



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.905 OF 2025

Vijaykumar S/o. Kisanrao Gaikwad,
Age : 66 years, Occu. : Retired,
R/o. Building No. M/20, H. No.248/246,
Near Baba Petrol Pump, Mhada Colony,
Aurangabad

... Appellant
(Orig. Informant)

Versus

1. The State of Maharashtra,
Through Kranti Chowk Police Station,
Aurangabad (City), Dist. Aurangabad.
2. Pradip Bhaurao Ronghe,
Age : 53 years, Occu. : Hotel,
R/o. H. No. 243, Mhada Colony,
Aurangabad.
3. Gaurav Pradip Ronghe,
Age : 25 years, Occu. : Education,
R/o. As Above.
4. Laxman Malhari Pagare,
Age : 78 years, Occu. : Retired,
R/o. H. No. 247, Mhada Colony,
Aurangabad.
5. Dayanand Haribhau Aarakh,
Age : 58 years, Occu. : Service,
R/o. Parijatnagar, N-4, CIDCO,
Aurangabad.
6. Shubham Dayanand Aarakh,
Age : 59 years, Occu. : Education,
R/o. : Parijatnagar, N-4, CIDCO,
Aurangabad.
7. Mayur Dayanand Aarakh,
Age : 24 years, Occu. : Education,
R/o. : Parijatnagar, N-4, CIDCO,
Aurangabad.

8. Sunita Pradip Ronghe,
Age : 55 years, Occu. : Household,
R/o. H. No.243, Mhada Colony,
Aurangabad.
9. Vidya Dayanand Aarakh,
Age : 53 years, Occu. : Household,
Ro. Parijatnagar, N-4, CIDCO,
Aurangabad.
10. Jayashri Niwas Bhujang,
Age : 53 years, Occu. : Police Patil,
R/o. H. No.254, Mhada Colony,
Aurangabad.
11. Niwas Kashinath Bhujang,
Age : 60 years, Occu. : Service,
R/o. H. No.254, Mhada Colony,
Aurangabad.
12. Niketan Niwas Bhujang,
Age : 25 years, Occu. : Education,
R/o. H. No. 254, Mhada Colony,
Aurangabad.
13. Dhanashri Pradip Ronghe,
Age : 23 years, Occu. : Education,
R/o. H. No. 243, Mhada Colony,
Aurangabad.

... Respondents

(Orig. Accused Nos.2 to 13)

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Mr.Vithal P. Kadam, Advocate for Appellant.

Mr. S. K. Shirse, APP for Respondent – State.

Mr. Ambar S. Barlota, Advocate for Respondent Nos.2 to 13.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 JANUARY 2026

PRONOUNCED ON : 09 JANUARY 2026

JUDGMENT :

1. Original informant hereby takes an exception to the judgment and order dated 29.01.2025 passed by learned Additional

Sessions Judge, Aurangabad in Sessions Case No.252 of 2021, thereby acquitting present respondents from offence punishable under sections 306, 504, 506 r/w section 34 of Indian Penal Code.

2. Learned counsel for the appellant would submit that, present appellant, who is original informant, had lodged report alleging that, on 06.07.2020, his wife was reported to be missing, but on search was found to have hanged herself. That, during investigation, suicide note was found on the person of deceased and police had seized the same vide panchanama. He further pointed out that, accused persons, who were neighbours, were regularly harassing informant and his family. They were issuing threats to kill. That was also character assassination of the deceased wife of informant. That, only due to the said reason, she committed suicide, and there was no other reason to end up her life.

3. He next submitted that, apart from suicide note, informant had deposed along with his own daughter, brother-in-law, immediate neighbour and they had consistently deposed about harassment meted out to deceased at the hands of accused. Suicide note reflected names of accused. That, investigating machinery had sent the suicide note for handwriting expert's opinion and positive report was received, and therefore, according to him, coupled with

the oral account of witnesses, there was incriminating material in the form of suicide note, but the same has not been correctly appreciated. That, accused had abetted the suicide and were solely responsible. That, trial court failed to consider and appreciate that essential ingredients for attracting the offenses were very much available and conviction ought to have been recorded. However, as it failed to do so, he urges to allow the appeal by setting aside the impugned order of acquittal passed by learned Additional Sessions Judge.

4. Learned APP also supports and adopts the submissions put-forth by learned counsel for informant and he also urges to interfere by allowing the appeal.

5. Learned counsel for original accused would support the acquittal by pointing out that prosecution had miserably failed to bring home the charges. That, out of eight witnesses, four were already interested witnesses and there was no independent witness. He pointed out that, there are no allegations of any episode involving respondents in proximity to the alleged suicide. According to him, even witnesses are not consistent on the exact time of alleged quarrel between accused and deceased. He pointed out that, according to PW5 alleged incidence of harassment is 10 to 15 days prior to suicide, whereas, according to PW3, the harassment had taken place two years back, and therefore, it is his submission that the learned

trial court committed no error in disbelieving the prosecution's case of abetment to commit suicide. He also pointed out that, the register which was allegedly seized, was also not proved to be of deceased, nor the handwriting in it to be of deceased, but still the same was referred by handwriting expert. Lastly, he submitted that, independent of suicide note, there is no convincing evidence.

6. Heard. Perused the papers. It seems that, on report of PW1 Vijaykumar, FIR bearing No.268 of 2020 was registered with Kranti Chowk Police Station for commission of offence punishable under sections 306, 504, 506 r/w section 34 of IPC against in all 12 persons.

7. The sum and substance of the FIR is that, the informant Vijaykumar lodged the report stating that, On 06.07.2020, at around 10:00 a.m., he had gone to the District Sericulture Office for work and at about 4:15 p.m., his daughter Namrata called him saying that her mother was not seen in the house. He asked her to search nearby. After searching, she could not find her. He then told her to check House No. 246. Thereafter, his daughter called him and said that the door was locked from inside. He thereafter immediately came to home and peeped through the window and saw his wife hanging herself by a sari. Then he broke the door of the house and entered. With the help of Shrikant Ghakre and Adarsh Kavade, they brought

down his wife and took her to Ghati Hospital for treatment. On examination, doctor declared her dead. The police found a diary in the house containing a suicide note written by his wife wherein she named the accused persons. According to deceased wife, these persons harassed their family over construction work done by them in Mhada Colony and they were made to leave the house and also abused, insulted and threatened to kill them. Due to this continuous harassment, his wife constrained to commit suicide by hanging herself. Because of repeated harassments, informant had filed complaints at Kranti Chowk Police Station in May 2019 and February 2020 also.

8. Prosecution has adduced evidence of in all eight witnesses and their status are as under :

PW1 Vijaykumar informant - husband; **PW2** Namrata, daughter of deceased and informant; **PW3** Amrut, brother-in-law of deceased; **PW4** Sangita, panch witness; **PW5** Mahindra neighbour/independent witness; **PW6** Salebin, independent witness; **PW7** Vitthalrao, handwriting expert; **PW8** Gajanan, Investigating Officer.

9. **PW1** Informant Vijaykumar at Exh.41 deposed that,

incidence is of 06.07.2020. According to him, he learnt that deceased was missing, and therefore, he rushed home and peeped from the window and found deceased hanging. She was taken down and shifted to hospital. According to him, during inspection of the spot, one suicide note was found, wherein names of accused were mentioned. According to him, there was harassment by the accused.

PW2 daughter of deceased in her evidence deposed that, prior to the incident, toilet and bathroom were built. That time, Pagare uncle slapped her father, whereas Ronge tried to throttle his father and wife of Ronge pushed the deceased. According to her, 7 to 8 days prior to incident, accused Gaurave had uttered that '*Gaikwad family should be driven out of the colony, and if they do not leave, photographs of their daughter should be taken and she would be defamed*'. She also deposed that, there was caste abused to them.

PW3 Amrut, who is brother-in-law of the deceased, testified about harassment of deceased and she sharing about it to him.

PW4 Sangita, panch to spot panchanama, deposed about suicide note being seized at the spot.

PW5 Mahindra also stated that there was dispute between informant and Laxman Pagare over the construction and that prior to 10 to 15 days of the incident, he had learnt from PW1 informant

about harassment by the accused.

PW6 Salebin expressed ignorance about any harassment.

PW7 Vitthalrao is the handwriting expected, who deposed about receiving the suicide note at Ex.47 and according to him, he issued report.

10. Here, there is charge of abetment to commit suicide under section 306 of IPC, which provides that, if any person commits suicide, then whoever abets the commission of such suicide, is liable to be punished. It would be opposite here, therefore, the legal provisions and the judicial precedents on the charge of 306 of IPC are applicable.

In the case of *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618, the Hon'ble Apex Court has held that to "instigate" means to goad, urge, provoke, incite or encourage to do 'an act'. It is further observed that, to satisfy the requirements of 'instigation', it is not necessary that actual words must be used to that effect or that words or act should necessarily and specifically be suggestive of the consequence. Where the accused by his act or omission creates such a situation that the deceased is left with no other alternative, but to end up the life, then instigation can be inferred.

Even as to what amounts to 'instigation' has been dealt by the Hon'ble Apex Court in the case of ***Chitresh Kumar Chopra v. State (Govt. Of NCT of Delhi)***, (2009) 16 SCC 605, in this judgment the court has summarized the constituents of 'abetment' by holding that - (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forwards more quickly and in a forward direction; and (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted herein. It is clarified in the self same judgment that undoubtedly, presence of *mens rea* is the necessary concomitant of instigation.

In the case of ***Sanjay Singh Sengar v. State of M.P.***, (2002) 5 SCC 371, held that in a given case, even a time gap of 48 hours between using of abusive language by the accused and the commission of suicide would not amount to proximate act.

The Hon'ble Apex Court in the case of ***Amalendu Pal alias Jhantu v. State of West Bengal***, (2010) 1 SCC 707, has held that, in case of alleged abetment of suicide, there must be proof of direct or indirect act(s) 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 accused which led or compelled the deceased to commit suicide, conviction in terms of section 306 IPC would not be substantiated.

Similar view is reiterated in the case of *Ude Singh v. State of Haryana*, (2019) 17 SCC 301. In the case of *Rajesh v. State of Haryana*, (2020) 15 SCC 359, held that conviction under section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of accused which led or compelled the person to commit suicide.

Again in the case of *Amudha v. State*, 2024 INSC 244, which is recent judgment of the Hon'ble Apex Court and it has been held that there has to be an act of incitement on the part of accused proximate to the date on which the deceased committed suicide. The act attributed should not only be proximate to the time of suicide, but also should be of such nature that the deceased was left with no alternative, but to take the drastic step of committing suicide.

Further in the case of *Prakash v. State of Maharashtra*, 2024 INSC 1020, the Hon'ble Apex Court summed up the legal position as under :

"14. Section 306 read with section 107 of IPC, has been interpreted, time and again, and its principles

are well established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit the suicide.”

11. Keeping above legal requirements in mind and on re-appreciation of oral evidence, it is noticed that, including informant, none of the witness has deposed about any act of inducement, abetment or incitement to the deceased by the accused in proximity to the alleged suicide. They merely speak about harassment due to some construction activity. No other positive act or participation to abet the suicide in any manner whatsoever is emerging from the oral testimonies.

12. The only piece of incriminating material which the prosecution seems to be heavily relied is the suicide note Exh.47. On studying the same, even this court does not find any material therein, which would amount to inducement, abetment or incitement and it to be further of such nature that deceased was left in such a position where she had no option, but to end up her life. Further, apparently said suicide note is unsigned. Though Investigating machinery has

taken pains to engage and get opinion of handwriting expert and the report is received, itself is not sufficient, the Hon'ble Apex Court in the case of ***Shahi Kumar Banerjee v. Subodh Kumar Banerjee*** reported way back in AIR 1964 SC 529, has held that, expert's evidence is mere opinion evidence and it rarely takes the place of substantive evidence and that before acting on such opinion evidence, it is necessary to see, if it is corroborated either by clear direct evidence or by circumstantial evidence. In the case of ***Murari Lal v. State of M.P.*** reported way back in (1980) 1 SCC 704, the Hon'ble Apex Court held that, *"having due regard to the imperfect nature of science of identification of handwriting, the approach of the court should be one of caution. Reasons for opinion should also be carefully probed and examined and in an appropriate case, corroboration should be sought."*

Keeping above legal precedent into mind and on going through the text of Exh.47, this court does not find therein anything which would amount inducement, abetment to commit suicide. Thus, the said solitary piece of evidence cannot be made the basis of conviction, and this court agrees with the opinion recorded by trial court that the prosecution has failed to bring home the charges under section 306 of IPC.

13. To sum up, here, essential ingredients for attracting

section 306 of IPC, being patently missing, no fault can be found in the order of acquittal passed by learned trial court. There being no merits in the appeal, I proceed to pass the following order :

ORDER

The criminal appeal is dismissed.

(ABHAY S. WAGHWASE, J.)