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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 31325 of 2026

CNR:{HCMA012556742026}

AND CRL MP Nos.20798 & 20799 OF 2026

K.Venkatesh
S/o Kandasamy,
9/105, Chinnamottanoothu,
Narikkalpatti (PO),
Palani (TK),
Dindugul District.

..Petitioner(s)

Vs

1. State rep by the Inspector of Police,
   Kundadam Police Station,
   Tirupur.

2. Muthupriya,
   W/o (Late) Selvanatham,
   Senkattu Thottam,
   Pellampatti (PO),
   Dharapuram.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, praying to call for the records relating to the proceedings in SC No. 121 of 2026 pending on the file of the III Additional District Court, Dharapuram and quash the same.

For Petitioner(s): Mr.K.M.C.Arunmokan

For Respondent(s): Mr.R.Ganesh Kumar,
Additional Public Prosecutor for R1

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This Criminal Original Petition has been filed to call for the records relating to the proceedings in SC No. 121 of 2026 pending on the file of the III Additional District Court, Dharapuram and quash the same.

2.The case of the prosecution is that the deceased had commercial transaction with the petitioner/A3 in the course of his business. A financial dispute arose between the deceased and the petitioner/A3 regarding the payment for non-supply of loads of maize. It is further alleged that, in order to recover the amount due to the petitioner/A3, the first and second accused were engaged, and the first accused contacted the deceased over his mobile phone and demanded repayment of the amount allegedly due to the petitioner/A3. The first accused is also alleged to have abused the deceased, thereby causing him mental agony. Due to financial pressure and demands made by A1 to A4, the deceased consumed Sal-phos poison and died.

3.Based on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No.193 of 2025 for the offences punishable under Section 108 of Bharatiya Nyaya Sanhita, 2023. After completion of the investigation, a final report was filed and the same has been taken cognizance by the Trial Court.

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4.The learned counsel appearing for the petitioner submitted that, on 02.07.2025 at about 11.15. a.m., the second respondent and her father-in-law received a phone call informing them that the deceased had consuming Sal-phos tablet and was lying at a particular place. Immediately, they went to the said place and enquired with the deceased, who informed them that he had consumed two Sal-phos tablets. He was immediately taken to S.V.Clinic, Palladam, where he was given first aid and thereafter, he was shifted to Royal Care Hospital, Coimbatore, for further treatment. However, he died at about 3.55 p.m. on the same day. The learned counsel further submitted that, after demise of the deceased, the second respondent examined his mobile phone and allegedly found an audio message indicating that the accused had threatened him with dire consequences for his failure to pay the amount allegedly due to the petitioner/A3. It is further alleged that the accused demanded a sum of Rs.85 lakhs in connection with the non-supply of maize and about a week prior to the demise of the deceased, compelled him to issue two cheques for a sum of Rs.40 lakhs and Rs.45 lakhs respectively. They are also alleged to have threatened to foist a false case against the second respondent. The learned counsel contended that, even assuming that the audio message contained the allegations referred to above, the same would not constitute any offence under Section 108 of BNS, 2023. He further submitted that the essential ingredients of abetment of suicide are conspicuously absent and that a mere demand for repayment of loan or business dues, even if made aggressively, would not, in

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the absence of the requisite intention and instigation, constitute abetment of suicide. In support of his contention, he relied upon the judgements of the Hon'ble Supreme Court of India and this Court. This Court vide order dated 16.09.2026 in Crl.O.P.No.20833 of 2026, quashed the proceedings insofar as the first accused, viz., Manimaran, is concerned, in S.C.No.121 of 2026 on the file of the III Additional District and Sessions Judge, Dharapuram.

5.Per contra, the learned Senior Counsel appearing for the second respondent submitted that, immediately after consuming the poison, the deceased became unconscious and, therefore, his statement could not be recorded by the Investigating Officer. In fact, immediately after admission of the deceased to the hospital, the Accident Register was recorded and thereafter, the mobile phone of the deceased was also recovered under Form 95. Only on the basis of the audio message, the first respondent filed a final report, which allegedly disclosed continuous threats and harassment at the hands of the accused, resulting in the deceased being subjected to humiliation and ultimately committed suicide. According to the learned Senior Counsel, the materials collected during the investigation, a prima facie disclose the commission of the offence of abetment of suicide and the grounds raised by the petitioner can be considered only by the Trial Court upon appreciation of the evidence. In support of his contention, the learned Senior Counsel relied upon the judgment of this Court in Crl.O.P.No.5886 of 2017 in the case of ***Karthikeyan and others***

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Vs. The State by The Inspector of Police, K3, Aminjikarai Police Station, Chennai, wherein this Court held that if there is continuous humiliation and harassment by the accused to the deceased, it amounts to instigation or abetment to commit suicide. The Hon'ble Suprme Court of India reported in ***(2019) 17 SCC 301*** in the case of ***UDE Singh and others Vs. State of Haryana,*** wherein it was held as follows :

> "*16.1 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 by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons 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, on the other hand, 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 IPC. 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. The question of mens rea on the part of the accused in such cases would be examined with reference to*

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the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set ups, education etc. Even the response to the ill-action of eve-teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self- confidence and upbringing."

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6.In this regard, the learned Senior Counsel also relied upon the Judgment of the Hon'ble Supreme Court of India reported in ***(2022) 2 SCC 129*** in the case of ***Mahendra K.C. Vs. State of Karnataka,*** wherein, it was held as follows :

> *"32..... Individual personality differences manifest as a variation in the behavior of people. Therefore, how an individual copes up with a threat- both physical and emotional, expressing (or refraining to express) love, loss, sorrow and happiness, varies greatly in view of the multi-faceted nature of the human mind and emotions. Thus, the observations describing the manner in which a depressed person ought to have behaved deeply diminishes the gravity of mental health issues."*

7.The learned Additional Public Prosecutor appearing for the first respondent submitted that the materials collected during the investigation disclose sufficient grounds to proceed against the petitioner and other accused for the offence of abetment of suicide. The grounds raised by the petitioner can be considered only during the trial and prayed for dismissal of the Criminal Original Petition.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

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9.There are totally four accused, in which the petitioner is arrayed as A3. According to the prosecution, on 02.07.2025 at about 11.15 a.m., the second respondent was informed over the phone that her husband had consumed Sal-phos tablets and was lying near Kundadam. Immediately, the second respondent, along with her father-in-law, went to the said place and enquired with the deceased. He informed them that he had consumed two Sal-phos tablets. They immediately taken him to S.V.Clinic, Palladam, where he was given first aid and referred to a higher hospital for better treatment. Immediately. Thereafter, he was taken to Royal Care Hospital at Coimbatore, where he was admitted as an in-patient. However, he died at about 3.55 p.m. on the same day.

10.It is seen from the records that, while the deceased was conscious and underwent treatment, he informed the second respondent and his father that he had consumed Sal-phos tablets. However, he did not even whisper about the alleged abetment or instigation from the accused to commit suicide. He did not even informed about the cheques which were received under coercion by the accused. He did not even whisper about the threatening made by the accused to foist a false case as against the second respondent.

11.It is only after the demise of the deceased that the second respondent allegedly examined his mobile phone and came across an audio message which

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was recorded by the deceased and transferred from his iPhone to an OPPO mobile phone. According to the second respondent, the audio message disclosed that the accused had threatened the deceased for demanding money for the non-supply of maize. Further, she came to know that the two cheques for a sum of Rs.40 lakhs and 45 lakhs respectively were received by the accused under coercion from the deceased. They also threatened that they will foist a false case as against the second accused herein.

12.Only on the basis of the audio message recorded from the mobile phone owned by the deceased, the second respondent lodged the complaint. After completion of the investigation, a final report was filed only on the basis of the audio message of the deceased. Though the first respondent recovered both the mobile phone owned by the deceased, there is no piece of evidence or material to show that the audio message sent for expert opinion as that of the deceased and it is not a part and parcel of the charge sheet. Further, there is absolutely no record to show that the deceased and the accused had business transaction for which the accused demanded money from the deceased.

13.Even assuming that these allegations are true whether the prosecution established the ingredients to attract the offence under Section 108 of BNS, 2023. Except the audio message recorded by the deceased, no other piece of evidence produced by the prosecution to establish the ingredients in order to

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attract the offence under Section 108 of BNS, 2023. It is relevant to extract the provision under Section 306 of IPC :

> ***"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 Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable— Triable by Court of Session—Non-compoundable.*
>
> *Comments*
>
> *(i) To attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary; Pallem Deniel Victoralions Victor Manter & Ors. v. State of Andhra Pradesh, (1997) 1 Crimes 499 (AP).*
>
> *(ii) Two offences under section 302 and section 306 of the Indian Penal Code are of distinct and different categories; Sangarabonia Sreenu v. State of Andhra Pradesh (1997) 4 Supreme 214.*
>
> *The basic constituents of an offence under section 306, IPC are suicidal death and abetment thereof; Sangarabonia Sreenu v. State of Andhra Pradesh, (1997) 4 Supreme 214."*

14.In this regard, the learned counsel for the petitioner relied upon the Judgment reported in ***(2025) 4 SCC 801*** in the case of ***Mahendra Awase V. State of M.P.,*** wherein it was held as follows:

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"10. Section 306 of the IPC reads as under:-

"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."

11. Section 107 of the IPC reads as under:-

"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."

12. As is clear from the plain language of the Sections to attract the ingredient of Section 306, the accused should have abetted the commission of a suicide. A person abets the doing of a thing who Firstly - 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 9 Thirdly - intentionally aids, by any act or illegal omission, the doing of that thing.

13. In Swamy Prahaladdas vs. State of M.P. and Another, [1995 Supp (3) SCC 438], the appellant remarked to the deceased that 'go and die' and the deceased thereafter, committed suicide. This Court held that (SCC p.439, para 3).

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"3...Those words are casual nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite 'mens rea' on the assumption that these words would be carried out in all events. ..."

14. In Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628, this Court held that in order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC 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. It was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306.

15. In Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707, this Court held as under:-

"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

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commit suicide, conviction in terms of Section 306 IPC is not sustainable."

16. 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 11 convicted under Section 306 IPC."

15.Thus, in order to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.

16.In the case on hand, even according to the case of the prosecution, except the audio message recorded by the deceased and the call detail records between the accused and the deceased mobile phone, there is no material to show that the soon before his suicide, there was abetment or instigation from the accused to the deceased to commit suicide. In fact, on perusal of the statement

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of the persons who recovered the call detail records between the accused and the deceased revealed that there were calls for the accused past one week and there is no evidence of conversation between the accused and the deceased as if the accused threatened the deceased to pay the money as per the audio message. Even assuming that the accused through phone harassed the deceased about the payment of money. Mere continuous harassment without there being any positive act, the offence under Section 108 of BNS, 2023 would not attract. Further, the words uttered **"to go and die"** that would not constitute the offence under Section 108 of BNS, 2023. The word instigate denotes incitement or urging to do some drastic or inadvisable action or to stimulates or incite. These ingredients are missing in the case on hand and no offence is attracted for the offence under Section 108 of BNS, 2023. Therefore, the entire proceedings against the petitioner cannot be sustained and is liable to be quashed.

17.In view of the above, the entire proceedings in S.C.No.121 of 2026 on the file of the III Additional District and Sessions Judge, Dharapuram, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The III Additional District and Sessions Judge,
   Dharapuram.

2. The Inspector of Police
   Kundadam Police Station,
   Tiruppur District.

3. The Public Prosecutor,
   High Court,
   Madras.

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