was abusing her husband for money. That, accused had paid visit to the shop on 03-01-2018, abused her husband due to which he was mentally disturbed and on same day in evening at around 05:30 p.m. her husband hanged himself. That, even suicide note found was handed over to Police, which she identified to be at exh.46.

8. **PW2** Rupali Temak is pancha to panchanama of seizure of suicide note exh.49.

9. **PW3** Manish Zavar deposed at exh.50 that deceased was his brother-in-law and he was party to the panchanama of seizure of nylon rope and spot panchanama exh.52. Even according to him, on 03-01-2018, when his wife had been to Wambori, in her presence, accused abused her as well as his brother-in-law and therefore, his sister-in-law lodged complaint.

10. **PW4** Bharti Manish Zavar, wife of PW3, deposed about borrowing of loan, execution of mortgage cum sale deed and accused insisting for return of money and harassing her brother, sister-in-law and children and also issuing threats to assault them. According to her, on 03-01-2018, when she had been to Wambori to attend a programme and thereafter, when she went to meet her brother, there, accused met her on road and abused her in filthy language and threatened her to give understanding to her brother or else he would see her in his own style. She claims to have learnt about suicide committed by her brother.

11. **PW5** Mahesh Kakani, son of deceased, deposed at exh.55 about he being present in the shop with his parents on 03-01-2018 and at around 05:00 p.m., his mother going back to kitchen which was on

the back side to bring tea while his father went upstairs on pretext of taking rest, his mother taking tea upstairs and he hearing her shouts and noticing his father to have hanged himself and therefore, body was brought down and taken to hospital. Even he deposed that his father had borrowed loan in the year 2008-2009. That, accused used to visit their shop to demand money and he used to abuse and issue threats to his father. On 03-01-2018, his aunt was also intercepted on the road and abused as well as threats were issued to his father due to which his father was mentally disturbed and due to it, he committed suicide. Later on, his mother found suicide note in the locker, which was handed over to Police.

12. **PW6** Rohini Kakani, daughter of deceased, also deposed at exh.56 about her father conducting business of trading and on 03-01-2018, her mother coming to call her grandmother and again going to shop and she also joined her to shop and about learning that her father had committed suicide by hanging. Even according to her, her father had borrowed loan and had mortgaged house and shop. That, her father time to time made repayment Rs.15,00,000/- to accused but inspite of it, since about six months prior to 03-01-2018, accused was frequenting their shop, abusing and threatening by

demanding repayment of money

13. **PW7** Laxman Tukaram Bhosale is the Investigating Officer, who narrated about all steps taken by him during investigation.

LEGAL PRECEDENT ON SECTION 306 :

14. Here, there being charge of offence under Section 306 of the IPC, before adverting to the merits of the appeal, it will be fruitful to give a brief account of settled legal position while dealing with cases pertaining to abetment to commit suicide.

In *Sanju @ Sanjay Singh Sengar v. State of M.P.*, 2002 Cri.L.J. 2796, the Hon'ble Apex Court held that 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.

Even otherwise, mere persistent demand of repayment of dues or debts by no stretch of imagination can be said to be an instigation, inducement or abetment to commit suicide.

Few other cases that could be named are, *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618, *S. S. Chheena v. Vijay Kumar Mahajan and Others* (2010) 12 SCC 190 as well as *M. Mohan*

v. The State represented by The Deputy Superintendent of Police MANU/SC/0161/2011, wherein standard of “instigation” is elaborately dealt and discussed.

Even, recently in the case of *Abhinav Mohan Delkar v. State of Maharashtra and others*, MANU/SC/1103/2025 the Hon’ble Apex Court has reinforced “proximate trigger” doctrine emphasizing that there has to be close temporal and casual connection between the conduct of accused and the alleged suicide. Continuous harassment, without recent instigation, is held to be not sufficient to sustain the charge.

ANALYSIS

15. Re-appreciated entire evidence on record. It is conspicuously emerging on such exercise that deceased, who was in the business of trading of utensils and hardware, had borrowed loan way-back in the year 2008-2009. Wife, both children of deceased and even sister of deceased are unanimous about borrowing of loan, executing mortgage cum sale deed, but according to them, in spite of repayment of Rs.15,00,000/- towards repayment of loan, there were regular visits by accused to the shop of deceased and all above named witnesses also speak about accused abusing and issuing

threats, but it is noticed that, what was manner of threats and what was abuse or exactly when, has not been specified by any of the witnesses. Even investigating machinery has not gathered loan documents purported to be borrowed from accused.

16. Alleged loan is of 2008-2009 and only piece of evidence before the Court is of suicide note, but it is of 06-09-2017 i.e. almost 3-4 months prior to suicide dated 03-01-2018. Moreover, said suicide note is handed over to Police on 08-01-2018, but opinion of handwriting expert does not seem to have been obtained so as to attribute its authorship to deceased. Witnesses are merely speaking about accused frequenting the shop of deceased from last six months but there is nothing in proximity of alleged suicide dated 03-01-2018 to connect accused to alleged suicide. Though wife and son of deceased were present in the shop up to 05:00 p.m. on the date of incident, in their testimony, except stating that there was episode of some abuse and threat by accused that too to sister of deceased, there is no concrete material to show that there was any threat and abuse to deceased on said day. Cross-examination of informant itself shows that there was inability to repay loan and even her effort to lodge complaint of money lending had gone futile. Moreover, she

seems to have admitted that interest over the loan was incurring more and more. She has candidly admitted that her husband was under mental tension as business was not in good condition. She also admitted about having no discussion with her husband about suicide note nor he even told her about his suicidal thoughts. She also admitted that her husband had mental tension for executing mortgage cum sale deed.

PW5 Mahesh, son of deceased, in **cross-examination**, admitted that upto 08-01-2018 neither his mother, his aunt or her husband ever told Police about suicide note written by his father. He candidly admitted that, he was not personally aware about the affairs of the shop of his father and that he had learnt about loan borrowing from his uncle Manish.

Same is the **cross-examination** of PW6 Rohini, daughter of deceased, wherein omission is brought to the extent that accused visiting their house and harassing them.

17. Therefore, on taking survey of above discussed evidence, here, very informant had admitted that deceased was under mental tension on account of bad business condition. He had already executed mortgage cum sale deed. As stated above, there is nothing to show

that in proximity to 03-01-2018, there was persistent, consistence harassment to deceased that too for repayment of loan so as to accept the case of prosecution. On the date of suicide i.e. on 03-01-2018, what happened during the entire day i.e. prior to 5:30 p.m. has not come on record so as to hold that there was abetment, instigation or inducement by accused resulting into suicide by deceased. Thus, essential ingredients for attracting offence under Section 306 of the IPC are not available. Similarly, ingredients for attracting offence under Sections 504 and 506 of the IPC are patently missing from prosecution case and therefore, in the considered opinion of this Court, there is no illegality, perversity or error on the part of trial Court in acquitting accused. There being no merits in the appeal, the same deserves to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Appeal stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE