



Judgment

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION APL NO.1316 OF 2024

Aklesh Parashramji Shingone,
aged- 40 years, occupation: agriculturist,
r/o Aamped, taluka Wardud, district
Amravati. **Applicant.**

:: VERSUS ::

1. State of Maharashtra,
through Police Station
Officer, Police Station
Warud, district: Amravati Rural.

2. Mukesh Pandurangaji Narete,
age- 30 years, occupation:
agriculturist, r/o Aampend
Road, Warud, Amravati Rural. **Non-applicants.**

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Shri S.V.Sirpurkar, Counsel for the Applicant.
Mrs.H.N.Prabhu, APP for NA No.1/State.

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CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **27/03/2026**

ORAL JUDGMENT

1. Heard. **Admit.** Heard finally by consent.
2. By this application, the applicant is seeking quashing of
FIR in connection with Crime No.41/2024 registered with non-

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applicant No.1 police station for offence under Section 108 of the BNS and consequent proceeding arising out of the same bearing chargesheet No.45/2024.

3. The crime is registered on the basis of a report lodged by non-applicant No.2 (the complainant) on allegations that deceased Savita is his wife. The present applicant has outraged her modesty on 19.7.2017. Thereafter, he was troubling her for withdrawing complaint and also threatening her that he would subject her for sexual impertinence. Therefore, she was under mental pressure.

It is further alleged that on 22.1.2024, other co-accused Ankush Suresh Gorle and Bhagirath Suresh Gorle abused her and also suspected her character and said that, “..... तिलासुद्धा शिवीगाळ करुन तु छिनाल आहे, तु तर मरुन जायला पाहीजे, तु करुन जा, असे म्हणून तिला आत्महत्या करण्यास प्रवृत्त करीत होते.” Therefore, she went inside the house, tied scarf around her neck, hanged herself, and committed suicide.

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On the basis of the said report, the police have registered the crime against the present applicant.

4. After registration of the crime, the Investigating Officer has recorded relevant statements of witnesses and after completion of the investigation, submitted chargesheet against the present applicant.

5. Learned counsel for the applicant invited my attention towards various statements of witnesses and submitted that statements of witnesses nowhere disclose any “abetment” or “instigation” at the hands of the present applicant as statements of witnesses disclose that on 22.1.2024, the present applicant was not present at the spot of the incident. He submitted that in statements of Omkar Gorle and other witnesses it is specifically stated that the present applicant was not present at the relevant time.

He has also invited my attention towards documents, which show that the complainant has approached the Morshi

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Tahsildar and stated that due to loans, and as they were not getting any income from agricultural land, the deceased has committed suicide.

Thus, he submitted that at one breath the complainant is lodging report by stating that the present applicant has abetted her to commit suicide and on second breath he states that to obtain compensation from the Government, the deceased has committed suicide as there was no income for them to survive.

Thus, he submitted that this sufficiently shows that the present applicant is falsely implicated in the alleged crime.

Moreover, there is no proximity between two acts i.e. “the alleged outraging of modesty by the present applicant” and “committal of the suicide”.

Thus, he submitted that no prima facie case is made out against the present applicant.

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6. In support of his contentions, learned counsel for the applicant has placed reliance on **Geeta vs. State of Karnataka, reported in 2025 SCC OnLine SC 1938; Vaibhav Mawale vs. State of Maharashtra (Criminal Revision No.174/2024 decided by this court on 15.1.2025); and Pradeep Kesarwani vs. State of UP, reported in 2025 SCC OnLine SC 1947.**

7. *Per contra*, learned APP for the State has strongly opposed the said contentions and submitted that considering statements of various witnesses, it reveals that it was the present applicant who has harassed the deceased consistently and being fed up with the same, she has committed suicide by hanging herself.

She has invited my attention towards various statements of witnesses and submitted that to attract the offence under Section 306 of the IPC, there has to be instigation, aid, and act which drive deceased to commit suicide. The said act is narrated by the complainant that the present applicant has outraged her modesty, which is sufficient

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to commit suicide by the deceased and, therefore, the application deserves to be rejected.

8. On hearing both sides and perusing the entire investigation papers, a question arises, whether the act of the present applicant taken place in the past is sufficient for the deceased to commit suicide on 22.1.2024.

9. Admittedly, the incident of alleged outraging of modesty, as per recital of the FIR, has taken place on 19.7.2017. Thereafter, after, approximately, six years, the deceased has committed suicide. Therefore, question is whether the same would be proximity in time or nexus between two incidents i.e. the incident of outraging of modesty and committal of the suicide by the deceased.

10. Section 306 (Section 108 of the Bharatiya Nyaya Sanhita, 2023) of the Indian Penal Code defines abetment of suicide, which reads thus:

306. (108 of BNS) Abetment of suicide. - If any person commits suicide, whoever abets the commission of

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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.

Classification of offence. - The offence under this section is cognizable, non-bailable, non-compoundable and triable by Court of Session.

11. Section 107 of the Indian Penal Code (Section 45 of the Bharatiya Nyaya Sanhita, 2023) defines abetment of a thing, which reads thus:

107. (45 of BNS) 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

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thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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.

12. Section 108 of the Indian Penal reads thus:

108. (46 of BNS) Abettor.—

A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

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Explanation 1.— The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.— To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.— It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

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(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house, B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the

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offence of setting fire to a dwelling-house, and is liable to the punishment, provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.— The abetment of an offence being an offence, the abetment of such an abetment is also as offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

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Explanation 5.— It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

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13. Section 108 of the BNS talks about abetment of suicide and states that whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine.

The said Sections penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 of the Indian Penal Code. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide.

14. A question arises as to when is a person said to have instigated another. The word “instigate” means to goad or urge forward provoke, incite or encourage to do “an act” which the person otherwise would not have done.

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15. It is well settled that in order to amount to abetment, there must be *mens rea*. Without knowledge or intention, there cannot be any abetment. The knowledge and intention must relate to the act said to be abetted which in this case, is the act of committing suicide. Therefore, in order to constitute abetment, there must be direct incitement to do culpable act.

16. In the case of **Prabhu vs. The State represented by the Inspector of Police and anr**, relied by learned counsel for the applicant, by referring the various earlier decisions, the Hon'ble Apex Court held that the physical relationship over a considerable period of time was out of mutual love between the appellant and the deceased and not based on the promise of marriage. In the said case, the Hon'ble Apex Court has considered its earlier decision in the case of **Kamlakar vs. State of Karnataka (Criminal Appeal No.1485/of 2011, decided on 12.10.2023** and explained ingredients of Section 306 of the Indian Penal Code and held, as under:

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"8.2. Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.

8.3. In **Ramesh Kumar vs. State of Chattisgarh**, reported in **AIR 2001 SC 383**, this Court has analysed different meanings of "instigation". The relevant para of the said judgment is reproduced herein:

"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

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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.”

8.4. The essentials of Section 306 IPC were elucidated by this Court in **M.Mohan vs. State, AIR 2011 SC 1238**, as under:

“43. This Court in **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367]** had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word “instigation” and “goading”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of selfesteem and self-respect. Therefore, it is impossible to lay down

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any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

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.”

8.5. The essential ingredients which are to be meted out in order to bring a case under Section 106 IPC were also discussed in **Amalendu Pal alias**

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Jhantu vs. West Bengal AIR 2010 SC 512, in the following paragraphs:

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts 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 the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a

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case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

8.6. On a careful reading of the factual matrix of the instant case and the law regarding Section 306 IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not committed any positive or direct act to instigate or aid in the commission of suicide by the deceased.”

17. In the case of **Sanju @ Sanjay Singh Sengar v. State of M.P.**, reported in (2002) 5 SCC 371, the Hon’ble Apex Court extensively dealt with concept of 'abetment' in the context of

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the offence punishable under Section 306 of the Indian Penal Code. In that case, the allegation against the accused/appellant therein was that he had abetted the commission of suicide of his sister's husband one Chander Bhushan. The facts reveals that there were matrimonial disputes between sister of the appellant/accused and her husband and in connection with the said disputes, the appellant had allegedly threatened and abused Chander Bhushan. Chander Bhushan committed suicide and the suicide was attributed by the prosecution to the quarrel that had taken place between the appellant and the said Chander Bhushan, a day prior. It was alleged that the appellant had used abusive language against said Chander Bhushan and had told him "to go and die". The appellant, who had been chargesheeted for an offence punishable under Section 306 of the Indian Penal Code, filed a Petition under Section 482 of the Code of Criminal Procedure, for quashing the proceedings against him, but his Petition was dismissed by the High Court. While

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allowing the appeal, the Hon'ble Apex Court, *inter alia*, observed as follows:

"Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. 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."

18. Thus, a direct influence or an oblique impact with the acts or utterances of the accused caused or created in the mind of the deceased and which draw him to suicide will not be sufficient to constitute offence of abetment of suicide. A fatal impulse or ill-fated thoughts of the suicide, however unfortunate and touchy it may be, cannot fray the fabric of the provision contained in Section 108 of the BNS. In order to bring out an offence under Section 108 of the BNS specific abetment as contemplated by Section 108 of the BNS on the part of the accused with an intention to bring about the suicide

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of the person concerned as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for an offence under Section 108 of the BNS.

19. The Hon'ble Apex Court in case of **Ramesh Kumar vs. State of Chattiness**, reported in AIR 2001 SC 383 referred in **Prabhu vs. The State represented by the Inspector of Police and anr supra**, relied upon by learned counsel for the applicant, in para No.20 has examined different meaning of 'instigation', which reads as, '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

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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'.

20. This aspect is also considered by the Hon'ble Apex Court in the recent judgment in the case of **Geeta vs. State of Karnataka** *supra* wherein also it is held that, "to satisfy the requirement of instigation, the accused by his acts or omission or by a continued course of conduct should create such circumstances that the deceased was left with no other option except to commit suicide."

It was also held that, "a word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

Applying the test laid down as the aforesaid, it is held that, "the appellant's family and the victim's family had heated

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exchanges, there was any intention to abet or to cause any member of either family to take their own life.”

21. The similar observations are made by the Hon’ble Apex Court in the case of **Pradeep Kumar Kesarwani vs. The State of Uttar Pradesh and anr, reported in 2025 LiveLaw (SC) 880** wherein by referring catena of decisions, it is held that, “the following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.: —

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as

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would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

22. Applying the above principles to the facts of the present case and even accepting the case as it is, it reveals that there was a previous dispute between the present applicant and the complainant.

23. As far as “instigation” by the present applicant is concerned, admittedly, the incident of alleged outraging of modesty has occurred on 19.7.2017 and the alleged incident of suicide has occurred on 22.1.2024. Thus, there is no nexus

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between two acts as far as suicide by the deceased is concerned.

24. Statement of witnesses disclose that at the time of the incident dated 22.1.2024, the present applicant was not present and there is no allegation that on that day he either “instigated” or “abetted” the deceased to commit suicide and, therefore, the deceased has committed suicide.

25. On examination of the instant case on the touchstone of the principles laid down by the Hon’ble Apex Court and statements of witnesses nowhere disclose that in any manner the present applicant is responsible or he has abetted the deceased to commit suicide. There is no proximity between two acts and, therefore, no prima facie case is made out against the present applicant.

26. For all above these reasons recorded, the present application deserves to be allowed. Accordingly, I proceed to pass following order:

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ORDER

(1) The criminal application is **allowed**.

(2) FIR in connection with Crime No.41/2024 registered with non-applicant No.1 police station for offence under Section 108 of the BNS and consequent proceeding arising out of the same bearing chargesheet No.45/2024 are hereby quashed and set aside to the extent of the present applicant.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

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