



CRR-446-2024 (O&M)

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

110

**CRR-446-2024 (O&M)
Date of Decision: 12.02.2026**

BALJIT KUMAR @ MONU & ANR**..... PETITIONERS****VERSUS****STATE OF PUNJAB****..... RESPONDENT****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present : Mr. K.S. Dadwal, Advocate with
Mr. Manish Dadwal, Advocate
for the petitioners/revisionists.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Hemant Saini, Advocate with
Mr. Himanshu Monga, Advocate
for the complainant.

YASHVIR SINGH RATHOR, J. (Oral)

1. The present revision petition has been filed for setting aside the order dated 08.02.2024 passed by Court of learned Additional Sessions Judge, Jalandhar, arising out of FIR No.62 dated 16.05.2019 registered under Section 306, 34 of Indian Penal Code, 1860 (**for short 'IPC'**) at Police Station Division No.8, Jalandhar, whereby application for discharging of petitioner has been dismissed on 08.02.2024 and on the same date, charge under Section 306 of IPC read with Section 34 of IPC has been framed against the petitioners.

The contents of FIR would read as under:-

*“Statement of Jaswinder Lal S/o Dharam Singh,
Resident of B-IX-591, Mohalla Santokhpura, PS Div*



No.8, Jalandhar, aged about 64 years, stated that I am resident of above mentioned address and I do labour work. I have one son and two daughters. Today at time about 3 PM, I came back home from work and the gate was locked from inside. I knocked at the gate firmly and also called my son by raising my voice, but he did not open the gate. Then I made telephone call to my daughter Dayal Kaur and my daughter Dayal Kaur and my son in law Birbal son of Tarsem Lal R/o Kangniwal came at the spot and my daughter Dayal Kaur went inside from the neighbouring house and opened the gate and I alongwith my daughter Dayal Kaur and Birbal went inside and saw that my son Manjit Lal alias Lucky had ended his life by hanging from the girder by tying bed-sheet around his neck. One suicide note was found in front of his chest in which it is written that he has committed suicide by hanging due to harassment by Harbhajan Sandhu who is residing in our neighborhood, his brother in law Bindri resident of Vill Jaitewali, his driver Jagjit Singh alias Jeeta who is residing in Mohalla Santokhpura Near Nimbu Wali Gali, Ashoka son of Jaswinder Lal Resident of Santokhpura and Sonu, Monu, sons of Dalwinder Lal who are my nephews. Legal action be taken against them. Sd/- English Jaswinder Lal. Attested Sd/- English Satwinder Singh SI PS Div No.8, Jalandhar dated 16.5.2019.

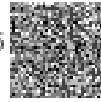
Action of Police: Today I SI was present in the Police Station, when one telephone call was received that Manjit Lal @ Lucky s/o Jaswinder Lal Resident of Mohalla Santokhpura has committed suicide by hanging. Action be taken. On this, SI alongwith HG Pram Singh 1101. HC Satnam Singh 1879, CT Bhupinder Kumar 1678 reached at the spot where in the presence of father of the boy namely Jaswinder Lal and



Ex-MC Rakesh Kumar Ward No.7, Bhogpur, the dead body was brought down and Jaswinder Lal has handed over one suicide note before me, which was taken into police custody. Jaswinder Lal aforesaid has got recorded his statement before me and after hearing the statement and admitting the same to be true, signed underneath in English and I attested the same. From the statement, the offence under Section 306, 34 IPC has been found. After writing down of Ruqa, with a view to record the FIR, the same is hereby sent through CT Bhupinder Kumar No.1678 to the Police Station. After registration of FIR, number be informed Control Room be informed through wireless. After preparation of special reports, the same be sent before the officers. I am busy in investigation at the spot Sd/English PS Div No.8, JAL at 16.5.19. Today in the area of Santokhpura Mohalla Jalandhar AT Today in Police Station: After receiving of writing in the police station, after registering of FIR under the aforementioned provisions, the copy of writing alongwith copy of FIR is hereby sent through CT before ASI at the spot. After preparation of Special Reports, the same are hereby sent through CT Amit Kumar No.792 before Illaqa Magistrate. Officers and Control Room has been informed through wireless.

Complete Rapat No.51 dated 16.5.19.”

2. As per the prosecution story, deceased-Manjit Lal @ Lucky son of Jaswinder Lal had got registered FIR No.31 dated 08.03.2019 (Annexure P-1), alleging that on 18.02.2019 at about 09.00 P.M., the brother-in-law of the Harbhajan Sandhu, namely, Baljinder Kumar @ Bindri along with 6-7 other persons, had assaulted him, when Bhajan Lal @ Harbhajan Sandhu was reversing his vehicle and



Baljinder Kumar @ Bindri asked the deceased to move aside. After the assault, the deceased was admitted at Civil Hospital, Jalandhar, where, after conducting x-rays, a fracture of the bilateral nasal bone was detected. The admitted fact is that the revisionists were neither named as an accused in this FIR nor any overt act was attributed to them.

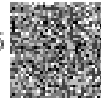
3. Subsequent thereto, as per the prosecution case, Manjit Lal @ Lucky had committed suicide. As per the impugned FIR, got registered by respondent No.2-Jaswinder Lal, father of Manjit Lal @ Lucky (deceased), the deceased had committed suicide by hanging himself due to the harassment meted out by Harbhajan Sandhu, his brother-in-law Baljinder Kumar @ Bindri, his driver Jagjit @ Jeeta and three persons namely, Ashok @ Shoka, Monu (petitioner No.1) and Sonu (petitioner No.2) sons of Dalwinder Lal.

4. Pursuant to the registration of the FIR, a suicide note was recovered, which had been referred to in the FIR. This note is in the nature of a complaint to the S.H.O. The said suicide note attached to the petition as (Annexure P-3) is reproduced herein below:-

“To

SHO
Jalandhar.

Requested that I Manjit Lal s/o Jaswinder Lal is resident of House No.B-9-591, Mohalla Santokhpura. On 18.2.2019, at 9.00 PM, I was coming after purchasing milk and when I reached in front of Gurudwara Ravidass, then the accomplices of Harbhajan Sandhu attacked me and I was grievously injured in this attack. About 8-9 youths gave very harsh beatings to me including Harbhajan Sandhu's brother-in-law Bindri, his driver Jagjit Singh alias Jeeta, son of Jaswinder Lal, Monu s/o Dalwinder Lal, Sonu son of Dalwinder Lal and other 3 unidentified youths. I was admitted at Civil Hospital for 25 days. In my MLR, doctors declared that the bone of my nose has been fractured and my two ribs are fractured. My MLR was



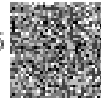
sent to police station and the police apprehended only 3 youths and released them afterwards and did not apprehend any other youth/accused. We are very poor and police did not help us. I am fed up of my injuries and now I cannot tolerate the pain anymore and I am about to commit suicide. My mother, father and my sister have gone to work. My family members are not aware of this. After my death, strict legal action be taken against the accused Harbhajan Sandhu who is the main accused and he went to Civil Hospital and also threatened to kill my family. This whole gang is of Harbhajan Sandhu. Prior to this also, he fought in the locality 4-5 times.”

5. After due investigation, a report under Section 173(8) Cr.P.C. in FIR No.31 dated 08.03.2019 was submitted against Gurpreet Banga @ Ashok @ Shoka, and Baljinder Kumar @ Bindri and in the present FIR, the report under Section 173(8) Cr.P.C. has been submitted against six persons namely, Harbhanjan Sandhu, Baljit Kumar @ Monu (petitioner No.1), Inderjit Maneka @ Sonu (petitioner No.2), Jagjit Kumar @ Jeeta, Gurpreet Banga @ Ashok @ Shoka and Baljinder Kumar @ Bindri.

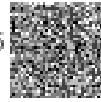
6. After hearing the Public Prosecutor and the learned defence counsel, the Trial Court framed the charge for the offence under Section 306 of IPC read with Section 34 of IPC against accused/revisionists.

7. Feeling aggrieved, the revision petition in hand has been instituted and the record has been perused. All the parties have been heard.

8. Learned counsel for the petitioners further argued that the

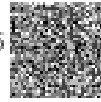


impugned order vide which petitioners have been charged for the offence under Section 306 of IPC is manifestly illegal. Even if, the allegations levelled in the FIR are taken to be true on the face of it, no offence under Section 306 of IPC is made out as no inducement was caused by the petitioners so as to compel the deceased to commit suicide. Learned counsel next contended that from the allegations levelled in the FIR, no mens rea on the part of the accused is also prima facie established which could constitute instigation or an act to abet the commission of suicide. Learned counsel next contended that the prosecution must show a clear mens rea on the part of the accused to drive a victim to commit suicide, and that the victim had no other option but to take the extreme step of committing suicide. Learned counsel further contended that the prosecution must show a clear mens rea on the part of the accused to drive a victim to commit suicide, and that the victim had no other option but to take the extreme step of committing suicide. Learned counsel next contended that in the first FIR got registered by the deceased regarding assault on him, petitioners were not named as an accused. There is no allegations against the petitioners that after the date of assault which took place in February 2019, petitioners ever harassed or threatened the deceased and the only allegations in this regard are against co-accused, namely, Harbhajan Sandhu. Learned counsel next contended that deceased committed suicide on 16.05.2019 and there is a gap of three months between date of assault and commission of suicide by him and there is thus no proximate and direct link between the alleged incident of assault and subsequent suicide. Learned counsel next contended that even if it is



believed that any of the accused including petitioners had threatened the deceased after the incident of assault, still it cannot be a ground to commit suicide and he could have taken recourse to law and it cannot be inferred that victim had no other option except to commit suicide. Learned counsel further contended that the allegations levelled in the suicide note and the FIR will not constitute instigation, conspiracy or intentional aid as defined under Section 107 IPC. However, learned Trial Court has not appreciated the facts of the case in the correct perspective while charge-sheeting the petitioners for the offence under Section 306 IPC, whereas, no case much less a *prima facie* case is made out and he prayed that petition in hand be accepted and impugned order be set aside and petitioners be ordered to be discharged.

9. Learned State counsel contended that the deceased had initially been beaten up by Baljinder Kumar @ Bindri and his companions when he was reversing the car. The FIR and the suicide note clearly establish that it was the Harbhajan Sandhu and his co-accused who were threatening and harassing the deceased, which ultimately led to his death by committing suicide. Learned counsel contended that the handwriting expert has found that the suicide note is authored by the deceased and the cause of death was apparently 'asphyxia', due to hanging, which was sufficient to cause death in the ordinary course of nature. Thus, the contention of the learned State counsel is that the Harbhajan Sandhu and his co-accused have been rightly charge-sheeted, the offence being *prima facie* established. Learned counsel further argued that truthfulness, sufficiency and acceptability of material produced can be tested only at the trial and



that when there is material to show that accused might have committed the offence, the Court can frame charge and the probative value of the material on record cannot be gone into at this stage, before the trial Court. At the stage of framing of charge, the trial Court has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused is made out or not and he prayed that petition in hand be dismissed. In support of his contentions, learned counsel has cited 2023(3) Cri.CC 125 **Captain Manjit Singh Viridi (Retd.) Vs. Hussain Mohammed Shattaf & Ors. (SC)**, 2022 (12) SCC 657 **Ghulam Hassan Beigh Vs. Mohammad Maqbool Magrey & Ors.** and 2022 (2) Cri. L.R. (Raj.) 705 **Mahendra Singh and Ors. Vs. State of Rajasthan and Ors.**

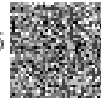
10. The moot point to be decided is as to whether the act of the accused would constitute an offence under section 306 IPC or not. To get an answer to this question, we have to go through the meaning of the expression ‘abetment’ defined under section 107 IPC and a reading of Section 306 IPC which are re-produced below :

“Section 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.

Section 107 : ABETMENT OF A THING :

A person abets in 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 thirdly, intentionally aids, by any act or illegal omission, the doing of that thing“.

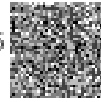
Thirdly : Intentionally aids, by any act or illegal omission, in doing of that thing.

11. From the above provision, it is clear that to constitute an offence under section 306 IPC, prosecution has to establish (1) that a person committed suicide and (2) that such suicide was abetted by the accused.

12. As per section 107 IPC, a person can be said to have abetted in doing of a thing (1) if he instigates any person to do that thing (2) if he engages with one or more other person or persons in any conspiracy for the doing of that thing, and if an act or illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing (3) if he intentionally aids, by any act or illegal omission, the doing of that thing.

13. As per facts of the case, present case shall fall under the first clause of section 107 IPC as there is no allegation that accused in any manner intentionally aided or engaged with any person in conspiracy for the commission of suicide. Allegations to attract clause 'secondly' and 'thirdly' in section 107 IPC are, thus, totally missing in this case.

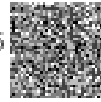
14. As per clause 'firstly' in section 107 IPC, a person can be said to have abetted in doing of a thing if he “instigates” any person to do that thing. But, when can a person be said to have 'instigated' another to do an act? The word 'Instigate' is not specifically defined in



Indian Penal Code. As per Oxford Dictionary, 'instigate' means 'to goad' or urge forward, to provoke, incite, urge or encourage to do an act. The word 'goad' means keep irritating or annoying somebody to do something or to make a person to move more quickly in a particular direction especially by pushing or forcing such person. The term 'Urge' means to advise or try hard to persuade somebody to do something or forcing such person to move more quickly in a particular direction especially by pushing or forcing such person. 'Urge forward' means in this context 'urge' a person 'forward'. Thus a person who instigates another has 'to goad or urge' forward the latter with an intention to provoke, incite, urge or encourage doing of an act by the latter.

15. A close combined reading of the meaning of the word 'instigation' with the meaning of the terms 'goad' and 'urge' will reveal that 'instigation' involves two things. One is a physical act or omission, while the other is a mental act. The physical act or omission involved in the instigation is 'goad or urging forward' another. Such physical act of goading can be committed also by any other willful conduct may be, by even an adamant silence. Thus, by words, deeds, willful omission or willful silence also, one can goad a person i.e. keep irritating or annoying a person until he reacts.

16. So also, the physical act of 'urging forward' or instigation involves doing of an act by strongly advising, persuading to make a person to do something or by pushing or forcing a person in order to make him move more quickly in a forward direction. Thus, both the physical acts in goading or urging forward can be committed by doing some act either verbal or physical or even by a willful commission or



conduct. To the same effect is the law laid down in (2001) 9 SCC 618

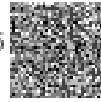
Ramesh Kumar vs. State of Chhattisgarh.

17. In (2010) 12 SCC 190 **S.S. Chheena vs. Vijay Kumar Mahajan**, Hon'ble Supreme Court explained the concept of abetment along with necessary ingredient for offence under Section 306 of IPC 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 this 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. In (2010) 1 SCC 707 **Amalendu Pal vs. State of W.B.**, Hon'ble Supreme Court explained the parameters of Section 306 in following words:

“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

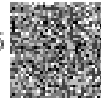


indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

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.”

19. Apart from such physical act particularly omission, prosecution is also required to establish *mens rea* on the part of accused in order to constitute instigation and such a provocation has to be intentional and in this background, the allegations in the FIR have to be looked into to ascertain whether there was any instigation or act on the part of the accused which incited the deceased to commit suicide.

20. Coming to the facts of the case in hand, the allegations in the suicide note by the deceased are that accused-petitioners accompanied by some other persons named in the suicide note had assaulted the deceased during his lifetime resulting in injury on his person, in which he had suffered fractures in his nose and ribs. The police had arrested only three persons and released them and no action was taken against other persons and after getting fed up with his injuries, he is committing suicide. It has also alleged that one of the



accused, namely, Harbhajan Sandhu had also gone to the hospital and threatened to kill his family. It is pertinent to mention that said accused Harbhajan Sandhu had filed a petition bearing No.CRM-M-34495-2021 for quashing of FIR and the same has been allowed vide judgment dated 23.02.2022 (Annexure P-7) and proceedings against him have been quashed by a Co-ordinate Bench of this Court. There is no allegations against the petitioners that they had gone to the hospital and intimidated him. Rather, the allegations levelled in the suicide note are that police has not taken any action against all the persons involved in the assault. However, to make out an offence under Section 306 of IPC for abetment of suicide, the prosecution is required to establish direct or indirect act of incitement by the accused, a clear mens rea to drive the victim to commit suicide, and that victim had no other option but to take the extreme step of committing suicide. Mere harassment to the deceased is insufficient and the actions of the accused must constitute instigation, conspiracy or intentional aid as defined in Section 107 of IPC, thereby encouraging or inciting the deceased to commit suicide. There must also be a clear intention/mens rea on the part of the accused to instigate a person to commit suicide and the accused must intend for the suicide to occur as a result of his actions. There must also be a close, direct and immediate link between the actions of the accused and the commission of suicide and harassment or provocation must be of such a nature that victim is left with no other option but to commit suicide. However, there was no instigation or act on the part of the accused which could incite the deceased to commit suicide. The present case is also not a case where petitioners had by their act 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. Merely, because petitioners have been named in the suicide note will not by itself establish the guilt of the petitioners unless and until ingredients of the offence under Section 306 IPC are made out.

21. As a result of aforesaid discussion, I am of the considered opinion that no offence under Section 306 of IPC, much less a prima facie case, is made out against the accused/petitioners. However, learned trial Court has failed to appreciate the facts of the case and material on file while forming an opinion that a prima facie case is made out for commission of offence under Section 306 of IPC. Moreover, the case law cited by learned State Counsel as well as counsel representing the complainant is not at all applicable to the facts of the case in hand. Accordingly, the impugned order is not sustainable and is liable to be set aside.

22. Resultantly, the present petition is allowed and impugned order dated 08.02.2024 is hereby set aside and petitioners are ordered to be discharged.

23. Pending miscellaneous application(s), if any, shall also stand disposed of.

12.02.2026

Vishal Vardhan

(YASHVIR SINGH RATHOR)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No