2026:AHC:209407-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 9932 of 2025

Avanish Verma And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sanjeev Mishra Gana
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Case called out in the revised list.

2. Even though the name of Mr. Sanjeev Mishra Gana is duly published in the cause list as counsel for the petitioners, but neither he nor anyone on behalf of petitioner is present to press the writ petition even in revised call.

3. Learned AGA representing State-respondents 1 to 3 is present.

4. Perused the record.

5. Petitioners Avanish Verma and 2 others have approached this Court by means of present criminal misc. writ petition challenging the impugned FIR dated 20.04.2025 lodged by first informant respondent 4 Shri Ram Pal and registered as Case Crime No. 0050 of 2025, under Section 108 BNS, Police Station - GRP, Muradabad, District - Moradabad.

6. Present writ petition came up for admission on 17.05.2025 and this Court passed the following order:-

"1. Heard learned counsel for the petitioners and learned AGA for State-respondents.

2. Present writ petition has been preferred for quashing the impugned FIR dated 20.04.2025 registered as Case Crime No.0050/2025, under Sections 108 BNS 2023, P.S. G.R.P. Moradabad, Distt. Moradabad and for a direction to respondents not to arrest the petitioners pursuant to aforesaid FIR.

3. Learned counsel for the petitioners vehemently contended that the present first information report has been lodged against the petitioners on false and frivolous allegations. Petitioners have not committed any offence. The allegation against the petitioners is that they have threatened and blackmailed deceased Pankaj, who is son of informant and due to harassment and threat by the petitioners alongwith others, he

has committed suicide on 18.04.2025.

4. Learned counsel for the petitioners counsel for the petitioners submits that the basic constituents of an offence under Section 306 (108 BNS) are suicidal death and abetment thereof. To attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary. In order to convict a person under Section 306 IPC (108 BNS) there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which lead 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/ she committed suicide (Ref: M .Mohan Vs.State, AIR 2011 SC 1238). In support of his submissions , he has placed reliance on the judgment in M. Arjunan Vs. State, (2019) 3 SCC 315 in which it was observed that essential ingredients of offence under Section 306 IPC are abetment and intention of accused to aid or instigate or abet deceased to commit suicide. However, insulting deceased by using abusive language will not, by itself,constitute abetment of suicide. There should be evidence capable of suggesting that accused intended by such act(s) to instigate deceased to commit suicide. Unless ingredients of instigation/ abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 IPC. It is contended that in the present matter there is no evidence capable of suggesting that accused intended by such act(s) to instigate decease to commit suicide. Reliance has also been placed on the judgment of Bombay High Court in Rohit Vs.State of Maharashtra and another, Criminal Application (Apl.)No. 1052 of 2018 dated 17th December, 2020 and the judgment of this High Court in Bail No. 7333 of 2022 (Rahul Vs. State of U.P.) dated 2.8.2021. Reliance has also been placed upon the judgment in a case of Arnab Manoranjan Goswami Vs. State of Maharashtra and others, in Criminal Appeal No. 742of 2020 arising out of SLP (Crl.) No. 5598 of 2020 dated 27.11.2020.

5. Matter requires consideration.

6. Learned A.G.A. appears for respondent nos. 1, 2 and 3.

7. Issue notice to the respondent No. 4 returnable at an early date. Steps be taken within a week.

8. All the respondents may file counter affidavit within six weeks. Petitioners shall have one week thereafter to file rejoinder affidavit. List immediately thereafter.

9. Considering the facts and circumstances of the case, as an interim measure, it is provided that till the next date of listing or till submission of police report u/s 173(2) Cr.P.C., whichever is earlier, respondents are restrained to arrest the petitioners pursuant to the impugned FIR, subject to cooperation in the on-going investigation."

7. Upon perusal of order sheets we find that the interim order dated 17.05.2025 was never extended.

8. Perusal of the cause list shows that petitioner approached this Court by means of an application under Section 528 BNSS.

9. Considering the fact that the FIR in the present writ petition was lodged on 20.04.2025, therefore, Investigating Officer must have submitted police report upon which cognizance would have also be taken.

10. In view of above, in all probability, cognizance upon aforesaid charge sheet/police report must have been taken by the jurisdictional magistrate. In view of above, we are of the considered view that by efflux of time, present writ petition has been rendered infructuous. It is accordingly dismissed as having rendered infructuous.

11. Interim order, if any, shall stand vacated.

October 6, 2026
S.K.S.

(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
SUNIL KUMAR SINGH
High Court of Judicature at Allahabad