

2026:PHHC:086842



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

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CRR 2772 of 2012 (O&M)

Date of Decision:26.05.2026

Mehar Chand

...Petitioner (s)

Vs.

State of Haryana

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Deepender Singh, Sr. Advocate with
Mr. Nipun Gupta, Advocate
for the petitioner.

Mr. Parmod Kumar, AAG, Haryana.

Mr. Shiv Kumar, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition against the impugned order dated 17.08.2012 passed by the Court of Additional Sessions Judge, Faridabad, whereby, the charge under Section 306 IPC was ordered to be framed against the present petitioner.

2. Learned counsel for the petitioner submits that one false FIR No. 617 dated 23.10.2011 under Sections 306 and 384 of IPC, Police Station City Ballabhgarh was ordered to be registered against the petitioner on the basis of the complaint moved by Munish Kumar, son of Daya Chand Chaudhary, since deceased, and the copy of the said complaint has been reproduced below:-

"The Police Station House Officer, City Ballabhgarh dated 23.10.2011 Sub: With regard to mysterious death of my father Mr. Dayachand Chaudhary Sir, I, Manish Kumar son

of Sh. Dayachand Chaudhary is a resident of MCF D-264, Bhagat Singh Colony, Ballabgarh. My father Sh. Dayachand Chaudhary called me up in the afternoon at 01.25 pm on 22.10.2011 and he was not feeling well and heard him vomiting and thereafter phone got disconnected. Thereafter, I called up but someone else picked up the phone and said that my father was not feeling well. He had reached Escort Hospital. When I reached the hospital, I found my father in unconscious condition when the Dr. was shifting him in the ICU. All the articles like watch, ring, mobile etc. were handed over to me, out of which there was one suicide note in which my father had written that he was committing suicide due to the harassment from Sh. Mehar Chand Saini. The document is attached alongwith. Mehar Chand Saini used to come to my house and used to trouble my father and my family, and also used to threaten him. Hence, it is requested that appropriate legal action may kindly be taken against the accused person and justice be given to me and my family.”

3. Learned counsel for the petitioner contends that as per the case set up by the prosecution, Daya Chand Chaudhary, since deceased, entered into an agreement to sell dated 01.10.2010 of a house for a consideration of Rs. 15 lakhs. Daya Chand Chaudhary, since deceased, had received an amount of Rs. 10 lakhs as earnest money at the time of execution of the agreement to sell itself and later the agreement was also duly registered before the office of Sub-Registrar Ballabgarh, vide deed No. 7395 dated 01.10.2010. The last date for execution of the sale deed was fixed as 31.08.2011. Since 31.08.2011 was a holiday, consequently on 01.09.2011 the petitioner reached the office of Sub-Registrar

Ballabhgarh with the balance sale consideration of Rs. 5 lakhs vide bank draft No. 284751 dated 29.08.2011 drawn at Bank of Baroda at Ballabhgarh. However, till 4 p.m., Daya Chand Chaudhary, since deceased, did not appear before the Sub-Registrar Ballabhgarh to execute the sale deed. Learned counsel for the petitioner further submits that admittedly on 22.10.2011 Daya Chand Chaudhary, committed suicide by writing a suicide note against the petitioner. In the suicide note, the deceased had mentioned that he had taken a loan of Rs. 10 lakhs from the petitioner and against this loan, the deceased though had repaid a sum of Rs. 10 lakhs to the petitioner, still, the petitioner was insisting for payment of Rs. 15 lakhs and, in lieu thereof, he got the documents signed from the deceased for the sale of his house.

4. Learned counsel for the petitioner further submits that even from the averments made in the FIR or the suicide note, no offence under Section 306 IPC was made out against the present petitioner. In fact, Daya Chand Chaudhary, since deceased, had wilfully entered into an agreement to sell with the petitioner with regard to his plot No. 128 located at Ballabhgarh and it was even a registered agreement between the parties. Still further, the petitioner had even filed a suit for specific performance of the contract against the legal representatives of Daya Chand Chaudhary, since deceased, on the strength of the agreement to sell which is the subject matter of the present FIR and the civil suit has already been decreed in favour of the petitioner by the Court of Civil Judge, Senior Division, Faridabad on 01.02.2018. Even, the Civil Court has already directed the legal representatives of Daya Chand Chaudhary,

since deceased, to execute the sale deed of the property in favour of the petitioner/complainant within a period of two months of passing of the decree. Thus, the petitioner has been falsely involved in the present case.

5. On the other hand, learned State counsel assisted by learned counsel for the complainant have referred to the impugned order passed by the trial Court and contended that the trial Court has rightly framed charge against the present petitioner. In fact, at the stage of framing of charge, the trial Court was only to see a *prima facie* case against the petitioner and the parties are yet to lead their respective evidence during trial. Even, there was a strong case that petitioner had abetted suicide of Daya Chand Chaudhary, and the petition deserves to be dismissed by this Court.

6. I have heard learned counsel for the parties and perused the record very carefully.

7. The FIR in the present case was registered on the basis of the statement made by Munish son of Daya Chand Chaudhary, since deceased. He stated that his father had written a suicide note before dying and the present petitioner used to travel with his father and other family members. The suicide note left by Daya Chand Chaudhary, since deceased, has been reproduced below:-

“I, Daya Chand Chaudhary, am fed up from the cheating in my life and hence today, on 22.10.2011, at 12.00 0' clock in the afternoon, I am writing this suicide note while sitting in the City Park, Ballabgarh. I have been cheated many times in my life but I am not able to tolerate the cheating done by Mehar Chand Saini. By giving me two lakhs rupees, he got signed from me papers worth Rs. 10 lakhs. Till now, I have

paid him 10 lakhs but still he is troubling me for Rs. 15 lakhs and is not returning the papers of my house to me. Also, he has come to my house and threatened my family members, and has also threatened them over the phone. I am not able to tolerate all of this and death has selected me. Mehar Chand Saini of Lok Deep Public School is responsible for my death and his mobile number is 9891153879. Me and my family have no financial liability with anyone. I request to the administration that after my death my body should not be given to my family, rather it should be left in the jungle for the animals. This is my last wish.”

8. As per the above said suicide note, the petitioner had allegedly paid a sum of Rs. 2 lakhs to the deceased, however, he got signed a receipt of Rs. 10 lakhs from the deceased fraudulently and the petitioner was troubling him for making the payment of Rs. 15 lakhs and was not returning the papers of his house to him. However, the story narrated by Daya Chand Chaudhary, since deceased, in the suicide note, was contrary to the documentary evidence on the file. In fact, from the perusal of the Civil Court judgment and decree (Annexure A-4), it is evident that Daya Chand Chaudhary, since deceased, had himself executed an agreement to sell for his house with the petitioner on 01.10.2010 and the said agreement to sell was duly registered in the office of Sub-Registrar Ballabhgarh vide document No. 7395 dated 01.10.2010. The deceased also received an amount of Rs. 10 lakhs in cash from the petitioner as an earnest money and had also executed a receipt in this regard. The last date of execution of the sale deed was fixed as 31.08.2011. Since 31.08.2011 was a holiday, the petitioner

requested the deceased to execute the sale deed on 01.09.2011. However, the deceased had not come forward to execute the sale deed in favour of the petitioner on 01.09.2011. The petitioner got his presence marked in the office of Sub-Registrar and had also got a draft of balance sale consideration of 5 lakhs prepared. Thus, the entire story projected by the deceased in the suicide note was contrary to the documentary evidence. Still further, even though Daya Chand Chaudhary, since deceased, did not appear before the Sub-Registrar, still, and he committed suicide on 22.10.2012. Not only this, the petitioner complainant also filed a suit for specific performance of contract with regard to the same agreement to sell dated 01.10.2010 and the said civil suit was decreed by the Court of Civil Judge, Senior Division, Faridabad on 01.02.2018.

9. In the present case, the petitioner has been charged for the commission of the offence punishable under Section 306 IPC. While discussing the ingredients of the offence under Section 306 IPC, the Hon'ble Supreme Court has held in the matter of ***S.S. Cheema Vs. Vijay Kumar Mahajan***, 2010(4) RCR (Criminal) 66 as follows:-

“24. The learned counsel also placed reliance on another judgment of this Court in Ramesh Kumar v. State of Chhattisgarh, 2001(4) RCR (Criminal) 537 : (2001) 9 SCC 618. In this case, a three-Judge Bench of this Court had an occasion to deal with a case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered "you are free to do whatever you wish and go wherever you like". Thereafter, the wife of the appellant Ramesh Kumar committed suicide. The Court in para 20

has examined different shades of the meaning of "instigation". Para 20 reads as under: (SCC p. 629)

"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."

25. In this case, the court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant- accused having abetted commission of suicide by Seema may necessarily be drawn.

*26. In **State of West Bengal v. Orilal Jaiswal, 1994(3) RCR (Criminal) 186 : (1994) 1 SCC 73**, this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused*

charged of abetting the offence of suicide should be found guilty.

*27. This Court in **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)** 2009(4) RCR (Criminal) 196 : 2009(5) R.A.J. 278 : (2009) 16 SCC 605, had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". The Court opined that there should be an intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self esteem and self-respect. 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.*

28. 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 Indian Penal Code 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.

29. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

30. When we carefully scrutinise and critically examine the facts of this case in the light of the settled legal position the

conclusion becomes obvious that no conviction can be legally sustained without any credible evidence or material on record against the appellant. The order of framing a charge under section 306 Indian Penal Code against the appellant is palpably erroneous and unsustainable. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under section 306 Indian Penal Code against the appellant is quashed and all proceedings pending against him are also set aside”.

10. Still further, the Hon’ble Supreme Court has held in the matter of *M. Arjunan versus State represented by its Inspector of Police, (2019) 3 SCC 315* as follows:-

“7. The essential ingredients of the offence under Section 306 IPC 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 the accused cannot be convicted under Section 306 IPC”.

11. Still further, the Hon’ble Delhi High Court has held in the matter of *Ramesh Chander Sibbal Vs. State (Govt. Of NCT of Delhi) 2010(1) RCR (Criminal) 673* as follows:-

9. A perusal of the suicide note brings to fore the fact that the petitioner- accused is not only named but his illegal

occupation of the house of the deceased is stated to be the one of the primary reasons for Komal Kapoor, to have committed suicide. The statement of the sons of the deceased, Amit Kapoor and Sumit Kapoor, is primarily on the same lines. The issue for consideration is that, even if it is assumed at this stage, that the suicide note was written in the hand writing of the deceased and the statement of Amit Kapoor is believed to be true in its entirety would it be sufficient to charge the petitioner-accused with the offence of abetment of suicide by Komal Kapoor. In my view the answer is in the negative. The mere fact that the actions of the petitioner-accused, that is, forcible occupation of the portion of the house of the deceased, led her to take the extreme step of committing suicide would not bring his act within the definition of abetment as there is no material or evidence placed by the prosecution on record to show that he intended or had the necessary mens rea that the Komal Kapoor should take the extreme step of committing suicide. As long as there is absence of material and/or evidence on record to show that the abettor had intended to aid or encourage the commission of the principal offence, the accused cannot be charged with the offence of abetment and, therefore, in the present case, abetment to commit suicide. Nor I am persuaded by the submission that because the name of the petitioner-accused appears in the suicide note it would be sufficient to charge him with an offence under Section 306 of the Indian Penal Code. In this context see observation in Sanju @ Sanjay Singh Senger (supra) and Mahender Singh (supra). In both the cases not only was the accused named in the suicide note but they were also cited as the reason for committing suicide by the deceased. The learned APP may perhaps be correct in his submission that the agreement to sell dated 30.06.2007 was executed by the petitioner-accused, only to grab the property of the

deceased after a receipt had been executed by the deceased acknowledging that she had taken a loan from the petitioner-accused in the first instance in the sum of Rs 15 lacs and thereafter, another sum of Rs 1 lac, but then, this aspect of the matter will get unraveled only after a full-fledged trial. I do not wish to comment any further on this aspect of the matter as it could impact both, the case of the prosecution as well as that of the defence, and perhaps wisely, therefore, even the learned counsel for the petitioner-accused has not assailed the charge framed under Section 448 of the Indian Penal Code.

10. This brings me to the judgments cited by the learned APP. A perusal of the judgments cited by the learned APP would show that all of them referred to facts and circumstances where the victim was a married lady who had died within seven years of marriage. The accused, in those cases were charged under Section 498A read with Section 304B and Section 306 of the Indian Penal Code. The said judgments, therefore, as rightly contended by the learned counsel for the petitioner-accused were governed by the provisions of Section 113A of the Evidence Act. It would therefore, be relevant to extract the said provision for the sake of convenience :

113A. Presumption as to abetment of suicide by a married woman. - When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the

case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation. - For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code, 1860.

11. For the Court to presume abetment of suicide by the husband or the relative of the husband the following ingredients would have to exist.

(i) The suicide must be committed within seven years of marriage.

(ii) The husband or the relative of the husband should have subjected the victim to cruelty as defined under Section 498A of the Indian Penal Code.

11.1 While bearing in mind the above, in order to determine whether the victim has been subjected to cruelty, the attendant facts and surrounding circumstances must be taken into account. This presumption is not mandatory and is certainly rebuttable. In the facts of the instant case, therefore, the ratio of the judgments cited by the learned APP have no, applicability in view of the fact that the provisions of Section 113A of the Evidence Act are not applicable to the instant case.

*11.2 I must also point out that, the Learned APP had in addition to the cases referred to above, also brought to my notice an order of the Supreme Court **State of Haryana v. Surinder Kumar**, 1997(2) SCT 553 : (2000)10 SCC 337 (633 ?) and the judgment in the case of **Dammu Sreenu v. State of A.P.**, 2009(3) RCR (Criminal) 153 : 2009(3) RAJ 685 dated 28.05.2009 passed in Crl. Appeal No. 681/2003. In so far as the case of **Surinder Kumar** (supra) is concerned, it is a brief order by which the appeal has been allowed. However, since the facts are not set out in detail it is not possible to discern as to what crucial facts prevailed*

with the Supreme Court in setting aside the judgment of the High Court.

11.3 As regards the judgment of Dammu Sreenu (supra), it is clear that what prevailed with the Supreme Court is the proximity in time and space between the act of the accused which is indulging in illicit relationship with the wife of the deceased and the commission of the principal offence of suicide. It is in these circumstances that the Supreme Court sustained the conviction of the accused under Section 306 of the Indian Penal Code. The Supreme Court further held that the accused had been found guilty consistently by all courts below and hence, no interference was called for. In my view, the facts in the instant case are clearly distinguishable. Therefore, in my view, mere harassment will not bring the act of the accused within the ambit of Section 306 read with Section 107 of the Indian Penal Code [(See observations in Paragraph 10 at Page 114 of Sanju @ Sanjay Singh Senger (supra)]

12. In the present case also, it appears from the contents of the FIR as well as the suicide note that the deceased was undoubtedly hypersensitive to an ordinary dispute between the parties and had committed suicide. However, there is no evidence to suggest that there was an active act or direct act by the petitioner which had led the deceased to commit suicide, showing no other option. Still further, even the trial Court had overlooked the fact that the basic ingredients of the offence under Section 306 IPC were completely missing in the present case as there was no material on record to hold that the petitioner by his acts or omission or by a continued course of conduct created such circumstances that Daya Chand Chaudhary, since deceased, had no other option except to commit suicide. Thus, it would be unfair to

compel the petitioner to face a criminal trial without any credible material whatsoever.

13. Consequently, the impugned order dated 17.08.2012 passed by the Court of Additional Sessions Judge, Faridabad, whereby, the charge under Section 306 IPC was ordered to be framed against the petitioner and all consequences proceeding rising therefrom are ordered to be quashed qua the petitioner only.

26.05.2026		(N.S.SHEKHAWAT)
amit rana		JUDGE
	Whether reasoned/speaking	: Yes/No
	Whether reportable	: Yes/No