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

CRIMINAL APPLICATION NO. 374 OF 2026

Hemant Bhansali	]
Age : 42 years, Occ: Business	]
R/at : D/402, Nidhi Society,	]
Bhakti Nagar, Umargaon,	]..... Applicant
Dist : Valsad, Gujarat	](Ori. Accused No.1

Versus.

State of Maharashtra	]
Through Senior Inspector	]
V. P. Marg Police Station, Mumbai	].....Respondent

Mr. Niranjan Mundargi a/w Ms. Keral Mehta, Mr. Gautam Tiwari i/b Ms. Tasneem Khatau for the Applicant.

Mr. Tanveer Khan, APP for Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 18 MARCH 2026

Oral Judgement:-

1. Heard Mr. Niranjan Mundargi, learned Advocate for the Applicant and Mr. Tanveer Khan, learned APP for the Respondent/State.

2. By the present Application filed under Section 528 of the Bhartiya Nangrik Suraksha Sanhita, 2023 (hereafter

“BNSS”), the Applicant is before this Court challenging the order dated 03 February 2026 passed by the Additional Sessions Judge, Greater Bombay, Mumbai (hereafter “Sessions Court”) in Sessions Case No. 881 of 2019 arising out of the FIR bearing No. 30 of 2019 dated 04 February 2019 registered with V. P. Marg Police Station, Mumbai, for offences punishable under Sections 498A, 304-B, 306, 201, and 34 of the Indian Penal Code, 1860 (hereafter “impugned FIR”).

3. The material facts for adjudication of the present Application are that Rahul Babulal Bhansali (Accused No.2) married Purvi Rahul Bhansali (“deceased Purvi”). After the marriage, the deceased Purvi started residing at her matrimonial home with Accused No.2 and her in-laws at 1102/10th Khetwadi Lane, Hari Krupa Height, Grant Road (East), Mumbai – 400004. The Applicant (Accused No. 1) is the brother-in-law of deceased, Purvi. He is a permanent resident of Umargaon, District Valsad, Gujarat, where he resides with his family. On 04 February 2019, deceased Purvi was found hanging from the ceiling fan with a bedsheet tied around her neck in her bedroom at her matrimonial home, which was locked from the inside. Vimala Mukesh Shah (mother of deceased Purvi) lodged a complaint with the V. P. Marg Police Station, Mumbai, alleging that the Applicant, Accused No.2, Babulal Bhansali, father-in-law of deceased Purvi (Accused No.3) and Laxmi Babulal Bhansali, mother-in-law of deceased Purvi (Accused No.4) were responsible for the deceased Purvi's suicide. The allegations stated that the

deceased Purvi was subjected to harassment and cruelty, which, according to the informant/complainant (mother of deceased Purvi), drove her to commit suicide.

4. Accused No.4 has expired.

5. Upon investigation of the Crime bearing No.30 of 2019, a charge-sheet was filed before the Sessions Court and later registered as Sessions Case No.881 of 2019.

6. The Applicant filed an Application dated 13 December 2021 (Exhibit-6) in Sessions Case No. 881 of 2019, under Section 227 of the Criminal Procedure Code (hereafter “Cr.P.C.”), seeking discharge. By order dated 03 February 2026, the Sessions Court rejected the said Application (Exhibit-6) filed by the Applicant (hereafter “impugned order”).

7. Thus, the Applicant, being aggrieved, is before this Court against the impugned order.

8. Mr. Niranjan Mundargi, learned Advocate for the Applicant, submits that the material on record does not support or even indicate prima facie grounds for proceeding against the Applicant or for framing charges in respect of the alleged offences. He submits that, even when taking all the allegations at face value, they are vague and lack evidence, let alone sufficient evidence to suggest that the Applicant was responsible for driving deceased Purvi to commit suicide. Referring to the statements of Arvind Mulchand Shah

(maternal uncle of deceased Purvi), Shilpa Ankit Shah (sister-in-law of deceased Purvi), Zara Salim Khan (friend of deceased Purvi), Dipshikha Narayansing Deval (friend of deceased Purvi), and Dimple Kamlesh Bokadiya (sister of deceased Purvi), he contends that none implicate the Applicant or establish any connection to the incident that allegedly led deceased Purvi to take her own life. He submits that none of these witnesses' statements contain allegations of the Applicant having committed any act that would have driven deceased Purvi to suicide. He submits that, even considering the statements regarding the alleged incident in Dipshikha's statement, together with the record of the WhatsApp chat, such evidence remains hearsay. For these reasons, Mr Mundargi asserts that there is no material to frame a charge in respect of the offences alleged in Sessions Case No.881 of 2019.

9. Mr. Tanveer Khan, learned APP for the Respondent/State, submits that the material on record indicating the act of the Accused No.2 (husband of the deceased Purvi) and all in-laws collectively is sufficient to conclude that this led the deceased Purvi to take a drastic step to end her life. He, by referring to the comment made by the Applicant in the context of the deceased Purvi, argues that there is enough material to frame a charge against the Applicant under Section 306 of the IPC.

10. The arguments canvassed before me by Mr. Niranjana Mundargi, learned Advocate for the Applicant and Mr. Tanveer Khan, learned APP concern the offence the Applicant is alleged to have committed under Section 306 of the IPC, read with Section 498A of the IPC. Regarding the other offences, i.e., Section 304-B and 201 of the IPC, in Sessions Case No. 881 of 2019, they submit that the allegations in that regard are against the other Accused.

11. Heard arguments. Perused the record.

12. Reference to the Hon'ble Supreme Court's ruling on the offence under Section 306 of the IPC in the case of **Laxmi Das v. State of West Bengal and others**¹ would be appropriate. In paragraphs 7 to 12, the Hon'ble Supreme Court has made the following observations:-

“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

¹ 2025 OnLine SC 120

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.”

13. The Hon’ble Supreme Court, in the case of **M. Mohan vs. State, represented by the Deputy Superintendent of Police²**, in paragraphs 44 and 45, has observed as follows:-

“44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a 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/she committed suicide.”

14. The material the prosecution relies on to frame the charge under Sections 306 and 498A of the IPC against the

²

(2011) 3 SCC 626.

Applicant is the comment made by the Applicant, as stated by Dipshikha Deval (friend of the deceased, Purvi). The specific comment relied upon by the prosecution is reproduced below verbatim:

“पूर्वीच्या पतीला डिस्चार्ज मिळाल्यानंतर पूर्वीने त्यांस घरी आणुन सुप देवु केले त्यावेळी राहुलचा भाऊ हेमंत भंन्साली हा त्याच्या आई-वडीलांसमक्ष पूर्वीला शिवीगाळ करून "तु इसके हातसे खाना कैसे खा रहा है, ये नीच औरत है, उसकी औकात नहीं है इस घर में रहने की, तु उसके साथ सोता कैसे है" असे बोलुन रागाने राहुलचा गळा दाबण्याचा प्रयत्न केला होता.”

15. The other material, which Mr. Tanveer Khan, learned APP, refers to is the WhatsApp chat between Arvind Shah (maternal uncle of deceased Purvi) and deceased Purvi wherein there is a reference to the comment which is reproduced herein below in verbatim:-

“My Jeth also everytime told me Aukaat mein reh Discipline mein reh Neech aurat”.

16. The above is the only material on record that, according to the prosecution, indicates that the Applicant committed the offence charged in Sessions Case No. 881 of 2019.

17. The Session Court, in the impugned order, on the basis of the comment of the Applicant (as referred by Dipshikha Deval) and the WhatsApp chat (as referred by Arvind Shah), observed that there are sufficient grounds against the Applicant to hold that he has actively abetted the offences committed by Accused Nos. 2 to 4 and that the Applicant

shares a common intention with them. Consequently, the Sessions Court rejected the application seeking discharge.

18. From the rival contentions, the point that falls for consideration is whether the Sessions Court was justified in dismissing the discharge application filed by the Applicant under section 227 of the CRPC?

19. Dipshikha Deval's statement shows that the Applicant's comment was made nearly 1.5 years before the incident date (04 February 2019). The comment was directed at Rahul Bhansali (Accused No. 2), the husband of the deceased Purvi, rather than to Purvi herself. The Applicant did not live with Accused No. 2 or the deceased Purvi. The said comment does not fall under the scope of instigation.

20. WhatsApp chat between Arvind Shah and deceased Puri is not sufficient to conclude that the Applicant encouraged deceased Purvi to commit suicide or instigated her to do so.

21. Upon consideration of the facts and evidence gathered, there is no direct link between the alleged overt act against the Applicant and the act of suicide. The record does not show that the Applicant played any active or positive role in aiding or abetting the deceased Purvi to commit suicide, much less any act aimed at pushing the deceased Purvi into a position where she would commit suicide. There is no evidence or material on record from which an inference that the Applicant aided or encouraged the deceased Purvi to commit suicide can

be drawn. Statements of witnesses referred by Mr. Mundargi, or any other record, do not suggest any form of instigation by the Applicant to abet the act of suicide.

22. Section 498(A) of the IPC has two components, namely that the husband or a relative of the husband should subject the woman to cruelty. Such “cruelty” means willful conduct that is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health. “Harassment” as used in the said section means to force the woman or any person related to her to meet any unlawful demand for any property or valuable security and to harass her for non-fulfillment of such demands. Taking the material against the Applicant at face value, the same does not attract the ingredients of Section 498A of the IPC.

23. The Sessions Court failed to consider that there is no sufficient ground for proceeding with the trial against the Applicant as even if the material the prosecution proposes to adduce to prove the guilt of the Applicant, is fully accepted before it is challenged by cross-examination or rebutted by the defence evidence, it cannot show that the Applicant committed the offence as alleged. Reasons assigned by the Sessions Court in the impugned order for dismissing the Application for discharge (Exhibit-6) suffer from perversity.

24. In view of the above, I find that “*there is not sufficient*” ground for proceeding against the Applicant (Accused No.1). The impugned order is therefore quashed and set aside,

consequently, the Application for discharge (Exhibit-6) filed by the Applicant is allowed. The Applicant stands discharged in Sessions Case No. 881 of 2019.

25. There shall be no orders as to costs.

(ASHWIN D. BHOBE, J.)