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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1588 OF 2024

Dr. Kumkum Mukesh Mishra ... Applicant

Versus.

The State of Maharashtra & Anr. ... Respondents

Mr. Meghashyam Kocharekar i/b Mr. Rakshana Kerle, Advocates
for Applicant.

Mr. S. R. Gaud a/w Ms. Shikhani Shah, Advocates for Respondent
No. 2.

Mrs. P. P. Bhosale, APP for Respondent - State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 6th MARCH, 2026

P.C. :

1. Heard Mr. Meghashyam Kocharekar, learned Advocate
for the Applicant, Mrs. P. P. Bhosale, learned APP for the State and
Mr. S. R. Gaud, learned Advocate for Respondent No. 2.

2. This Application under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') filed by the
Applicant seeks to quash FIR No. 552 of 2024 dated 24.08.2024

registered at Mulund Police Station, Mumbai (impugned FIR), for an offence under Section 108 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. On 15th October, 2025, the following order was made in this application :-

“In the meantime, till the next date, the investigation to continue, however, the charge-sheet shall not be filed without the leave of this Court.”

4. Mr. Meghashyam Kocharekar and Mr. S. R. Gaud submit that the said order dated 15th October 2025 remains in effect to this day.

5. Material facts for the adjudication of the present application are that Khushal Dand (deceased Khushal) and the Applicant resided in the same housing society. The Applicant had a dispute with the deceased, Khushal, regarding the use of a parking space in the society. This dispute led to an altercation between the Applicant and the deceased, resulting in the Applicant assaulting Khushal on 5th August 2025. The body of the deceased Khushal was discovered on the railway track on 7th August 2024. The

impugned FIR was registered based on the complaint dated 24th August 2024 filed by Respondent No. 2. The impugned FIR states that the deceased Khushal chose to end his life because of the dispute with the Applicant over the parking space and the harassment that resulted from it.

6. Mr. Meghashyam Kocharekar, learned Advocate for the Applicant, submits that the alleged assault mentioned in the impugned FIR took place on 5th August, 2024, whereas the deceased Khushal was found dead on 7th August, 2024. He submits that even if the allegations are considered, they are not sufficient to remotely suggest that the deceased Khushal, or a prudent person for that matter, could end his life or be driven to do so due to a dispute or quarrel over a parking space in society. He submits that the impugned FIR, registered on a complaint lodged 17 days after the incident, does not contain the necessary ingredients to charge an offence under Section 108 of BNS. He submits that the Applicant is falsely implicated in the present crime.

7. Mr. S. R. Gaud, learned Advocate for Respondent No. 2, submits that the dispute over the parking space and the incident

of 5th August, 2024, between the Applicant and Respondent No. 2, is sufficient to have driven the deceased Khushal to take a drastic step to end his life. He submits that one possible reason the deceased Khushal may have been prompted to take his own life is a comment made by the Applicant regarding his childlessness, along with a threat from the Applicant to involve him in a molestation case. He submits that the impugned FIR sufficiently establishes a case under Section 108 of BNS.

8. Heard arguments.

9. The incident of 5th August 2024 and the alleged parking dispute form the basis on which the Applicant is charged with an offence under section 108 of BNS. Deceased Kaushal was found dead on 7th August 2024.

10. Before considering the allegations, it would be appropriate to consider the parameters to be borne in mind while examining the plea for quashing of an FIR in the context of section 108 of BNS. The Hon'ble Supreme Court in the case of **Laxmi Das Vs. State of West Bengal and Ors.**¹, in paragraph Nos. 7 to 12 has

¹ 2025 OnLine SC 120

observed as follows :-

7. Section 306 IPC is reproduced below for ready reference:

“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.”

We must read Section 306 IPC with Section 107 IPC which defines ‘Abetment’; and it reads as below:

“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.”

8. When Section 306 IPC is read with Section 107 IPC, it is clear that there must be (i) direct or indirect instigation; (ii) in close proximity to the commission of suicide; along with (iii) clear mens rea to abet the commission of suicide.

9. The Appellant has placed strong reliance upon the judgment in Rohini Sudarshan Gangurde v. State of Maharashtra, wherein this Court has interpreted Sections 306 and 107 IPC together and observed:

“8. Reading these sections together would indicate that there must be either an instigation, or an engagement or intentional aid to ‘doing of a thing’. When we apply these three criteria to Section 306, it means that the accused must have encouraged the person to commit suicide or engaged in conspiracy with others to encourage the person to commit suicide or acted (or failed to act) intentionally to aid the person to commit suicide.

...

13. After carefully considering the facts and evidence recorded by the courts below and the legal position established through statutory and judicial pronouncements, we are of the view that there is no proximate link between the marital dispute in the marriage of deceased with appellant and the commission of suicide. The prosecution has failed to collect any evidence to substantiate the allegations against the appellant. The appellant has not played any active role or any positive or direct act to instigate or aid the deceased in committing suicide. Neither the statement of the complainant nor that of the colleagues of the deceased as recorded by the Investigating Officer during investigation suggest any kind of instigation by the appellant to abet the commission of suicide. There is no allegation against the appellant of suggesting the deceased to commit suicide at any time prior to the commission of suicide by her husband.”

10. In Prakash v. State of Maharashtra, this Court has further interpreted the offence as below:

“13. Section 306 of the IPC has two basic ingredients-first, an act of suicide by one person and second, the abetment to the said act by another person(s). In order to sustain a charge under Section 306 of the IPC, it must necessarily be proved that the accused person has contributed to the suicide by the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three conditions outlined in Section 107 of the IPC has to be satisfied.

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 suicide.”

11. *At this juncture, it is pertinent to refer to cases that define the act of ‘instigation’. Accordingly, in Ramesh Kumar v. State of Chhattisgarh, this Court observed:*

“20. 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.”

12. *Reliance is to be placed upon Pawan Kumar v. State of H.P., wherein the Supreme Court held:*

“43. Keeping in view the aforesaid legal position, we are required to address whether there has been abetment in committing suicide. Be it clearly stated that mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a conviction in terms of Section 306 IPC is not sustainable. A casual remark that is likely to cause harassment in ordinary course of things will not come within the purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for the victim to put an end to life.”

11. Having examined the impugned FIR, the dispute over the parking space within the society premises or the assault on the deceased Khusal two days before his death does not, in any way, establish the necessary mens rea to suggest that the deceased Khusal was instigated to commit suicide. The act of instigating, to constitute an offence under section 108 of BNS, must be of such severity that it causes the deceased to become so confused that he believes he has no option but to commit suicide. The Hon'ble Supreme Court has repeatedly stated that a mere allegation or accusation of harassment made by the deceased before his death cannot serve as the basis for an offence under section 108 of BNS. To satisfy the ingredients of section 108 of BNS, the accused must have created a situation where the deceased felt he had no choice but to take his own life. None of these elements are present in this case.

12. This Application is liable to be allowed. Accordingly, the Application is allowed in terms of prayer clause (b). Consequently, the impugned FIR registered with Mulund Police Station, Mumbai is quashed.

13. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)