



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

CRR-875-2016

Date of decision: 05.02.2026

JOGINDER

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Pankaj Bali, Advocate and
 Mr. Sikandh Mehta, Advocate
 for the petitioner.

Mr. Praveen Kumar, DAG, Haryana.

Mr. Sukhdeep Singh, Advocate for
Mr. Parminder Singh, Advocate
for respondent No.2.

YASHVIR SINGH RATHOR, J. (Oral)

1. The present revision petition has been filed for setting aside the order dated 03.02.2016 (Annexure P-1) passed by Court of learned Additional Sessions Judge, Karnal in Sessions Case No.29/15 dated 21.10.2015 arising out of FIR No.536 dated 01.08.2015 registered under Section 306 of IPC at Police Station Sadar, Karnal, whereby charge under Section 306 of IPC has been framed against the petitioner.
2. Brief facts of the prosecution case are that on 01.08.2015, an information was received in the Police Station that one Krishan resident of Mohadinpur has committed suicide by hanging himself. After



receiving this information, ASI Naresh Kumar along with Head Constable Randhir Singh reached at his house, where his father Ram Parkash met him and got recorded his statement to the effect that he has got four daughters and one son, who all are married. His son Krishan, aged 30 years, was married in Village Nagla Megha and his wife Seema had died in a road accident at Kaithal on 21.07.2015. Today, at about 08:00 PM, his son informed him that Joginder (petitioner) has threatened him that in case he will pursue the case relating to the death of his wife, he will kill him. Being perturbed by the said threat by Joginder, his son Krishan committed suicide by hanging himself from the ceiling fan and he sought action against him. Thereafter, the investigation was set into motion. The post-mortem examination of the dead body of deceased was got conducted and the statements of witnesses were recorded. Accused was arrested on 04.08.2015. On interrogation, he suffered disclosure statement to the effect that on 21.07.2015, he was coming from Dhand to his village Dakwala on his motorcycle and when he reached on the Kachhwa bridge, Seema, wife of Krishan, who was known to him, met him and she took lift from him on his motorcycle. When he crossed bridge on the canal on Kaithal road, one truck came from behind and hit his motorcycle resulting in her death. Regarding this incident, he had got registered one FIR. He further disclosed that the said truck driver had been approaching Krishan to enter into a compromise and when Krishan had refused to compromise the matter, he had threatened to kill him in a fit of rage. After completion of investigation, final report under Section



173 of Cr.P.C. was presented. After supplying a copy of challan to the accused as required under Section 207 Cr.P.C, the case was committed to the Court of Sessions for trial. Vide impugned order dated 03.02.2016, accused has been charged for the offence under Section 306 of IPC.

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

4. Learned counsel for the petitioner argued that the impugned order vide which petitioner has 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 petitioner 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. Mere alleged threat that in case he will not compromise the case with the driver of the offending truck which caused the accident resulting in the death of his wife will not constitute instigation, conspiracy or intentional aid as defined under Section 107 of IPC. Learned counsel argued that the Court of learned Additional Sessions Judge, Karnal has



not appreciated the facts of the case in the correct perspective while charge-sheeting the petitioner for the offence under Section 306 of IPC whereas no case much less a prima facie case is made out and he prayed that the petition in hand be accepted and impugned order be set aside and petitioner be ordered to be discharged.

5. On the other hand, learned State counsel assisted by learned counsel for the complainant argued that the wife of the deceased was travelling on the motorcycle with the accused and one truck had allegedly hit the motorcycle, resulting in her death. FIR was got registered by the accused against the truck driver and thereafter, truck driver was approaching him for entering into a compromise but the deceased was not agreeing to the same and thereafter, the accused threatened to kill him in case he will not enter into a compromise and feeling perturbed, deceased committed suicide. Learned counsel next contended that from the allegations levelled in the FIR, it is prima facie established that accused had abetted the commission of suicide by the deceased as he played an active role by threatening to kill him and he facilitated the commission of suicide. Learned counsel further argued 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 and he prayed that petition in



hand be dismissed.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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 some thing 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 some thing 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.

11. 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 `goadng 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.

12. 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.**

13. 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.”

14. 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.”

15. 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.

16. Coming to the facts of the case in hand, the allegation



against the petitioner is that the wife of the deceased was travelling with him on the motorcycle which was hit by one truck, resulting in her death. Petitioner had got registered the FIR and thereafter, the truck driver had been approaching him for entering into a compromise. However, the deceased was not agreeing to enter into a compromise, upon which the petitioner allegedly threatened to kill him in case he will not enter into a compromise. Feeling perturbed, he committed suicide as has been alleged by the author of the FIR, who is father of the deceased. No suicide note has been left behind by the deceased. 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. There is



also no proximate link between the alleged threat by the accused and the commission of suicide and accused thus has not played any active role or any positive or direct act to instigate or aid the commission of suicide by the deceased. In 2020(1) RCR(Criminal) 54, **State of West Bengal Vs. Indrajit Kundu and Others**, deceased, who was a girl and accused boy had decided to marry. Deceased went to the house of the boy where parents of the boy shouted at her and addressed her as a call girl. Deceased got perturbed and committed suicide on the very next day. Hon'ble Supreme Court held that suicide committed by the deceased cannot be said to be a result of any action on the part of the accused nor suicide was the only course open to the deceased due to action of the accused and decision of the High Court whereby accused were discharged was upheld. It was held that there was no goading or solicitation or insinuation by the accused to the victim to commit suicide. The present case is not a case where accused had by his 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. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. In holding so, I have relied upon 2001(4) RCR (Criminal) 537, **Ramesh Kumar Vs. State of Chhattisgarh**.

17. 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. 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. Accordingly, the impugned order is not sustainable and is liable to be set aside. Resultantly, the present petition is allowed and impugned order dated 03.02.2016 (Annexure P-1) is hereby set aside and petitioner is ordered to be discharged.

18. Pending misc application (s), if any, shall also stand disposed of.

05.02.2026

Priyanka Thakur

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No