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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.1426 OF 2025

1. Smt. Sangita w/o Sanjay Rai,
Aged about 50 Years,
Occupation : Household,
R/o. Bhagatsingh Ward,
Pandharkawda,
Tahsil : Kelapur,
District Yeotmal.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Pandharkawda,
District Yeotmal.
2. Smt. Shobha w/o Bharat Muneshwar,
Aged : Major,
Occupation : Household,
R/o.: Bhagatsingh Ward,
Pandharkawda.

....NON-APPLICANTS

Mr. J. M. Gandhi, Advocate for applicant.
Mr. A. M. Kadukar, APP for non-applicant No.1/State.
Mr. Ishant Vinodkumar Tambi, Advocate (appointed) for
non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/01/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**

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3. Heard finally with the consent of the learned Counsel for the applicant, learned counsel for the non-applicant No.2 and learned APP for the State.

4. Present application is preferred by the applicant for quashing of the FIR in connection with Crime No.1115/2023 registered with Police Station Pandharkawda, District Yeotmal for the offence punishable under Sections 306, 504, 506 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989').

5. The crime is registered on the basis of a report lodged by the non-applicant No.2, who is the mother of the deceased. As per the allegation, her daughter Sangita Telang, aged about 35 years and they belongs to the Mahar community. As per the allegations, the deceased has obtained the money from the present applicant on interest and the present applicant has obtained her blank cheque. It is further alleged that the said cheque by mentioning the amount of Rs.2,00,000/- was deposited in the bank, but it was returned back as 'dishonoured' and therefore, the deceased was prosecuted by filing a complaint under Section 138 of the Negotiable Instruments Act. It is further alleged that the present applicant was threatening the deceased to pay the amount, otherwise she has to face the

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consequences, and she as well as her son would be killed. It is further alleged that on the earlier day of the incident, the present applicant had been to the house of the deceased, threatened her and therefore, deceased has consumed the poison and committed suicide. On the basis of the said report, police have registered the crime against the present applicant.

6. Heard learned counsel for the applicant, who submitted that by no stretch of imagination it can be said that the alleged act of the present applicant amounts to an abetment to commit suicide. He submitted that as such in case of abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. He submitted that there is no proximity or nexus between the abetment and the act of the suicide. He submitted that now law is settled as far as the abetment of suicide is concerned and in the catena of decisions it is held that as far as the abetment is concerned, there has to be some material to show that there was incitement, encouragement or aiding or instigation to prove the abetment at the hands of the accused. In view of that, if the facts and circumstances of the present case are taken into consideration, which sufficiently shows that no *prima facie* case is made out against the present applicant. In view of that, the application deserves to be allowed. In support of his contention, he placed reliance on following judgments:

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- (i) **Rajesh Vs. State of Haryana, (2020) 15 SC 359,**
- (ii) **Binod s/o Ratan Sarkar and others Vs. State of Maharashtra and another, 2013 (3) Mh.L.J. (Cri) 418, and**
- (iii) **Vikas Chandra Vs State of Uttar Pradesh and another in Special Leave Petition (Crl.) No.1196/2018 dated 22.02.2024.**

7. Per contra, learned APP strongly opposed the said contention and submitted that the statements of the various witnesses specifically shows the act of the present applicant that due to the abetment at the hands of the present applicant, the deceased has committed suicide. He submitted that this statement sufficiently shows that there is a *prima facie* material to connect the present applicant with the alleged offence. The ingredients of the offence are satisfied, in view of that, the application deserves to be rejected.

8. Learned counsel for the non-applicant No.2 invited my attention towards the statement of the son of the deceased and submitted that the said statement sufficiently discloses the nature of abetment at the hands of the present applicant and which is sufficient at this stage to reject the application. In view of that, the application deserves to be rejected.

9. On hearing both sides and on perusal of the investigation papers, it reveals that there was a monetary

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transaction between the applicant and the deceased. It is further apparent that the deceased has obtained some amount from the present applicant on interest, it was agreed between them to pay the amount. It further reveals that the cheque was allegedly issued by the deceased, whereas it is contention of the prosecution that the blank cheque was obtained, regarding the said dishonour of the cheque, the proceeding bearing SCC No.962/2018 was already filed before the learned Judicial Magistrate First Class, Kelapur. The documents on record shows that the said proceeding was referred for mediation, considering the elements of settlement. Before the Mediator Judge i.e. District Judge – 1 and Additional Sessions Judge, Kelapur, the matter was settled between the present applicant and the deceased and it was agreed that the deceased would pay Rs.1,50,000/- out of which, Rs.90,000/- are already paid and the amount of Rs.60,000/- to be paid on or before 12.09.2023. The said settlement was signed by the present applicant as well as the deceased. Subsequent to that the deceased has committed suicide by consuming poison on 25.09.2023. When she was admitted in the hospital, she has written a note showing that she do not want to take a treatment and now she is not in need of treatment. She further mentioned that if something happens to her, she herself is responsible for the said consequences and no other person is responsible. Admittedly, there is no whisper as

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far as the transaction between the present applicant and deceased is concerned or any abetment the said chit can be treated as a suicide note and it was handed over by her to the Medical Officer.

10. In the light of the above facts and circumstances and before entering into the merits, it is necessary to see what are the considerations for considering the application for quashing of the FIR. As far as the law in regard to the offence under Section 306 of IPC is settled. Whether demanding of a money from the deceased which is given to her is sufficient to say that the applicant has abetted her to commit suicide is the pivotal question which needs to be answered.

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

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.*

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

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12. Section 107 of the IPC (Section 45 of the Bharatiya Nyaya Sanhita, 2023) defines abetment of a thing, which reads thus:

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.

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.

13. Section 108 of IPC reads thus:

108. 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

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capable by law of committing an offence with the same intention or knowledge as that of the abettor.

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

(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.

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(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 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.

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 concerts 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

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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.

14. Section 306 of the Indian Penal Code 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.

15. 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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16. It is well settled that in order to attract the offence of 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.

17. Section 306 of 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 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, or acted in a way which directly result in the person's suicide.

18. In the case of **Prabhu vs. The State represented by the Inspector of Police and anr, SLP [Cri] Diary No. 39981/2022, decided on 30.01.2024**, 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:

"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.

*State of 8.3. In **Ramesh Kumar vs. 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 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

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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 selfrespect. Therefore, it is impossible to lay down 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

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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 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 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

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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."

19. In the **Sanju @ Sanjay Singh Sengar Vs. State of M.P. reported in (2002) 5 SCC 371**, wherein the Hon'ble Apex Court extensively dealt with concept of 'abetment' in the context of 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 allowing the appeal, the Hon'ble Apex Court, 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."

20. 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 drove him to suicide will not be sufficient to constitute offence of abetment of suicide. A fetal 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 306 of the Indian Penal Code. In order to bring out an offence under Section 306 of the Indian Penal Code specific abetment as contemplated by Section 306 of the Indian Penal Code on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or to

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instigate or to abet the deceased to commit suicide is a must for an offence under Section 306 of the Indian Penal Code.

21. Thus, combine reading of Sections 306, 107, and 108 of the Indian Penal Code, shows the requirement is a positive act on the part of the accused to instigate or aid in committing suicide and in the absence of the same, the conviction cannot be sustained. There has to be a clear intention to commit the offence for being held liable under Section 306 of Indian Penal Code.

22. The Hon'ble Apex Court, in the case of **Mariano Anto Bruno vs. State, reported in (2023)15 SCC 560** in the context of culpability under Section 306 of the Indian Penal Code, observed as under :

"45. ... 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."

23. After going through the catena of decisions, it reveals that test that the court should adopt in these types of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even *prima facie* that the accused intended the consequences of the act i.e.

suicide. To attract the provisions what is to be shown is that the accused has actually instigated or aided in the victim act of committing suicide. There must be direct or indirect incitement to the commission of suicide and the accused must be shown to have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide.

24. By 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 money transaction between the applicant and the deceased, the court proceeding was also initiated, the deceased has agreed to pay the amount, subsequently she could not pay, therefore, the warrant was issued against her and she was taken into custody by executing the warrant and thereafter, she was committed suicide. Thus, there is nothing on record to show that due to the demanding of money the deceased has committed suicide. On the contrary, it is apparent that as she could not pay the amount and the court proceeding was already initiated against her and that may be one of the reason for her to commit suicide. As far as the abetment at the hands of the present applicant is concerned, which is not substantiated by any material to show that there was an abetment at the hands of the present applicant, due to which she has committed suicide. Even the note written by the deceased nowhere reveals that she is committing suicide due to the abetment at the hands of the

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present applicant. Moreover, mere demanding of her own money by the applicant itself is not sufficient to attract the offence punishable under 306 of IPC.

25. A plain reading of Sections 107, 108 and 306 of the Indian Penal Code and applying it to undisputed facts of the present case indicates that none of the ingredients are attracted to the case in hand. Thus, the material appears to be insufficient or subjecting the applicant to trial. The applicant is also prosecuted for the offence punishable under Section 3(2)(v) of the Act of 1989. The investigation papers nowhere reveals that being she was a member of the Scheduled Caste, she was abetted or insulted or humiliated by the present applicant and therefore, merely because she belongs to the Scheduled Caste or the Scheduled Tribe, the offence under Section 3(2)(v) of the Act of 1989, is not applicable.

26. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is **allowed**.

(ii) The FIR in connection with Crime No.1115/2023 registered with Police Station Pandharkawda, District Yeotmal for the offence punishable under Sections 306, 504, 506 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the consequent proceeding

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arising out of the same bearing Special Case No.108/2023 pending before the learned District Judge-1 and Additional Sessions Judge, Kelapur, are hereby quashed and set aside to the extent of the present applicant.

(iii) The fees of the appointed counsel be quantified as per rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)

Sarkate.