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

**CRM-M-60927-2022 (O&M)**

**Date of Reserve:21.04.2026**

**Date of Decision:08.06.2026**

Kamla and Others

...Petitioners

Vs.

State of Punjab and Anr.

...Respondents

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

Present: Mr. Saurav Bhatia, Advocate  
for the petitioners.

Mr. M.S Bajwa, DAG, Punjab.

Mr. Karnail Singh, Advocate  
for respondent No.2.

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**N.S.Shekhawat J.**

1. The petitioners have filed the present petition against the impugned order dated 26.08.2022 (Annexure P-8), passed by the Court of Sessions Judge, Hoshiarpur, whereby, the application under Section 319 Cr.P.C filed by the prosecution has been allowed and the petitioners were ordered to be summoned as an additional accused to face trial for the commission of offences punishable under Section 306 of IPC and order and charge-sheet dated 20.09.2022 (Annexure P-10), whereby, the charge under Section 306 IPC was ordered to be framed against the present petitioners.

2. Learned counsel for the petitioners contends that the F.I.R in the present case was registered on the basis of the statement made by Hussan Lal son of Preetu Ram and the same has been reproduced below:-

*“Statement of Shri Hussan Lal son of Shri Preetu*



*Ram, resident of Sadhowal, PS Garhshankar, aged about 67 years. Mobile No.98725-70638. Stated that I am resident of above said address and is doing work of taps and bores. I have two girls and two sons. All are married. My eldest son Vijay Kumar had gone to Dubai. The youngest Narinder Kumar, who is married to Neesha Kumari daughter of Shingara Ram resident of Hansro, P.S Sadar Nawanshahar about 1-1/2 years earlier. My daughter-in-law Neesha Kumari gave birth to one boy. Before birth of the child, the in-laws family of my son Narinder Kumar had took away Neesha Kumari to their home, where boy was born in the seventh month and his treatment continued for three months in Ivy Hospital, Nawanshahar and the expenses for this were borne by us. 15 days earlier to today I and my son went to Hansro for bringing my daughter-in-law where, Aman and Deepa sons of Shingara Ram residents of Hansro, who are brother-in-law of Narinder Kumar, quarrelled with us and did not send Neesha Kumari with us. Yesterday on 03.07.2021, my son had gone to his in-laws house at Hansro for bringing Neesha Kumari, where, Aman and Deepa gave beatings to my son Narinder Kumar and said that they will not send Neesha Kumari with him. We brought our son Narinder Kumar from Hansro and reached our home in the night, who told us everything that Aman and Deepa gave him beatings and said that they will not send Neesha Kumari with him. Due to the beatings given by them, Narinder Kumar was tensed and said that he is fed up from Aman and Deepa and at any time he will kill himself by hanging. He hanged himself with the ceiling fan in the lobby of the house at about 5.30 P.M. I and my neighbourers in order to save brought him down from the ceiling fan, but he had died. I and Sukhveer Ram son of Pakhar Ram were coming to give information and you have met us. Action be taken. Statement got recorded, heard and is correct. Sd/- Hussan Lal. Supported by Sd/- Sukhveer Ram".Certified to be true translation"*



3. Learned counsel for the petitioners contend that Narinder Kumar, since deceased was drug addict and was undergoing treatment at Ivy Hospital, Nawanshahar for his depression, mental health issues and de-addiction and the discharge summary issued by the Hospital was annexed as (Annexure P-3). Nisha Rani, petitioner No.3/wife of the deceased was brought back to her parents i.e. petitioners No.1 and 2. At about 08:00 P.M on 03.07.2021, Narinder Kumar, since deceased came to the house of petitioners under the influence of some intoxicant and started harassing Nisha Rani, petitioner No.3. All of a sudden, he climbed the roof of the house of the petitioners and tried to jump into the street. He was stopped by Sandeep Singh and the petitioners. On the next morning i.e. on 04.07.2021, petitioner No.2 moved an application (Annexure P-4) to the SHO for taking action against the deceased. However, on the next day, Narinder Kumar had committed suicide in the house of his father. During investigation, the police only presented challan against Amandeep Singh @ Aman and Sandeep Singh @ Deepa, brothers of petitioner No.3 and all the petitioners were found innocent during investigation. However, during trial, the statement of Hussan Lal, complainant, PW-1 was recorded by the Trial Court and an application was moved under Section 319 Cr.P.C with a prayer to summon the petitioners to face trial along with the other accused. Vide the impugned order, the Trial Court wrongly ordered the summoning of the petitioners for commission of offence punishable under Section 306 IPC.

4. Learned counsel for the petitioners has vehemently argued that the Trial Court had wrongly ordered the summoning of the petitioners by overlooking the statutory provisions of Section 319 Cr.P.C. Even, no offence



under Section 306 I.P.C was made out against the present petitioners and the ingredients of the offence were completely missing. Even, in order to constitute the abetment, an element of *mens rea* has to be there. Even if the prosecution's word is taken as gospel truth, even then the element of mens rea is missing from the allegations. Apart from that, there was no proof of any kind to show that the petitioners had abetted the suicide of the deceased in the present case.

5. On the other hand, learned State counsel assisted by learned counsel for the respondent No. 2 have vehemently opposed the submissions made by learned counsel for the petitioners on the ground that the petitioners had been rightly summoned by the Trial Court and the petition deserves to be dismissed by this Court. In fact, the petitioners were also named by the complainant along with Amandeep Singh @ Aman and Sandeep Singh @ Deepa, who are already facing the prosecution and their case is also at par with them. Even, the Trial Court had not only summoned the petitioners, by exercising the powers under Section 319 Cr.P.C, but they had also been charge-sheeted by the Trial Court after finding a prima facie case against them. Thus, the present petition deserves to be dismissed by this Court.

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

7. The Hon'ble Supreme Court, while discussing the powers under Section 319 Cr.P.C held in the matter of "**Hardeep Singh Vs.State of Punjab, (2014) 3 SCC 92**" as follows:-

*"105. Power under Section 319 Cr.PC is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or*



*the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.*

*106. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court, not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 CrPC. In Section 319 CrPC the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words 'for which such person could be tried together with the accused. The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the court acting under Section 319 CrPC to form any opinion as to the guilt of the accused."*

8. Still further, the Hon'ble Supreme Court has held in the matter of **"Omi @ Omkar Rathore & Anr. Vs.State of Madhya Pradesh & Anr., SLP (Crl.) No.(s) 17781 of 2024"** held that the powers under Section 319 Cr.P.C empowers the trial court to summon persons to face trial, even they were not named in the charge-sheet, however, this power has to be exercised extraordinarily and must be exercised sparingly and not in a casual manner and held as follows:-

*"21.The principles of law as regards Section 319 of the Cr.P.C may be summarised as under:*



*a. On a careful reading of Section 319 of the CrPC as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge sheeted, can also be added to face the trial.*

*b. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the chargesheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.*

*c. The power of the court under Section 319 of the CrPC is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the chargesheet by the police against the person concerned. As regards the contention that the phrase 'any person not being the accused' occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in column No. 2 of the charge sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the Criminal Court are included in the said expression.*

*d. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the Investigating Officer. When the evidence of complainant is*



*found to be worthy of acceptance then the satisfaction of the Investigating Officer hardly matters. If satisfaction of Investigating Officer is to be treated as determinative then the purpose of Section 319 would be frustrated”.*

9. In the present case also, the complainant had alleged that the deceased had gone to the house of the petitioners, but Nisha Rani, petitioner No.3 refused to accompany him. Even, the petitioners No.1 and 2 refused to send petitioner No.3 with him and due to beatings and humiliation, Narinder Kumar, since deceased was tensed and he had committed suicide in the house of his father, by hanging himself. However, the said statement of the complainant was found to be false qua the petitioners by the police and they were declared innocent in the present case. Even, during the course of trial, complainant himself appeared as PW-1 and reiterated the allegations levelled by him in the F.I.R. Except the statement of PW-1, Hussan Lal, there was no fresh evidence on record, which could prove the involvement of the petitioners in the crime. The Trial Court also failed to appreciate that there was no evidence on record, on the basis of which the petitioners could be summoned to face trial in the present case.

10. Still further, while discussing the applicability of Section 306 IPC, the Hon’ble Supreme Court has held in the matter of ““**Kamalakar Vs. State of Karnataka, 2023 (15) SCC 544 as follows:-**

8.1 *Section 306 deals with abetment of suicide wherein whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine. This provision has to be read with Section 107 IPC which reads as:*



*“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.”*

*8.2 Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.*

*8.3 In **Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618**, this Court has analysed different meanings of “instigation”. The relevant para of the said judgment is reproduced herein:*

*“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.”*

*8.4 The essentials of Section 306 IPC elucidated by this Court in*



***M. Mohan vs.State (2011) 3 SCC as under:-***

*“43.This Court in **Chitresh Kumar Chopra v. State (Govt.of NCT of Delhi)**, (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.*

*44. 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.*

*45. 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.”*

*8.5 The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in **Amalendu Pal alias Jhantu v. State of West Bengal (2010) 1 SCC 707** in the following paragraphs:*

*"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."*

11. In the present case also, on a careful reading of the factual matrix of the present case and the law regarding Section 306 I.P.C, this Court has no hesitation to hold that the ingredients of Section 306 IPC have not been fulfilled in the case and they been wrongly summoned by the Trial Court. Even, it has been alleged that the petitioner No.3 had refused to accompany the deceased and the petitioners No.1 and 2 had refused to sent petitioner No.3 with Narinder Kumar, since deceased. Such acts of the accused, however, insulting these may be, 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 the instigation/abetment to commit suicide are satisfied, it would be impossible for the Court to convict the petitioners under Section 306 IPC. Consequently, the



petitioners were wrongly summoned by the Trial Court and the charge has also been wrongly framed against them.

12. In view of the above discussion, the present petition succeeds and is hereby allowed and the impugned order dated 26.08.2022 (Annexure P-8), passed by the Court of Sessions Judge, Hoshiarpur and order dated 20.09.2022 (Annexure P-10) are ordered to be set aside by this Court, qua the petitioners only.

13. Ordered accordingly.

(N.S.SHEKHAWAT)  
JUDGE

08.06.2026  
*hitesh*

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