



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

CRR-1433-2023 (O&M)
Date of Decision:14.05.2026

Rajwant Kaur @ Raj

...Petitioner

Vs.

State of Punjab and Ors.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Surinder Thakur, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

CRM-25792-2023

1. The applicant/petitioner has moved the present application under Section 5 of Limitation Act for condonation of delay of 167 days in filing the present revision petition.
2. Notice of motion.
3. On the asking of the Court, Mr. M.S. Bajwa, DAG, Punjab., who is present in the Court, accepts notice on behalf of the respondent-State.
4. For the reasons mentioned in the application, the delay of 167 days in filing the present revision petition is condoned.

Main case

1. The petitioner has filed the present revision petition against the impugned order dated 15.09.2022 passed by the Court of Additional Sessions Judge, Hoshiarpur, whereby, the Trial Court ordered the framing of charge under Section 306 IPC against the petitioner and the petitioner was ordered to be charge-sheeted accordingly.



2. Learned counsel for the petitioner contends that FIR (Annexure P-1) in the present case was registered on the basis of the statement made by Karam Chand and the same has been reproduced below:-

“Statement of Karam Chand son of Tirath Ram, R/o Mana, Police Station Mehtiana, District Hoshiarpur, aged 50 years. Stated that I am a resident of the above said address and I work as a confectioner (Halwai) by visiting here and there. My wife had died about 15 years ago. I have two daughters and one son. The son is namely Daljit Kumar aged 30 years and the daughter Gurjit Kaur aged 27 years are unmarried, who used to live separately from me. I was in talking terms with Rajwant Kaur @ Raj R/o Kamalpur, Hoshiarpur, whose husband had died and I used to spend money for her. I had relationship with Rajwant Kaur @ Raj as husband and wife. Today around 04:00 P.M in the evening I had gone to the house of Rajwant Kaur @ Raj to meet with her at Mohalla Kamalpur Chaki Wali Street. Rajwant Kaur alias Raj abused me and shunted me out of the house. On this I came out of the street and the petrol which I had already kept at my back in my two wheeler (Vicky). I poured petrol on myself in the street in front of the Civil Hospital and set myself on fire and I got myself admitted in Civil Hospital for treatment. I have poured petrol on myself and set myself on fire being annoyed with Rajwant Kaur alias Raj. I am giving this statement in my full senses. SD LFT (Left Toe) Kamaljit Singh 98553-38028, Sd/ English. Dr. Khushveer Singh EMO, Civil Hospital, Hoshiarpur. Attested by Nanak Singh ASI, P.S Model Town, Hoshiarpur dated 12.5.2020”.

3. Learned counsel for the petitioner contends that the F.I.R in the present case was registered on the basis of the statement made by Karam



Chand, since deceased himself. Even, he did not lodge any complaint against the petitioner and apparently, there was no mens rea on the part of the petitioner. Rather, from the contents of the F.I.R, it is apparent that while committing suicide, Karam Chand tried to tarnish the image of the petitioner, when she refused to have any immoral relation with him. Thereafter, he himself poured petrol on himself and set himself on fire and was taken to Civil Hospital. Apart from that, even, the F.I.R was initially registered under Section 309 I.P.C against Karam Chand, complainant himself. However, during the course of investigation, shockingly, after the death of Karam Chand, the offence under Section 306 IPC was added and the petitioner was wrongly arrayed as an accused in the present case. Still further, even, after investigation, a cancellation report was prepared. However, an enquiry was illegally conducted by Deputy Superintendent of Police, Operation, Security/Traffic and the recommendation was made to file the challan against the present petitioner, without any incriminating evidence against her.

4. Learned counsel for the petitioner contends that the petitioner is a widow having five children i.e. four daughters and one son. She was working as a sweeper on contract basis at Civil Hospital, Hoshiarpur and it was the only source of income for her. After the death of her husband in the year 2004, she was taking care of her children and even got her three daughters married, without any financial support from others. In February/March, 2020, Karam Chand complainant/deceased started harassing the petitioner by saying that his wife had already died and he wanted to have relationship with the petitioner. The petitioner refused to have any kind of relationship with him and Karam Chand, continued to harass her. Even, on 12.05.2020, Karam



Chand/complainant/ deceased came in the street and started hurling filthy abuses on the petitioner and was extended threats. He clearly threatened that in case she did not agree to his immoral desires, he would not allow her to live peacefully and would tarnish her image and implicate her in a false case. Later on, the petitioner came to know that Karam Chand had poured petrol on himself, which he had already brought with him and was kept in his moped and set himself on fire. Thus, even F.I.R under Section 309 IPC was registered against him.

5. Learned counsel for the petitioner contends that the police had wrongly converted the offence from 309 IPC to the offence under Section 306 I.P.C by completely losing sight of the fact that there existed no evidence on record indicating that the deceased was meted out with harassment by the petitioner, just before his death. It is well settled that not only there has to be an evidence of continuous harassment but there should be a cogent evidence to establish positive action by the accused, which should more or less be proximate to the time of occurrence, the action can said to have led or compelled the person to commit suicide. In the case, not only the said positive action in close proximity to the time of suicide is absent, but also there was no evidence for any continuous physical or mental torture meted out to the deceased by the petitioner. Rather, Karam Chand, deceased, was himself carrying petrol in his moped and he had already made up his mind to commit suicide, in case, she did not agree to immoral demands of the deceased. Thus, it is prayed that the order, whereby, the charge under Section 306 IPC may be ordered to be quashed.

6. On the other hand, learned State counsel has vehemently opposed



the submissions made by learned counsel for the petitioner on the ground that the petitioner had been harassing the deceased and after getting fed up with the petitioner, he had committed suicide. Thus, the petitioner has been rightly charge-sheeted for commission of offence punishable under Section 306 of IPC.

7. I have heard learned counsel for the parties and perused the record.

8. Section 306 of IPC prescribes the punishment for abetment of suicide and reads as follows:-

“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.”

9. It is manifested that the offence punishable is one of abetment of commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment and the suicide, being the propelling causative factor. The basic ingredients of the offence are the suicidal death and the abetment of the same. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Further, there should be intention to provoke, incite or encourage the doing of an act by the latter. Each persons 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 straight-jacket formula in dealing with such cases and each case has to be decided on its own facts and circumstances. While dealing with the ingredients of Section 306 IPC, the Hon’ble Supreme Court has held in the matter of **“S.S. Cheema versus Vijay Kumar Mahajan and**



another, Criminal Appeal No.1503 of 2010 (arising out of SLP (Criminal) No.6811 of 2009), decided on 12.08.2010, as follows:-

17. The word “suicide” in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

18. Suicide by itself is not an offence under either English or Indian criminal law, though at one time it was a felony in England. In England, the former law was of the nature of being a deterrent to people as it provided penalties of two types :

Degradation of corpse of the deceased by burying it on the highway with a stake through its chest.

Forfeiture of property of the deceased by the State.

19. This penalty was later distilled down to merely not providing a full Christian burial, unless the deceased could be proved to be of unsound mind. However, currently there is no punishment for suicide after the enactment of the Suicide Act, 1961 which proclaims that the rule of law whereby it was a crime for a person to commit suicide has been abrogated.

20. In our country, while suicide in itself is not an offence, considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 Indian Penal Code. 21. “Abetment” has been defined under Section 107 of the Code. We deem it appropriate to reproduce Section 107, which 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.”

Explanation 2 which has been inserted along with Section 107 reads as under :

“Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof is said to aid the doing of that act.”

*22. The learned counsel for the appellant has placed reliance on a judgment of this Court in **Mahendra Singh v. State of M.P.,1995 Supp.(3) SCC 731**. In Mahendra Singh, the allegations levelled were as under : (SCC p. 731, para 1)*

“1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-inlaw. Because of these reasons and being harassed I want to die by burning.”

23. The Court on the aforementioned allegations came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under Section 306 Indian Penal Code merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

*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 and wife, the appellant husband uttered “you are free to do whatever you wish and go wherever you like”. 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 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 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 commitsuicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”.

10. Even the Hon’ble Supreme Court in the matter of “**Mariano Anto Bruno & Anr. Vs. The Inspector Police**, 2022 AIR (SC) 4994 held as follows:-

24. While analyzing the provisions of Section 306 IPC along with the definition of abetment under Section 107 IPC, a two-Judge Bench of this Court in **Geo Varghese Vs. State of Rajasthan and Another** 2021 SCC **Online SC 873** observed as under:-

"13. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under Section 309 IPC. The abetment of suicide by anybody is also an offence under Section 306 IPC. It would be relevant to set out Section 306 of the IPC which 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 able to fine.”*

14. Though, the IPC does not define the word “Suicide” but the ordinary dictionary meaning of suicide is “self-killing”. The word is derived from a modern latin word “suicidium”, sui means “oneself” and cidium means “killing”. Thus, the word suicide implies an act of self-killing. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

15. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same.

16. The ordinary dictionary meaning of the word instigate is to bring about or initiate, incite someone to do something. This Court in the case of **Ramesh Kumar vs. State of Chhattisgarh** has defined the word 'instigate as under:

"Instigation is to goad, urge forward, provoke, incite or encourage to do an act."

17. The scope and ambit of Section 107 IPC and its correlation with Section 306 IPC has been discussed repeatedly by this Court. In the case of **S.S.Cheena v. Vijay Kumar Mahajan and Anr (2010)**

12 SCC 190, it was observed as under-

"Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate, or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he



committed suicide."

25. *The ingredients of Section 306 IPC have been extensively laid out in M. Arjunan v. State, represented by its Inspector of Police (2019) 3 SCC 315 which are as under:-*

"The essential ingredients of the offence under Section 306 L.P.C. are: (1) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C."

26. *In order to convict an accused under Section 306 IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. With regard to the same, a two-judge bench of this Court in **Ude Singh & Ors. v. State of Haryana (2019) 17 SCC 301** observed as under:-*

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behavior and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere



allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

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 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”.

11. In the light of the aforesaid exposition of law, now, I advert to the facts of the present case to examine whether the charge under Section 306 IPC in the present case would be sustainable or not and the answer to the said question is in negative. To convict a person under Section 306 I.P.C, there has to be a clear mens rea to commit the offence. It further requires an active act or direct act, which led the deceased to commit suicide findings no other option and such act must reflect the intention of the accused to put the deceased into such a position that he commit suicide. The prosecution is under a bounden duty to prove that the petitioner had abeted or aided the commission of suicide by the victim in the present case. Merely, on 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 compel the person to commit the suicide, the charge in terms of Section 306 I.P.C is not sustainable. In the present case, admittedly, the deceased had brought petrol on the back of his two wheeler and when the petitioner allegedly refused to meet her, he poured petrol on himself in the street in front of Civil Hospital and set himself on fire. Consequently, it can never be held that the petitioner had abeted the suicide of Karam Chand in the present case and the charge under Section 306 IPC is groundless.

12. As a consequence of above discussion, the present petition is allowed and the impugned order dated 15.09.2022, passed by the Court of



Additional Sessions Judge, Hoshiarpur is set aside and the petitioner is ordered to be discharged.

14.05.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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