



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

CRIMINAL APPLICATION (APL) NO. 907 OF 2025

1. Pratibha Shilanand Telgote,
Aged about 36 yrs., Occ. Nil,
R/o. Sai Nagar, Tahsil Road, Ward
No. 2, Telhara, Tq. Telhara,
Dist. Akola.
2. Pravin S/o Prabhakar Gaigole,
Aged about 43 yrs., Occ. Service,
R/o. 43, BN BSF SHQ, Gokul Nagar,
Bishalaghar, Tripura, Pin 799102.

APPLICANTS

Versus

State of Maharashtra,
Thr. Police Station Officer of Police
Station Telhara, Tah. Telhara,
Dist. Akola.

NON-APPLICANT

Mr. A.R. Deshpande, Advocate for the Applicants.
Ms. M.A. Barabde, APP for the Non-applicant/State

CORAM : URMILA JOSHI PHALKE, J.

DATED : 08th APRIL, 2026.

ORAL JUDGMENT :-

1. Heard.
2. **ADMIT.** Heard finally by the consent of learned Counsel for the Applicants and learned APP for the Non-applicant/State.
3. The present Application is preferred by the Applicants under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing the First Information Report in connection with Crime No.95/2025 registered with Police Station Telhara, District Akola for the offence punishable under Sections 108, 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and consequent proceeding arising out of the same bearing R.C.C. No.249/2025 pending before the Judicial Magistrate First Class, Telhara.
4. The crime is registered on the basis of a report lodged by Police Head Constable B.No. 1934 of Telhara Police Station that on 30.03.2025 one Sheshrao Bodade resident of Yogeshwar Colony, Telhara District, Akola has given a complaint that his brother-in-law Shilanand Telgote resident of Gadegaon Road, Telhara District, Akola who is working as Talathi, Telhara

Tahsil Office has committed suicide by hanging himself. It is further alleged that, the Investigating Officer has visited the said spot and during the inquest panchnama suicide note was found alongwith the dead body of the deceased, wherein he has mentioned that he is committing suicide on 30.03.2025 and the reason behind it his wife Pratibha i.e. the Applicant No.1 abused him in a very filthy language in front of his son and also asked him to hang himself oftenly. It is further alleged that, his money was with her brother Pravin Gaigole. This money was borrowed by him from Talathi Society and he was to pay the interest on it. There is a deduction of amount from his salary. After demand, his brother-in-law has not paid the amount, and therefore, he is committing suicide. On the basis of the said suicide note the crime came to be registered against the present Applicants.

5. After registration of the crime the Investigating Officer has recorded relevant statements of witnesses, the post mortem report was obtained and after completion of the investigation submitted charge-sheet against the present Applicants.

6. Heard learned Counsel for the Applicants, who submitted that, the incident was occurred on 30.03.2025. The FIR was lodged on 01.04.2025 on the basis of a report lodged by the Police Head Constable. He submitted that, due to the dispute between the husband and wife, subsequently the said report came to be lodged. He further submitted that, even accepting the allegations as it is no offence is made out against the present Applicants as there is no proximity as far as the abetment at the hands of the present Applicants is concerned. Thus, he submitted that, merely because the deceased has committed suicide and by taking disadvantage of the said fact as the relationship between the deceased and the present Applicants was not cordial, she alongwith her brother are implicated. He submitted that, even accepting the allegations and the suicide note as it is, it nowhere reveals that it were the present Applicants who have abetted him to commit suicide and thereby he has committed suicide. Therefore, the offence punishable under Section 306 of IPC (108 of BNS) is not made out.

7. In support of his contention he placed reliance on the judgment of this Court in *Criminal Application (APL) No. 476/2021, Ramdas Gopa Ingel & Ors., Vs. State of Maharashtra & Anr., decided on 27.07.2022* and *Sanju Alias Sanjay Singh Sengar Vs. State of M.P., (2002) 5 SCC 371*.

8. *Per contra*, learned APP strongly opposed the said contentions and submitted that, the abetment at the hands of the present Applicants was to such an extent that she asked him to commit suicide and thereby being fed up with the filthy language used by the Applicant No.1, he committed suicide by hanging himself. The conduct of the present Applicant No.1 caused mental disturbance to the deceased, and therefore, he has committed suicide. Thus, there was no alternative before him but to commit suicide and thereby he has committed suicide. In view of that, the Application deserves to be rejected.

9. Before entering into the merits of the case it is necessary to see the consideration which requires to be considered for deciding the Application under Section 482 of Cr.P.C./528 of B.N.S.S., 2023 for quashing of the FIR registered under Section 306 of IPC (108 of BNS).

10. Section 306 (Section 108 of the Bharatiya Nyaya Sanhita, 2023) of IPC 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.”

11. Section 107 of 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.”

12. 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 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.

(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 an 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 consents 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."

13. It is observed by the Hon'ble Apex Court in the case of ***Mahendra K.C. Vs. State of Karnataka & Anr., (2022) SCC 129***, wherein it is held that the essence of abetment lies in instigating a person to do a thing or the intentional doing of that thing by an act or illegal omission. 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. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

14. It is further held that, where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an “instigation” may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established 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 forward more quickly 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 above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

15. Section 306 of IPC (108 of 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.

16. 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 actions must align with one of the three criteria detailed in Section 107 of IPC (45 of BNS). This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide.

17. 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.

18. 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.

19. In the case of ***Kamlakar Vs. State of Karnataka Criminal Appeal No.1485/of 2011, decided on 12.10.2023*** wherein the Hon'ble Apex Court has explained the ingredients of Section 306 of IPC 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.

*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 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 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 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."

20. In the case of ***Sanju @ Sanjay Singh Sengar*** (supra) the Hon'ble Apex Court extensively dealt with concept of 'abetment' in the context of the offence punishable under Section 306 of IPC. 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, *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.”

21. 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 her or him to commit suicide will not be sufficient to constitute offence of abetment of suicide. In order to bring out an offence under Section 108 of BNS (306 of IPC) specific abetment as contemplated by Section 108 of BNS 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 instigate or to abet the deceased to commit suicide is a must for an offence under Section 108 of BNS, 2023.

22. The Hon'ble Apex Court in case of *Ramesh Kumar Vs. Chattisgarh*, (supra) 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 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'.

23. Thus, combine reading of Sections 306, 107, and 108 of IPC (108 and 45 of BNS) 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 IPC (108 of BNS).

24. Thus, 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 a *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 have actually instigated or aided in the victim's 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.

25. Applying the above principles to the facts of the present case, even accepting the case as it is it reveals that the present Applicant No.1 and the deceased were husband and wife. There was a matrimonial discord between them. From the recitals of the FIR and the statements of the witnesses it reveals that the deceased was abused by the Applicant No.1, which is mentioned by him and there was a difference of opinion between them. It is further alleged that, the Applicant No.2 has obtained some money from the deceased, which the deceased has obtained on loan and the said money was not returned back and he has to pay the interest on the said amount, and therefore he has committed suicide.

26. Thus, the nature of the dispute between the Applicant No.1 and the deceased was matrimonial in nature. The dispute is on account of the amount which is obtained by the Applicant No.2, who is the brother of the Applicant No.1. The said suicide note nowhere reflects that he has committed suicide due to the abetment at the hands of the present Applicants. The said suicide note is reproduced as under:

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(46)

श्री श्री शिलानंद भाणिकराव तेलगोटे वय ३९ रा तेलहारा शाहु
नगर गाडेगाव रोड तेलहारा ..मी दि ३०/०३/२०२५ रोजी आत्महत्या
करत आहे .माझ्या मृत्यु माझी पत्नी नामे प्रतिभा तेलगोटे हे,
असुन मला खुप असलिन शिवया देते माझ्या मुला समोर आणि
मला फाशी घेय असे वांरवार सांगते .माझे पैसे तिचा भाउ श्री
प्रविण गांयगोले असुन त्यांच्या काडे त्यांना शेती साठी मी काही
रक्कम दिली सदर रक्कम मी तलाठी सो कडुन काढली त्यांचे
व्याज व्याज सह रक्कम देने अपेशीत आहे कारण माझ्या पगार
मधुन रक्कम कटोती सुरु आहे माझ्या मृत्यु झयालास माझी
शेवटची ईच्छा माझी PM होणार नाह चहेरा... चहेरा चहेरा माझी
पत्नी ला दाखु नोय कारण आज मी ५ दिवस झाले मी जेवन
केले नाही माझी पत्नी ला सोडुन कोणही पाहीला तर चालले
कारण माझी पत्नी हे पत्र लिहण्याचे कारण माझा अंत्य विधी
माझी बहीन आशा बोदडे .यांच्या घरी ठेवण्यात यावे प्रतिभा
तेलगोटे माझी पत्नी घर कोणीही गुन्हा दाखल करु नोय कारण हे
पत्र पाहीले की ती स्वस्ता आत्मप्रश्न करेले की आपले कुठे
चुकले आज दि ३०/०३/२०२५ रोजी तिचा वाढदिवस आहे तिला
माझ्या कडुन शुभेच्छा .सदर पत्र मी कोणत्याही जोर
जबरदस्ती करुन ठेवले नाही ...

टिप- पैसा पुढे नवरा नाही मुले नाही फक्त पैसा स्वताचे
नातलग

आपला विश्वासु

सविन सभाकार विश्वरू ३५
रा. गाडेगाव ला. तेलहारा
९८८१३३६५४२

सविन जगेश कोदरे
रा. मिमिन नगरी तेलहारा

एस-एस-तेलगोटे

सविन
पोलीस उपनिरीक्षक
सुनिल भटकर
पो. स्ट. तेलहारा

27. Thus, on perusal of the said suicide note, it reveals that he has obtained some loan from Talathi Society and he has to pay the interest on the said amount and there is deduction from his salary also, and therefore, he was fed up with the same and due to which he has committed suicide. The said suicide note further shows that, no offence should be registered against his wife otherwise she would raise questions about herself regarding the introspection, and therefore, he requested not to take any action against the Applicant No.1.

28. Learned APP has pointed out that, this itself is sufficient to show that the deceased was fed up to such an extent that he has no alternate before him but to commit suicide, and therefore, he has committed suicide.

29. As per the prosecution case, there was a constant harassment which was continued over a long period, and therefore, the deceased has committed suicide. The abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing and without a positive act on the part of the accused, in aiding or instigating or abetting the deceased to commit suicide a conviction cannot be sustained.

What comes out essentially from the various decisions that if there is allegations of constant harassment, continued over a long period, to bring in the ingredients of Section 306 read with Section 107 of IPC (108 r/w 45 of BNS) still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment or the extreme act on the part of the others of taking ones life. Merely because the victim was continuously harassed and at one point he or she succumbed to the extreme act of taking his or her life cannot by itself result in finding a positive instigation constituting the abetment. *Mens rea* cannot be ascertained only by the circumstance that the deceased has committed suicide as nobody knows what goes on in the mind of the victim. The victim may have felt that there was no alternative or option but to take his life because of what another person did or said which cannot lead to a finding *mens rea* and resultant abetment on that other person.

30. What constitutes *mens rea* is the intention and purpose of alleged perpetrator from the conscious acts or words and the attending circumstances which in all probability would

lead to such an end. The real intention of the accused and whether he or she intended by his or her action to at least possibly drive the victim to commit suicide is the sure test. Whether there was a thought of goading the victim to commit suicide occurred in the minds of the Applicants or whether it can be inferred from the facts and circumstances arising in the case is the true test of *mens rea* would depend upon the facts of each case. Unless there is a conscious deliberate intention to drive the another person to take the life, there cannot be a finding of abetment under Section 306 of IPC (108 of BNS).

31. In the case in hand, due to matrimonial dispute between the Applicant No.1 and the deceased and there was a discord between the relationship, moreover some loan amount was obtained by the deceased and he has to pay the interest on it and his salary was also deducted, and therefore, he was having some financial constraints, and therefore, he appears to have committed suicide. The suicide note which is collected during the investigation shows the above said reasons, and therefore, the deceased appears to have committed suicide. In view of that, the aspect regarding the ingredients of the offence

to constitute the offence punishable under Section 108 of BNS is not made out, and therefore, the Application deserves to be allowed.

32. Learned Counsel for the Applicants placed reliance on various judgments, wherein the similar ratio is laid down.

33. In the case of *Nipun Aneja & Ors., Vs. State of Uttar Pradesh, 2024 SCC OnLine SC 4091*, wherein the Hon'ble Apex Court has observed that, the ordinary dictionary meaning of the word 'instigate' is to bring about or initiate, incite someone to do something. It is further held that, the scope and ambit of Section 107 IPC and its co-relation with Section 306 IPC has been discussed repeatedly by this Court. In the case of *S.S. Cheena Vs. Vijay Kumar Mahajan & Anr., (2010) 12 SCC 190*, it was observed as under:-

"25. 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. The intention of the legislature and the ratio of the cases decided by the Supreme Court is 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 that act must have been intended to push the deceased into such a position that he committed suicide."

18. This Court in *M. Arjunan v. State*, represented by its Inspector of Police, (2019) 3 SCC 315, while explaining the necessary ingredients of Section 306 of the IPC in detail, observed as under:-

“7. The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 IPC .”

19. This Court in *Ude singh v. State of Haryana*, (2019) 17 SCC 301, held that in order to convict an accused under Section 306 of the IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. It was observed as under:-

“16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behavior and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.”

34. Thus, for the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated repeatedly in various decisions if the person who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 of IPC (108 of BNS). If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide.

35. Thus, the test that the Court should adopt in this type 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. Over a period of time, the trend of the Courts is that such intention can be read into or gathered only after a full-fledged trial. The Hon'ble Apex Court observed that such understanding on the part of the Courts is wrong.

36. In the light of the well settled principles and by applying the same to the facts of the present case and even accepting the case as it is it reveals that there was a matrimonial discord between the deceased and Applicant No.1. It is alleged that, she has insulted him in presence of his son, and therefore, the deceased has committed suicide. The another reason given is that, the deceased has obtained the loan and he has to pay the interest on the same and his salary was also deducted, and therefore, he has committed suicide. Even accepting the allegations as it is, it cannot be held that due to the abetment, the deceased has committed suicide. As far as the present case is concerned, at the most it can be said that, the Applicant No.1 may be the reason for the frustration of the deceased but such type of discord and differences which are common in domestic life in the society and until and unless some guilty intentions are there it is ordinarily not possible to show that the present

Applicants are responsible for the death of the deceased. The suicide note also has not attributed any such *mens rea* to the present Applicants. Even if any words uttered by any of the spouse during the fit of anger also would not sufficient to constitute the abetment at the hands of the accused. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **allowed**.
- ii. The First Information Report in connection with Crime No. 95/2025 registered with Police Station Telhara, District Akola for the offence punishable under Sections 108, 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and consequent proceeding arising out of the same bearing R.C.C. No.249/2025 pending before the Judicial Magistrate First Class, Telhara, are hereby quashed and set aside to the extent of the present Applicants.

37. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)