

2026:PHHC:010558



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-20548-2023 (O&M)

Nancy Sharma and another ...Petitioners

Versus

State of Haryana and another ...Respondents

1.	The date when the judgment is reserved	19.01.2026
2.	The date when the judgment is pronounced	28.01.2026
3.	The date when the judgment is uploaded on the website	28.01.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kunal Dawar, Senior Advocate with
Mr. Mayank Aggarwal, Advocate
for the petitioners.

Mr. Apoorv Garg, Additional Advocate General, Haryana.

Mr. Namit Khurana, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J.

1. Challenge in this petition, filed under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*), is to the order dated 16.03.2023 (*Annexure P-7*), passed by the Court of learned Sub Divisional Judicial Magistrate, Guhla, District Kaithal in Criminal Complaint bearing No. COMI-40-2021, titled as *Inderjeet Sharma vs. Vinod Sharma and*

others, filed under Section 306 read with Section 34 of IPC, whereby the petitioners had been summoned to appear and face trial for commission of aforementioned offences.

2. Brief facts relevant for the purpose of disposal of this petition are that on 07.08.2021, an FIR bearing No. 225 was registered under Section 302 of IPC on the basis of a complaint submitted by respondent No. 2/complainant Inderjeet Sharma making allegation that present petitioner No. 1 Nancy Sharma, who was wife of his son Love Sharma, and her family members had set Love Sharma ablaze on the same day, when he had gone to the parental house of Nancy Sharma and thereby murdered him. After conducting investigation in the said FIR, a cancellation report was prepared. Thereafter, the aforementioned complaint had been filed by respondent No. 2/complainant on the allegations that after the marriage of petitioner No. 1 with victim Love on 19.04.2018, they had been cohabiting together. A male child was also born to them. It was alleged that petitioner No. 1 secured a job as a Staff Nurse at Community Health Centre, Guhla on 15.01.2019 and thereafter, she had started pressurizing the victim to leave his profession of a driver by saying that she used to feel embarrassed about his profession. Under the continuous and constant pressure of petitioner upon the victim to leave his driving job, he used to remain under heavy mental stress. Petitioner No. 1 even left her matrimonial house on 02.08.2021 along with the infant child.

3. As per the further allegations, in the morning of 06.8.2021, respondent No. 2 along with his son (victim) and wife had contacted the person, who was the mediator for performing marriage between the victim and petitioner No. 1, who had told petitioner No. 1 and her father petitioner No. 2 Vinod Sharma about the fact that the victim and his family wanted to

take petitioner No. 1 back to her matrimonial home but petitioner No. 2 refused to send his daughter with the victim. On the same evening, the victim had gone to the parental house of his wife/petitioner No. 1 and on the same night, respondent No.2 received a message that the victim had been burnt. He was taken to hospital but succumbed to burn injuries. By alleging that the victim had set himself ablaze after being insulted, humiliated, harassed and humiliated at the hands of the petitioners, respondent No.2 prayed for taking action.

4. After presentation of the complaint in the Court, learned Magistrate proceeded to record the preliminary evidence and also sought report under Section 210 of the Code from the SHO concerned, which was received. In preliminary evidence, respondent No. 2/complainant examined as many as six witnesses including himself, besides placing reliance upon certain documentary evidence and thereafter closed the same.

5. After hearing the contentions raised by the complainant and appraising the evidence produced on record, learned Magistrate, vide impugned order dated 16.03.2023, observed that there was a prima facie case for issuance of summons against the petitioners under Section 306 of IPC and thereby issued process. Aggrieved from the same, the present petition has been filed by the petitioners.

6. It is argued by learned counsel for the petitioners that the impugned order dated 16.03.2023 is not sustainable in the eyes of law and is liable to be set aside. Respondent No. 2 had got an FIR under Section 302 of IPC registered against the petitioners levelling allegations that they had set the victim ablaze. It is only after filing of cancellation of report in that FIR that respondent No.2/complainant came out with a new plea that the victim had committed suicide. It is further argued that neither the allegations

levelled in the complaint nor the evidence produced on record made out any case for issuance of process against the petitioners for committing offence punishable under Section 306 of IPC. No evidence has come on record to show that the suicide by the victim had been abetted by either of the petitioners and respondent No. 2 was witness to the same. The learned Magistrate, while issuing process to the petitioners, did not appreciate the preliminary evidence produced on record in a proper manner. He had not complied with the mandatory requirement of Section 210 of Code. It is further argued that proceeding further with the complaint would be nothing but an abuse of process of laws. It is, therefore, urged that the impugned order is liable to be set aside, the petition deserves to be allowed and the complaint filed by respondent No.2 is also liable to be dismissed.

7. Respondent No. 1-State has filed reply affirming the fact that initially, an FIR under Section 302 of IPC was registered against the petitioners, whereby offence under Section 302 of IPC was later on deleted and offence under Section 306 of IPC was added. However, after conducting thorough investigation in the case, a cancellation was prepared .

8. Respondent No.2/complainant has filed a separate reply controverting the pleas as taken by the petitioners in the petition. It is argued by learned counsel for respondent No. 2 that from the allegations levelled in the complaint, a prima facie case for commission of offence punishable under Section 306 of IPC has been made out against the petitioners. The evidence produced on record by respondent No. 2 was sufficient for the purpose of summoning the petitioners. There is no illegality or infirmity in the impugned order and it is, therefore, argued that the petition is liable to be dismissed.

9. This Court has heard the rival submissions of the parties,

besides going through the material placed on record.

10. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 of the Code as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 of the Code, the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of the Code to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. In case cited as ***State of Haryana v. Bhajan Lal (1992) SUPP 1 SCC 335***, Hon'ble Supreme Court laid down the following guidelines requisite for exercising power under Section 482 of the Code:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose 265 the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

11. Reference can further be made to ***Gian Singh v. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the

process of any Court. Reference can further be made to ***Narinder Singh and Ors. v. State of Punjab : (2014) 6 SCC 466***, wherein it was by Hon'ble Supreme Court that while exercising power under Section 482 of the Code, the High Court has to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case. In ***Dhruvaram Murlidhar Sonar v. State of Maharashtra : 2019 (18) SCC 191***, Hon'ble Supreme Court, while reiterating the parameters as laid down in ***Bhajan Lal***'s case (supra), had observed that for quashing of the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate was not called for. Appreciation of evidence was also not permissible in exercise of inherent powers. If the allegations set out in the complaint did not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers. In ***Neeharika Infrastructure v. State of Maharashtra : 2021 SCC OnLine SC 315***, the Apex Court observed that while the Courts ought to be cautious in exercising powers under Section 482 of the Code, they do have power to quash. The test is whether or not the allegations in the FIR disclose the commission of a cognizable offence? The merits of the allegations are not to be entered into nor the power of the investigating agency to investigate into allegations involving the commission of a cognizable offence is to be trenched upon.

12. In view of the above discussed position of law qua exercise of inherent powers by this Court for quashing of criminal proceedings, this Court is required to consider the question as to whether quashing of impugned order, thereby quashing the complaint in question, can be

allowed? The petitioners have been summoned in this case for commission of offence punishable under Section 306 of IPC on the allegations that they had abetted the victim to commit suicide by humiliating, insulting and harassing him. As mentioned above, after the unnatural death of the victim, initially respondent No. 2/complainant had got registered an FIR bearing No. 225, dated 07.08.2021, under Section 302 of IPC levelling allegations that the present petitioners, who were wife and father-in-law respectively of the victim, had set him ablaze, when he had gone to their house on the night of 06.08.2021 to bring petitioner No. 1 back to her matrimonial house. However, subsequently, offence Section 302 of IPC was replaced with Section 306 IPC but then a cancellation report had been filed. Respondent No. 2/complainant in the complaint filed by him has examined as many as six witnesses. He himself appeared as CW-1 and has examined his wife Manisha Sharma as CW-3 and Atam Parkash, mediator of the said marriage, as CW-6. As per the allegations in the complaint, on 06.08.2021, when request was made to petitioner No. 2 to let petitioner No. 1 come back to her matrimonial home, the petitioners had proclaimed that the victim might commit suicide but petitioner No. 1 would not go with him. While appearing as CW-1, respondent No. 2/complainant also stated so.

13. While passing the impugned order, the learned Magistrate made the following observations:

“6. Initially, FIR No.225 dated 07.08.2021 was registered on the complaint of complainant Inderjeet Sharma, in which, he alleged that his son Love Sharma and his daughter-in-law Nancy had some arguments and Nancy left her matrimonial house. On 06.08.2021, he along-with his son and wife went to Cheeka to get back Nancy. They went to the house of Lucky Sharma, who was the

mediator in the wedding. When Lucky Sharma made a telephonic call to Vinod Sharma, Vinod Sharma (accused No.1) refused to send Nancy back and he did not allow Love Sharma to meet her. Thereafter, they all came back to their house but Love Sharma again went to Cheeka at around 08:00 P.M to get Nancy back. After sometime, Dimpri made a call to him that Love Sharma had immolated himself and they are taking him into the hospital. He further alleged that his son was tortured and harassed by Vinod Sharma, Nancy and Dimpri and they have killed Love Sharma. On the basis of this complaint, FIR was registered. During investigation, Section 302 of IPC was deleted and Section 306 of IPC was added to the list of offences. Thereafter, final report was prepared and cancellation report was presented by the police on the ground that there is no evidence which could show that deceased Love Sharma was harassed by the accused persons and the allegations levelled by the complainant were not found to be true.

7. To prove the allegations against the accused persons, the complainant has examined himself as CW1 and he reiterated all the facts of the complaint. CW2 is Ct. Rahul who has only proved that FIR No.225 dated 07.08.2021 was registered in the police station under Sections 306, 34 of IPC. CW3 is the wife of complainant who corroborated the version of complainant. CW4 is Dr. Sanchit Sharma who proved the post-mortem report of deceased Love Sharma. CW5 is Dr. Harinder Singh, who proved MLR of deceased Love Sharma. The most important witness in the present case is CW6 Aatam Parkash alias Lucky, who was the mediator in the marriage of Love Sharma and accused Nancy. He clearly stated in his evidence that he was the mediator in the marriage of deceased Love Sharma to accused no.2 Nancy. On 01.08.2021, Nancy left her matrimonial house

and came back to Cheeka. Thereafter, on 06.08.2021, Love Sharma, his father Inderjeet Sharma (complainant) and his wife Manisha came to him and thereafter, he made a telephonic call to Vinod Sharma and told him that Love Sharma and his family members wanted to meet him but Vinod Sharma refused to meet by saying that he was out of station. He further stated that on the same day, Vinod Sharma called him and told him that Love Sharma has immolated himself and thereafter, Vinod Sharma and his son came to him and they all went to Mahavir Dal Hospital, Cheeka, where Love Sharma was lying on a stretcher and he was calling out 'Nancy-Nancy'.

8. From the evidence of CW6, it is clear that accused Vinod Sharma (accused No.1) was deliberately ignoring Love Sharma and he was not allowing Nancy (accused No.2) to meet with Love Sharma. When witness Mediator-Lucky made a telephonic call to Vinod Sharma, Vinod Sharma told him that he was out of station, whereas, when deceased Love Sharma burnt himself in front of house of Vinod Sharma, Vinod Sharma was very much present at his house and he himself took deceased Love Sharma to the hospital. It is also clear from the evidence of CW6 that till his last breath, deceased Love Sharma was calling out for accused No.2 Nancy and he only wanted to meet her. Now, the police has presented cancellation report on the ground that no evidence was found that deceased Love Sharma was harassed by the accused persons and the allegations in the complaint were not found to be true. Alongwith final report, photocopy of the statements of various witnesses are attached. Witnesses Bharat Bhushan and Jitender says that Love Sharma committed suicide because he was harassed by accused persons. One Baljinder Kaur wife of Dimple also made a statement that Love Sharma committed suicide in front of his house while calling out for Nancy. She along-

with Nirmala went running towards the house of Vinod Sharma and saw that Love Sharma entered inside the house of Vinod Sharma after burning himself and Vinod Sharma and his wife Reeta Rani were trying to douse the fire. She threw some water upon Love Sharma and put out the fire. She also stated that Love Sharma did not put any allegations against anyone. Similar kind of statements are given by few other persons i.e. Mahabir Singh, Harpal Singh, Harjinder Singh, Mandeep Kaur etc. But, their statements are not sufficient to file the cancellation report because none of these statements are recorded on oath, whereas, evidence of CW6 has been recorded on oath in the Court. Moreover, none of these witnesses knew the actual state of affairs and actual fact or dispute between the parties. They have only stated about the occurrence which took place on 06.08.2021, when deceased Love Sharma committed suicide. The reason of commission of suicide is not explained by any of these witnesses. From the evidence of complainant, his wife and mediator CW6, it prima facie appears to the Court that when accused No.2 Nancy secured a government job, she asked the deceased Love Sharma to leave his job and when he did not agree to it, she left her matrimonial house leaving behind her infant and went to her parents house. When the complainant, deceased Love Sharma and wife of complainant tried to meet Nancy Sharma, accused No.1 Vinod Sharma objected to it and did not meet them by making an excuse that he was out of station, when in fact, he was very much present at his house at that time. This shows that the intention of accused no.1 Vinod Sharma was not to meet the complainant and his family members and he also did not let Nancy meet deceased Love Sharma. Not allowing a husband to meet his wife is cruelty upon husband and it can easily be said that deceased Love Sharma was

harrassed by accused Vinod Sharma. Also, accused no.2 Nancy left her matrimonial house leaving behind her infant because she got a government job and deceased Love Sharma, who was a driver by profession was not leaving his job. Leaving a husband and a child only because of some low profile job of husband is again cruelty upon the husband because deceased Love Sharma had the job of driver before marriage also, and this fact also prima facie shows that the deceased Love Sharma was harassed by her wife Nancy Sharma and due to the act and conduct of both accused no.1 and 2, deceased Love Sharma committed suicide. Now, section 306 of IPC says that “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.” In view of facts discussed above, it is prima facie clear that it was accused No.1 and 2 who abetted deceased Love Sharma to commit suicide. There are sufficient grounds to summon accused no.1 and 2 under section 306 of IPC.

9. So far as allegations against accused No.3 are concerned, there is no direct evidence that accused No.3 was also involved with the accused No.1 and 2 in harassing and humiliating deceased Love Sharma. Hence, complaint against accused No.3 is hereby dismissed.

10. Thus, this court deems it fit to summon accused no.1 and 2 for commission of offence under Sections 306 read with Section 34 of IPC. Complaint against accused no.3 is hereby dismissed. Let, notice to accused no.1 and 2 be issued for 26.05.2023.”

14. On a perusal of the abovementioned observations, it is apparent that learned Magistrate had considered the fact that petitioner No. 2 was not allowing petitioner No. 1 to meet the victim and that even when the victim

was taken to hospital, he was calling out for petitioner No. 1 and wanted to meet him. The petitioners have placed on record Annexure P-1, which is a copy of FIR No. 225, registered against them under Section 302 of IPC, and on a perusal of the same, it is revealed that no allegations had been levelled that respondent No. 2 or his wife had gone to the house of the petitioners on 06.08.2021 and it was in their presence that the petitioners had abetted the suicide by the victim by saying that he could commit suicide and die. As such, the allegations levelled in the complaint filed by respondent No. 2 to the effect that on 06.08.2021, the petitioners had told the victim that he could commit suicide but petitioner No. 1 would not go with him and had instigated him to do so, cannot be accepted at all. It is also not the version in the complaint or in the statements of the witnesses that they were present at the spot when the victim had committed suicide by setting himself ablaze.

15. 'Abetment' is defined under Section 107 of IPC. To constitute abetment, it is to be proved that the accused instigates a person either by act of omission or commission. To prove the offence of abetment, as specified under Section 107 of IPC, the state of mind to commit a particular crime must be visible to determine the culpability. In order to prove *mens rea*, there has to be something on record to establish or show that the accused person had a guilty mind and in furtherance of that state of mind, he abetted the said crime. Then so far as Section 306 of IPC is concerned, in order to bring a case within the provisions of this section, any person who abets commission of suicide by any other person is liable for punishment. It is well settled proposition of law that in order to bring a case within the provisions of Section 306 of IPC, there must be a case of suicide and in the commission of such 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 a certain act to facilitate the commission of suicide. Instigation can be inferred where the accused had by his acts or omission created such circumstance that the deceased was left with no other option but to commit suicide. The well settled proposition of law is that the 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. As observed by Hon'ble Supreme Court in ***Gangula Mohan Reddy v. State of Andhra Pradesh : (2010) 1 SCC 750***, in order to convict a person under Section 306 of IPC, there has to be a clear *mens rea* to commit the offence. It also requires an active 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 committed suicide. In ***Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) : 2009 (4) RCR (Criminal) 196***, Hon'ble Supreme Court, while dealing with the dictionary meaning of the word "instigation" and "goading", opined that there should be intention to provoke, incite or encourage the doing of an act by the victim. There must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the basis of the allegations of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled a person to commit suicide, conviction in terms of Section 306 of IPC is not sustainable.

16. The ratio of law as laid down in aforementioned judicial precedents when applied to the peculiar facts of the present case would clearly show that no case for commission of offence under Section 306 of IPC is made out as against the petitioners. As such, this Court is inclined to hold that the suicide by the victim is not proved to be proximate result of

anything done by the petitioners, which amounted to abetment to suicide within the meaning of Section 107 of IPC. For want of any positive material on record to show the culpability and complicity of the petitioners, in the opinion of this Court, the allegations as levelled against the petitioners fall short of proof of offence of abetment, which is essential to attract the mandate of Section 306 of IPC. On considering the facts and circumstances of the case, as noted and discussed above, while keeping in view the well established position of law coupled with the reasons aforementioned to the effect that the ingredients of offence punishable under Section 306 of IPC are not *prima facie* made about against the petitioners, in the considered opinion of this Court, the impugned order is not sustainable and is liable to be set aside. Accordingly, the present petition is allowed. The impugned summoning order dated 16.03.2023 is hereby set aside. As a consequence, the complaint filed by respondent No. 2/complainant along with all the subsequent proceedings having emanated therefrom also stand quashed.

28.01.2026

Waseem Ansari

(MANISHA BATRA)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>