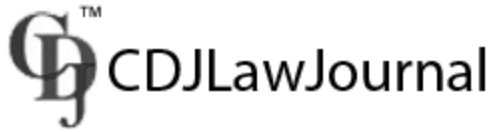


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Citation : CDJ 2026 BHC 1030

Court : In the High Court of Bombay at Kolhapur

Case No : Criminal Application No. 412 of 2025

Judges : THE HONOURABLE MR. JUSTICE RANJITSINHA RAJA BHONSALE

Parties : Amit Padmakar More & Others Versus The State of Maharashtra, Through Police Station Officer of Kurduwadi Police Station & Another

Appearing Advocates : For the Applicants: Rupesh K. Bobade a/w Shradha K. Nakadi, Advocates. For the Respondents: Priyanka Rane, APP, R2, Mihir Mondkar, Sarika Gatkal, Advocates.

Date of Judgment : 08-05-2026

Head Note :

Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 528 -

Comparative Citation:
2026 BHC-KOL 3840,

Judgment :

1) The present application is filed under Articles 226 and 227 of the Constitution of India, read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of FIR No. 396 of 2022, dated 10th September 2022, registered with Kurduwadi Police Station, District Solapur, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code and the consequent proceedings in R.C.C. No. 423 of 2024 pending before the learned J.M.F.C. Madha, Solapur.

2) Heard Mr. Rupesh Bobade, learned Advocate for the Applicant, Mr. Mihir Mondkar, learned Advocate for the Respondent No. 2 and Mrs. Priyanka Rane, Learned APP for the State. Perused the record.

3) The prosecution case as alleged in the FIR is as under:-

3.1) Mr. Dilip Babsaheb Mande (deceased) was used to borrowing money on interest. That, deceased had borrowed money from the Applicants i.e Original accused No. 1 to 6, which the Applicants were allegedly demanding. Due to their continuous follow-up and demands, deceased felt harassed. That, deceased committed suicide by consuming poison. On 10th September 2022, Respondent No. 2 lodged the present FIR No. 396 of 2022 with the Kurduwadi Police Station against the present Applicants and co-accused for the offences punishable under Section 306, read with Section 34 of the

Indian Penal code.

4) Mr. Rupesh Bobade, learned Advocate appearing for the Applicants submits that:-

4.1) On 9th August 2022 one Shri. Dilip Mande (now deceased) was admitted to Sakhare hospital for treatment and expired during treatment. On 10th August 2022, Mr. Kalyan Mande, the brother of the deceased gave a report about the death of the deceased to Kurduwadi Police Station. In the said report it is specifically mentioned that, he has no suspicion on anyone about the death.

4.2) On 10th August 2022, postmortem was carried out in the Government Hospital. As per the postmortem report, the probable cause of death is "Death due to auto myocardial infraction leading to cardiorespiratory arrest". That, there is no reference or mention about finding of poison or any similar substance in the stomach of the deceased.

4.3) On 22nd August 2022, Respondent No. 2 (wife of deceased) filed the first complaint before the Kurduwadi Police Station, alleging that, her husband was in a frightened condition from the last few days. That, some people used to call and visit their house and demand return of the loan money. That, since 1st August 2022, her husband had switched off his mobile due to said demands. That, she requested her husband to tell her the details about how much money he owes and to whom. However, her husband did not inform her anything. No information was disclosed to her regarding the alleged loans. After her persistent request, her husband informed names of some of the visitors i.e. the present Applicants. Respondent No. 2 has also alleged that, another four to five people also used to visit the house for demanding return of loan money. That, on 9th August 2022, one Mr. Kuldip Bagal and Mr. Mukesh Mande brought her husband home and informed Respondent No. 2 that, her husband had consumed a substantial amount of alcohol. That, immediately after reaching home, her husband started vomiting. That, Respondent No. 2 found one sprite bottle in his pocket. That, upon inquiry, her husband informed her that, he drank pesticide. Thereafter, he was admitted to Sakhare Hospital. That, on 10th August 2022, her husband expired. In this alleged background, it was requested that, an inquiry be conducted against the said persons.

4.4) On 26th August 2022, the hospital submitted a letter to the Investigating Authorities, along with discharge card. In the said letter, Dr. Sakhare has specifically stated that, deceased did not show any sign of insecticide intoxication. That, even during the course of treatment, the deceased did not show any sign of intoxication.

4.5) That, in the medical case papers of Sakhare Hospital, it is clearly stated that, there was no smell of any insecticide. The case papers were submitted pursuant to a police request dated 3rd September 2022.

4.6) That, on 10th September 2022, despite having knowledge that, the death of the deceased was not due to drinking of pesticide/poison, the Kurduwadi Police registered a FIR for offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

4.7) That, none of the witnesses mention the name of the Applicants. There is no proximate cause or link of the Applicants with the deceased before his death.

4.8) The Respondent No. 2 in her statement dated 10th September 2022 has specifically stated that, Kuldeep Bagal forced the deceased to consume alcohol and without any reason quarreled/argued with the deceased and mentally tortured/harassed him and that the Applicant and other

3 to 4 persons were demanding monies. That, the statements are materially different and in the backdrop of the postmortem report dated 10th August 2022 and Chemical Analysis Report dated 26th May 2023, are misplaced and misconceived.

4.9) That, the Chemical Analysis report, dated 26th May 2023 from Mini Forensic Science Laboratory, Pune, clearly mention that “General and specific chemical testing does not reveal any poison”.

4.10) That, on 18th May 2024, even after the receipt of the CA report, the Investigating Officer, once again enquired about the death of the deceased, vide letter dated 18th May 2024 submitted to the medical officer seeking the final cause of death of deceased on the basis of postmortem report and CA report. This conduct of the Investigating Officer, speaks volumes of the manner of investigation and malafides.

4.11) That, on 20th May 2024, the medical officer, after considering both reports gave an opinion that, the final cause of death was “Death due to auto myocardial infraction leading to cardiorespiratory arrest and death”. Considering the postmortem report and Chemical Analysis report, it is clear that, even before filing of the chargesheet, it was evident that the deceased has not committed suicide but died a natural death due to a heart attack.

4.12) The Investigating Agencies, being well aware about the exact reason of death of the deceased, filed a chargesheet against the Applicants under Section 306 read with Section 34 of the Indian Penal Code. That, it is only at the time of submitting the chargesheet that, the police mentioned in its fact report that, due to the Applicants demand of money on telephone and by visiting at home, deceased got mental pressure. That, due to this mental pressure the deceased expired by heart attack and therefore Applicants are responsible for the death of deceased. This conduct, is shocking and clearly demonstrates the malafides.

5) Mr. Mihir Mondkar, learned Advocate appearing for the Respondent No. 2 submits that:-

5.1) Perusal of the FIR would indicate that, the Respondent No. 2 is the original informant and the wife of the deceased, Late Dilip Babasaheb Mande, who was a retired teacher. On 9th August 2022, the deceased had, as per his routine, gone out to bring milk but did not return home till 8:00 p.m. Upon attempting to contact him, the Respondent No. 2 found that his mobile phone was switched off. At about 10:00 p.m., one Mr. Kuldeep Bagal contacted the Respondent No. 2 and informed her that, the deceased had consumed a substantial quantity of alcohol and was unable to walk. Thereafter, the said Mr. Kuldeep Bagal along with one Mukesh Mande brought the deceased home. Upon arrival, the deceased began vomiting. That, the vomit emitted an unusual and strong odour. That, it was while cleaning the vomit, that the Respondent No. 2 discovered a Sprite bottle in the right pocket of the shirt of the deceased. Upon opening the said bottle, she noticed a strong and abnormal smell emanating therefrom. That, thereafter Mr. Kuldeep Bagal and Mr. Mukesh Mande took the deceased to the hospital for medical treatment. However, on 10th August 2022 at approximately 7:30 a.m., the deceased was declared dead.

5.2) That, from 1st August 2022 onwards, the deceased had been exhibiting unusual behaviour, including frequently switching off his mobile phone and going to the farm. That, he would instruct Respondent No. 2 that, in case any person came to the house inquiring about him for repayment of money, she should inform them that he had gone to Pune. That, this conduct clearly indicates that, the deceased was under severe mental stress and pressure

5.3) That, the deceased had borrowed money from various persons including the present applicants and that the said applicants were persistently harassing and pressurizing him for repayment. The same is evident from the continuous and repeated phone calls made by the accused persons to the deceased, as reflected in the CDR.

5.4) That, the Respondent No. 2 has specifically named all the applicants in the FIR and stated that they visited the deceased's house to demand money and harass him, thereby establishing a prima facie case against the Applicants.

5.5) That, on the day of the incident, when the deceased allegedly consumed pesticide, he was under extreme stress and mental pressure. That, the deceased requested Mr. Mukesh Mande to provide him with alcohol and stated that he would die within two days, even inviting him to attend his funeral. That, such statements clearly demonstrate the disturbed mental state of the deceased due to the pressure exerted upon him.

5.6) That, deceased had abstained from alcohol consumption for the past 16 years, however he had suddenly resumed drinking, which is indicative of the immense stress and harassment faced by him at the hands of the accused persons including the Applicants. That, the continuous harassment, as corroborated by the CDR records, drove the deceased into severe mental distress, ultimately leading him to commit suicide by consuming pesticide.

5.7) That, deceased was a teacher by profession, a responsible member of society who contributed towards shaping the lives of students. That, the act of the deceased in committing suicide, therefore, is not only tragic but also has a serious societal impact, and cannot be viewed lightly.

5.8) That, questions such as whether the deceased had actually consumed pesticide, whether traces of such substance could still remain in the body after vomiting, and whether the same can be detected, are all matters which fall within the domain of medical expertise. These issues can only be conclusively determined on the basis of medical evidence and expert opinion during the course of trial.

5.9) That, at this stage, when there exist serious doubts and material raising suspicion against the accused, the chargesheet ought not to be quashed. The truth can only be ascertained after a full-fledged trial and appreciation of evidence.

6) Before considering the facts of the present case, it would be useful to first refer to the sections 306 and 107 of the Indian Penal Code which form subject matter of the present criminal proceedings and the law as laid down by the Hon'ble Supreme Court in respect of Section 306 of the IPC.

6.1) 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.”

6.2) Section 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 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

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.”

6.3) The Hon’ble Supreme Court in the case of State of Haryana & Ors. Vs. Bhajan Lal & Ors., reported in 1992 Supp (1) SCC 335, while enumerating the powers under Section 482 of the Indian Penal Code and Article 226 of the Constitution of India, in Paragraph No.102 has observed as under :-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2)

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4)

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused."

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.."

6.4) The Hon'ble Supreme Court in the case of Randhir Singh And Anr. Vs. State of Punjab reported in (2004) 13 SCC 129 has observed that:-

“12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC.”

6.5) The Hon'ble Supreme Court in the case of Amalendu Pal Alias Jhantu Vs. State of West Bengal reported in (2010) 1 SCC 707 has observed that:-

“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.”

6.6) The Hon'ble Supreme Court in the case of M. Arjunan Vs. State Represented by Its Inspector of Police reported in (2019) 3 SCC 315 has observed that :-

“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.

8. In our considered view, in the case at hand, MO 1 letter and the oral evidence of PW 1 to PW 5, would not be sufficient to establish that the suicide by the deceased was directly linked to the instigation or abetment by the appellant-deceased. Having advanced the money to the deceased, the appellant-accused might have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 IPC. From the evidence brought on record and in the facts and circumstances of the case, in our view the ingredients of Section 306 IPC are not established and the conviction of the appellant-accused under Section 306 IPC cannot be sustained.”

6.7) The Hon'ble Supreme Court in the Case of Ude Singh And Anr. Vs. State of Haryana reported in (2019) 7 SCC 301 has observed that:-

“14.2.

34. The word “abetment” has not been explained in Section 306 IPC. In this context, the definition of abetment as provided under Section 107 IPC is pertinent. Section 306 IPC seeks to punish those who abet the commission of suicide of other. Whether the person has abetted the commission of suicide of another or not is to be gathered from facts and circumstances of each case and to be found out by continuous conduct of the accused, involving his mental element. ...

36. The word “instigate” literally means to goad, urge forward, provoke, incite or encourage to do an act. A person is said to instigate another person when he actively suggests or stimulates him to an act by any means or language, direct or indirect, whether it takes the form of express solicitation or of hints, insinuation or encouragement. Instigation may be in (express) words or may be by (implied) conduct.

37. The words “urge forward” means to advise or try hard to persuade somebody to do something, to make a person to move more quickly in the particular direction, specially by pushing or forcing such person. Therefore, a person instigating another has to “goad” or “urge forward” the latter with the intention to provoke, incite or encourage the doing of an act by the latter. In order to prove abetment, it must be shown that the accused kept on urging or annoying the deceased by words, taunts until the deceased reacted. A casual remark or something said in routine or usual conversation should not be construed or misunderstood as “abetment”.

15. Thus, “abetment” involves a mental process of instigating a person in doing something. A person abets the doing of a thing when:

- (i) he instigates any person to do that thing; or
- (ii) he engages with one or more persons in any conspiracy for the doing of that thing; or
- (iii) he intentionally aids, by acts or illegal omission, the doing of that thing.

These are essential to complete the abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do anything.

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 behaviour 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 the 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.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set-ups, education, etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.”

6.8) The Hon'ble Supreme Court in the case of Abhinav Mohan Delkar Vs. The State of Maharashtra And Ors. In Criminal Appeal Nos. 2177/20185 of 2024 held that :-

“21.abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing and without a positive act on the part of the accused, in aiding or instigating or abetting the deceased to commit suicide, a conviction cannot be sustained.

22. What comes out essentially from the various decisions herein before cited is that, even if there is allegation of constant harassment, continued over a long period; to bring in the ingredients of Section 306 read with Section 107, still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the extreme act of taking one's life. Figuratively, 'the straw that broke the camel's back'; that final event, in a series, that occasioned a larger, sudden impact resulting in the unpredictable act of suicide. What drove the victim to that extreme act, often depends on individual predilections; but whether it is goaded, definitively and demonstrably, by a particular act of another, is the test to find mens rea. Merely because the victim was continuously harassed and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation constituting abetment. Mens rea cannot be gleaned merely by what goes on in the mind of the victim.

23. The victim may have felt that there was no alternative or option, but to take his life, because of what another person did or said; which cannot lead to a finding of mens rea and resultant abetment on that other person. What constitutes mens rea is the intention and purpose of the alleged perpetrator as discernible from the conscious acts or words and the attendant circumstances, which in all probability could lead to such an end. The real intention of the accused and whether he intended by his action to at least possibly drive the victim to suicide, is the sure test. Did the thought of goading the victim to suicide occur in the mind of the accused or whether it can be inferred from the facts and circumstances arising in the case, as the true test of mens rea would depend on the facts of each case. The social status, the community setting, the relationship between the parties and other myriad factors would distinguish one case from another. However harsh or severe the harassment, unless there is a conscious deliberate intention, mens rea, to drive another person to suicidal death, there cannot be a finding of abetment under Section 306.

24. We have already seen that even a rebuke to "go, kill yourself"; often a rustic expression against distasteful conduct, cannot by itself be found to have the ingredients to charge an offence of abetment to suicide. There is no uniformity in how different individuals respond and react under pressure. Many stand up, some fight back, a few runaway and certain people crumble and at times take the extreme step of suicide. To put the blame on the pressure imposed and the person responsible for it, at all times, without something more to clearly discern an intention, would not be the proper application of the penal provisions under Section 306.

.....

40. True, a person unable to bear the pressure or withstand a humiliation or unable to oppose, may succumb to the extreme act of ending his own life, in desperation; but that would not necessarily mean that the alleged perpetrator had an intention to lead the victim to eventual death by his own or her own hands. We find no such instigation on the part of the accused in this case, or a definitive abetment to suicide, as alleged in the FIR. There arises a cloud on the suicide note, when looking at the admitted statements recorded in the proceedings of the Committee of Privileges and also the manner in which the note was introduced in the case. Before the Committee of Privileges, no reference was made to the various allegations in the suicide note, against the named officers. We have found the suicide note to be suspect and we are not convinced that there is any modicum of material in the case to find abetment of suicide. The High Court was not in error, when it quashed the FIR, when no case is made out from the FIS.”

6.9) The Hon’ble Supreme Court in the case of Dhirubhai Nanjibhai Patel Lotwala Vs. State of Gujarat And Anr. reported in SLP (CRL) No(s) 4644/2025) held that:-

“13. As far as the suicide note is concerned, we find that it lacks material particulars regarding the nature of those threats and the time and place when those threats were extended. Moreover, the suicide note indicts as many as 9 accused without specifying the role of any one of them. It is not the case of the prosecution that all accused belong to one family or were harassing the deceased as a group. Further, the deceased has painted all creditors with one brush. Therefore, a trial based on such a suicide note would be a futile exercise. Besides, if a creditor makes a phone call to the debtor for return of his money that being a lawful act, it cannot on its own constitute a ground to prosecute the creditor. Moreover, the deceased may have committed suicide on account of depression for not being able to clear of the debt.

14. In such circumstances, particularly when there is no material to indicates that the

deceased was beaten or physically assaulted to return the dues, we are of the view that there is hardly any material on basis whereof it could be inferred that the appellant by demanding his dues abetted commission of suicide by the deceased. In our view, therefore, the continuance of the proceedings against the appellant would be a futile exercise and would amount to abuse of the process of the Court. Hence, to secure the ends of justice, it is necessary that the same be quashed.

15. Consequently, the appeal is allowed. The order passed by the High Court is set aside. The impugned criminal proceedings qua the appellant are hereby quashed.”

6.10) The Hon’ble Supreme Court in the case of Rajiv Thapar And Ors. v. Madan Lal Kapoor reported in (2013) 3 SCC 330 has observed that :-

“38. We are persuaded to conclude from the facts and circumstances of the case exhaustively discussed in the foregoing paragraphs, that all the steps delineated in paras 30.1 to 30.4, above can be answered in the affirmative, on the basis of the material relied by the accused, more particularly, the post-mortem examination report dated 28-9-1992 conducted by a Medical Board comprising of four doctors, whose integrity has not been questioned by the respondent complainant; the chemical analysis findings contained in the Central Forensic Science Laboratory's report dated 9-2-1993 which has not been disputed by the respondent complainant; the inquest report of the SDM, Delhi dated 6-7-1993, findings whereof have been painstakingly recorded by involving the respondent complainant; the letter of Rajiv Kapoor (the brother of the deceased) dated 22-9-1992 addressed to Dr Monica Thapar just four days before her death, the contents and authenticity whereof are not subject-matter of challenge at the hands of the respondent complainant; and finally, the telephone bills produced by the appellant-accused substantiating consistent and regular contact between the rival families, which have not been questioned. We, therefore, have no hesitation in concluding that the judicial conscience of the High Court ought to have persuaded it, on the basis of the material examined by it, to quash the criminal proceedings initiated against the appellant-accused. We, therefore, hereby quash the aforesaid proceedings.”

In the case of Rajiv Thapar And Ors. v. Madan Lal Kapoor (Supra) the Hon’ble Supreme Court observed that, the allegations against the accused were of poisoning the deceased on account of dowry harassment. The Hon’ble Supreme Court, observed that, in so far as allegation of poisoning the deceased, the reliance was placed by the accused on the post-mortem report, CFSL report, inquest report, medical evidence and contemporaneous correspondence between the families, clearly established that, the deceased was suffering from a serious cardiac ailment and had died a natural death due to cardiac decompensation. The Hon’ble Supreme Court further categorically observed that, the forensic report negated the theory of poisoning and even the subsequent allegation of strangulation was ruled out by the doctors constituting the Medical Board. It is also observed by the Hon’ble Supreme Court that, letters and telephone records reflected cordial relations between the parties, thereby discrediting the allegations of dowry harassment. On the basis of such unimpeachable material, the Hon’ble Supreme Court held that continuation of criminal proceedings would amount to abuse of the process of Court and accordingly quashed the proceedings.

7) An offence under Section 306 of the IPC, would be made out against a person, if that person, abets the commission of suicide. Section 306 of the IPC, would be applicable to a case or attracted when the following ingredients are made out i.e. (i) there is abetment and (ii) intention/mens rea aid, assisting or instigate the person to commit suicide. Section 107 of the IPC defines ‘abetment’ to mean instigating a person to do a thing, engaging in a conspiracy for doing that thing, or intentionally aiding, by any act or illegal omission, the doing of that thing. It further provides that, a person who, by wilful misrepresentation or wilful concealment of a material fact which he is bound to disclose, voluntarily

causes or procures, or attempts to cause or procure, a thing to be done, is said to aid the doing of that act. A perusal of the provision indicates that abetment necessarily involves an intentional and positive act of instigation, assistance, or active facilitation to urge a person to commit a particular act. In simple words, abetment means an act of encouraging assisting or inciting/provoking a person to commit a wrongful act or crime. It is an active and/or positive intentional act of promoting, an act of furtherance and to support to commit a crime or wrongful act.

8) To make out an offence under Section 306 of IPC, it is necessary to at least prima facie show or indicate that, the immediate and proximate cause for the suicide were the acts or conduct of the accused either individually or if a conspiracy is alleged as a part of the conspiracy. The intention of the accused should be capable of been gathered from the attending circumstances. The evidence or the allegation should prima facie suggest that, the intention of the accused, or the acts, conduct of the accused was intended to or done with the object to driving the person to commit suicide. There should be available on record proof in some manner, direct or indirect, to prima facie show and substantiate acts of assistance, instigation, provocation to such an extent, gravity and nature, that the deceased was left with no other option but to commit suicide. Mere allegations or suspicion, is not sufficient to invoke the provisions of Section 306 of the IPC. There has to be, on the part of the accused, a positive intentional act of abetment, which is proximate in occurrence which led to the deceased to committing suicide.

9) A reaction of a normal prudent person, and sometimes an excessive reaction in anger or at the spur of the moment, may be harsh on certain occasions but cannot be termed as abetment. What is required is a conscious deliberate intentional act aimed at driving the other person to commit suicide. A bank official pursuing a defaulter on behalf of a bank/financial institution, as part of his/her employment, and as a legal recourse for recovery of outstanding loans cannot be termed as abetment and/or attract the provisions of Section 306 of IPC. Similarly, a follow up for a recovery of a friendly loan or every reprimand by authorities, may be at work or at school or actions of a stern parents cannot be termed as abetment under Section 107 of the IPC to make out an offence under Section 306 of the IPC.

10) Considering the facts of the present case, I am of the opinion that, the invocation of Section 306 read with 34 of IPC is untenable. Perusal of the FIR would indicate that, the case of the Respondent No. 2 is that of poisoning. It is the case of the Respondent No. 2 that, due to certain loans that the deceased had taken and his inability to repay the same he was being chased by the lenders including the Applicants. This, according to the Respondent No. 2 was the harassment which led to the deceased consuming poison. The postmortem report would indicate that, the probable cause of death is "Death due to auto myocardial infraction leading to cardiorespiratory arrest" i.e. heart attack. The chemical analysis report dated 26th May 2023 would indicate that, there is no trace of poison or any similar item in the stomach of the deceased. Further, in the report it is clearly mentioned that, General and specific chemical testing does not reveal any poison. In my opinion, this being the available evidence, the entire foundation of the prosecution or the suspicion that, the deceased consumed poison due to harassment of the Applicant is contradicted and the criminal prosecution as lodged is totally misplaced and untenable. In my opinion the allegations are dehors of the facts and the factual position.

11) Perusal of the FIR would indicate that, the Respondent No. 2 was not aware of the loan transactions of the deceased. No details of the loan are mentioned nor does the Respondent No.2 have any knowledge of the loans. The only allegation is that, the deceased had borrowed money from various persons including the Applicants, was unable to repay the same and that, the lenders were persistently harassing and pressurizing the deceased for repayment of the loan. That, the Applicants use to visit the house to demand money or make continuous or repeated phone calls to the deceased as is reflected in the CDR.

12) Considering the allegations in the FIR, the contents of the postmortem report and chemical analysis report, I am of the considered view that, even if the allegations in the FIR are accepted in the entirety, the only case that can be made out is that, a person who has advanced a loan was asking/demanding the repayment of the said loan. The pure and simple act of demand or follow up with the creditor for return or repayment of loan cannot by any stretch of imagination be termed as an act of abetment. From a perusal of the allegations, it prima facie appears that, in the said act of demand for repayment of loan/return of monies lent there is no willful instigation or any conspiracy or intentional aiding any person to commit suicide. The requisite intention or mens rea, as would be required to make out a case under section 306 of the IPC to instigate the deceased to commit suicide cannot be inferred from the allegations in the FIR. According to me, there is no act of instigation or abetment, to fit in or invoke the ingredients of abetment of suicide under Section 306 of Indian Penal Code. Further, the said act is required to be continuous acts or actions with such an extent of intensity and gravity so as to put or push the deceased in such situations or circumstances under which he would be left with no other alternative or choice, but to commit suicide. Apart from the intensity, the acts of instigation must be in close proximity and should bear out a nexus or relation to the act of committing suicide. In short to make out a case under Section 306 of the IPC, it is required to be shown that the deceased was left with no other option in life but to commit suicide. The facts of the present case do not indicate such a situation. To make out the case against Applicants it would be necessary to show that the Applicants have played an active role by an act of instigation, assisting or aiding or by doing certain acts with conspiracy to facilitate the commitment of suicide. The words said and acts done in anger at the spur of the moment also cannot be stretch to invoke section 306 of the Indian Penal Code. There would have to be acts directly or indirectly which amounts to instigation incitement to the person who commit suicide which must in close proximity to the commission of suicide. The intention and mens rea should be prima facie apparent from the complaint. A mere allegation or suspicion that, due to the alleged demand of repayment harassment was caused without there being any proximate cause with provision of Section 306 cannot invoke nor sustain. The statements of the Respondent No.2, dated 22nd August 2022 and 10th September 2022, are also at variance. Pertinent to note, that it is not even the case of the Respondent No.2 that, the deceased suffered the heart attack due to some pressure. In fact the specific case of the Respondent No.2 is that of suicide by consuming poison, which is clearly belied by the prosecution documents i.e postmortem report and chemical analyzer's report. In my opinion, there should be available on record prima facie material and cogent and sustainable evidence of acts of abetment, which are clearly missing in the present case.

13) Even assuming that, the demands were made for repayment of loans such demands cannot be termed as proximate cause or link to the act of suicide. In the present case, there is no suicide note and the allegations made by the complainant are in fact contrary to the postmortem reports and the chemical analyzers reports. By no stretch of imagination and considering the facts of the present case, can it be said that the acts of the applicants of allegedly demanding repayment of loans advance would be sufficient to invoke the provisions of section 306.

14) Perusal of the statement of Mukesh Mande, would indicate that, the deceased had a loan of Rs. 4,00,000/- and that he had been cheated in the land transaction. The possibility of the deceased being under pressure due to the said loan of Rs. 4,00,000/- and or the fact that he was cheated in a land transaction could also be a possible reason or contribute to the heart attack.

15) Considering the aforesaid facts and circumstances of the present case, provisions of IPC, Judgments of the Hon'ble Supreme Court and this Court and taking the case as it appears and accepting all allegations in their entirety in my opinion no offence under Section 306 of the IPC is disclosed qua the Applicants.

16) Considering the aforesaid facts and circumstances, I am of the view that no case is made out for the offence punishable under Section 306 of the Indian Penal Code. Prima facie, it appears that the allegations, apart from being unsustainable and untenable, are also in clearly contrary to the medical reports. The allegations made in the FIR are otherwise self-contradictory. Even if the allegations are accepted at face value, the same are general and vague in nature. The names of the Applicants are mentioned only in the concluding paragraph of the FIR, without any corroboration or supporting details.

17) Hence, I passed the following Order :-

- i) The Application is allowed in terms of prayer clause (a) qua the Applicants.
- ii) The criminal proceedings being R.C.C. No. 423 of 2024, arising out of C.R. No. 396 of 2022 pending before the learned J.M.F.C. Madha, shall continue as against the other co-accused.

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