



2025:CGHC:218

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 48 of 2018

Order reserved on : 18.10.2024

Order delivered on : 02.01.2025

- Ashok Agrawal S/o. Shri Kishan Agrawal, Aged About 58 Years
President Deep Education Society, Kharsia, R/o. Chandan Tal
Road, Ward No. 15, Near Dr. R. C. Agrawals Clinic, Kharsia,
Police Station Kharsia, District Raigarh Chhattisgarh,
Chhattisgarh

... Applicant

versus

- State Of Chhattisgarh Through Station Police Station Kharsia,
District Raigarh Chhattisgarh, Chhattisgarh

... Respondent

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| For Applicant | : | Mr. Manoj Paranjpe, Advocate |
| For Respondent | : | Ms. Subha Shrivastava, PL |

Hon'ble Shri Justice Narendra Kumar Vyas

CAV Order

1. The applicant has filed this criminal revision under section 397
read with Section 401 of the Code of Criminal Procedure being
aggrieved by the order dated 25.10.2017 passed by the First
Additional Sessions Judge, Raigarh, in Sessions Case No.

101/2017 whereby charge under Section 306 and 201 of the IPC has been framed.

2. Facts of the case, in brief, are that deceased Priti Yadav was studying in class-10 at Kamla Nehru Public Higher Secondary School, Kharsia. It is alleged that on 17.07.2017 at about 9.30 AM, the victim had gone to school and during class time at third period, she reached the roof of the school and jumped on the ground from the roof and thereafter she was admitted in Metro Hospital at Raigarh for treatment where she died at about 4.50 PM on the same day. It is alleged that because of non-deposition of re-admission fee and also monthly fee, she was ill treated with some harsh words as the fee was not being paid by her within time, therefore, she committed suicide by jumping from the roof of the school. The information of death was sent to Police Station Chakradhar Nagar and on the basis of information, unnumbered merg under Section 174 CrPC was registered and statements of the parents and sister of deceased Priti Yadav were recorded under Section 164 CrPC and on the basis of statements, offence under Section 306,34 of the IPC was registered against the applicant and co-accused Sushil Kumar Bhanwar.
3. After usual investigation Charge sheet was filed learned Judicial Magistrate First Class, Raigarh who vide its committal order dated 03.10.2017 has committed the case for trial to First Additional Sessions Judge, Raigarh registered as Sessions Trial

No.101 of 2017 who has framed the charges on 25.10.2017 against the applicant and other co-accused.

4. Being aggrieved with the framing of charge the applicant has preferred this Criminal Revision mainly contending that the applicant is a president of the registered society known as Deep Shikshan Samiti Kharsia. The said society is running the school known as Kamla Nehru Public Higher Secondary School, Kharsia he was involved in taking major decisions along with the body constituted according to the by-laws of the society. He would further submit that the learned Sessions Judge has failed to appreciate the fact, even if the entire case of the prosecution is taken as it is, no offence under Section 306, 34 and 201 of the IPC is attracted against the applicant. He would further submit that the enquiry was ordered by the Collector and in the said enquiry the Block Education Officer has recorded the statement of the girls of the school including the classmates of the deceased but those documents have not been collected by the Police. He would further submit that on the date of incident the applicant was not available in the city and he had gone to Baba Dham. He would further submit that from the material collected by the prosecution there is no ingredient of abetment to instigating, conspiring, or intentionally aided the deceased to commit suicide which are essential and paramount consideration for involving the applicant for commission of offence under

Section 306 IPC. He would further submit that in the entire material placed in the charge sheet there is no such complaint either was made by deceased Priti Yadav or other students against the applicant in respect of humiliation, harassment by the school administration for depositing the monthly fees and it cannot imagine that the school management will instigate any student to commit suicide for paying only two months fees i.e. 1308/-. In fact the school administration has taken prompt action and hospitalized the victim she could not be saved due to injuries sustained by her. Thus, it has prayed for quashment of charge sheet pending before learned Additional Sessions Judge, Raigarh. To substantiate his submission, he has relied upon the judgments of the Hon'ble Supreme Court in case of **State vs. S. Selvi** reported in **2018(12) SCC 444**, **M. Aruunan vs. State**, reported in **2019(3) SCC 315**, **Geo varghese v. State of Rajasthan 2021(19) SCC 144**, **Ku. Pooja Chopra vs. State of Chhattisgarh** passed in **CRR No. 1213 of 2023** reported in **2023 SCC Online CHH 5411**.

5. On the other hand, Mrs. Subha Shrivatava, Panel Lawyer appearing for the State opposes the aforesaid submission advanced by learned counsel for the applicant and supports the order passed by the learned Additional Sessions Judge, Raigarh in framing of charge under Sections 306, 34, 201 of the IPC. She further submits that after going through the statement of the

witnesses recorded under Section 164 of the CrPC and records of the case, the learned Additional Sessions Judge, Raigarh has taken cognizance of the offence and framed charges against the applicant vide order dated 25.10.2017 and since the trial is pending before the learned Additional Sessions Judge, Raigarh therefore, the instant criminal revision is liable to be dismissed. He also contended that to attract Sections 306,34 201 of IPC, at the stage of charge, the Court has only to see the ingredients of Section 107 of the IPC is available on record or not which is very much available from the record, therefore, it has been prayed for dismissal of revision filed by the applicant.

6. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also perused the documents annexed with revision.
7. It is also well settled legal position of law that the parameters with regard to interference in the revision petition at the stage of framing of charge is well defined i.e. existence of prima-facie case, and at this stage, the probative value of materials on record need not be gone into by the Court. The Hon'ble Supreme Court in its earlier decisions in **the State of Maharashtra Vs. Som Nath Thapa (1996) 4 SCC 659** and **the State of MP Vs. Mohan Lal Soni (2000) 6 SCC 338** has held that the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It has also been held that

at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial. In light of the well settled legal position of law with regard to interference by this Court at the stage of framing of charge this Court has to see whether prima-facie case against the applicant is made out or not.

8. From the above stated submission the point emerged for determination for this court is whether the material so collected by the prosecution can prima-facie establish the offence of 306 IPC is made out against the applicant or not without thread bearing analysis of material so collected by the prosecution.
9. Before advertng to the factual matrix, it is expedient for this Court to go through the provisions of Section 306 IPC. Section 306 of the IPC talks about abetment to commit suicide and states that whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for term not exceeding ten years and shall also be liable to fine.
10. Abetment is defined in Section 107 and it reads as follows:-

“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.

Section 306 IPC reads as under:-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.”

11. Thus, the basis ingredient to constitute an offence under Section 306 IPC is suicidal death and abatement thereof. The Hon'ble Supreme Court has examined the offence under Section 306 IPC in the case of **Nipun Aneja and other vs. State of Uttar Pradesh reported in 2024 INSC 767** wherein the Hon'ble Supreme Court has held as under:-

15. In the decision of this Court in case of *Netai Dutta vs. State of West Bengal*, reported in (2005) 2 SCC 659, an employee of a company was transferred from one place to another. However, he failed to join. Thereafter, he sent a letter of resignation expressing his grievance against stagnancy to salary and unpleasant situation. The company accepted the resignation. Thereafter, the said employee committed suicide. He left behind a suicide note, alleging therein that Netai Dutta and, one Paramesh Chatterjee engaged him in several wrong doings. The same was alleged as, torture. The brother of the deceased filed complaint, against Netai Dutta and others under Section 306 of the IPC. A learned Single Judge of the High Court of Calcutta declined to quash the complaint. In appeal, however, this Court while quashing the complaint, at paragraphs 5 and 6 observed as under:

“5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16-2-2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306. IPC would stand only if there is an abetment for the commission of the crime. The parameters of the “abetment” have been stated in Section 107 of the Penal Code, 1860. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing : or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission taken place in pursuance of that conspiracy, or the person should have intentionally aided any act or illegal omission. The explanation to. Section 107 says that any willful misrepresentation or willful concealment of a material-fact which he is bound to disclose, may also come within the contours of “abetment” (Emphasis supplied)

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any-act or incidence where by the appellant herein is alleged to have, committed any willful act or omission or intentionally aided or instigated the deceased) Pranab Kumar Nag to committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.”

16. This Court, thereafter at para 7, inter alia, observed that:

“7.The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned single Judge seriously erred in holding that the first information report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein.”

17. This Court in *Geo Varghese vs. State of Rajasthan* and another reported in (2021) 19 SCC 144, after considering the provisions of Section 306 of the IPC along with the definition of abetment under Section 107 of the IPC, has observed as under:-

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

....

15. The ordinary dictionary meaning of the word ‘instigate’ is to bring about or initiate, incite someone to do something. This Court in *Ramesh Kumar V. State of Chhattisgarh*, (2001) 9 SCC 618, has defined the word ‘instigate’ as under:-

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”.”

16. The scope and ambit of Section 107 IPC and its co-relation with Section 306 IPC has been discussed repeatedly by this Court. In the case of *S.S. Cheena vs. Vijay Kumar Mahajan and Anr.* (2010) 12 SCC 190, it was observed 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 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.””

18 This Court in *M. Arjunan vs. State*, represented by its Inspector of Police reported in (2019) 3 SCC 315, while explaining the necessary ingredients of Section 306 of the IPC in detail, observed as under:-

“7. The essential ingredients of the offence under Section 306 I.P.C. 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, accused cannot be convicted under Section 306 IPC.”

19 This Court in *Ude Singh & Others v. State of Haryana* reported in (2019) 17 SCC 301, held that in order to convict an accused under Section 306 of the IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. It was 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.

20. This Court in Mariano Anto Bruna & another vs. The Inspector of Police reported in 2022 SCC OnLine SC 1387, Criminal Appeal No. 1628 of 2022 decided on 12th October, 2022, after referring to the above referred decisions rendered in context of culpability under Section 306 of the IPC observed as under:-

“44. ...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 their 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.”

12. Again the Hon'ble Supreme Court in the case of **Rohini Sudarshan Gangurde vs. The State of Maharashtra and Anr** in **SLP(Crl.) No. 13246 of 2023** decided on 10th July, 2024 has held as under:-

9. In *S.S. Chheena vs. Vijay Kumar Mahajan* reported 2010(12) SCC 190, this 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 (2010) 12 SCC 190 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.”

10. In *Amalendu Pal vs. State of W.B.* reported in 2010 (1) SCC 707 this 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 (2010) 1 SCC 707 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 Ramesh Kumar vs. State of Chhattisgarh 2001(9) SCC 618 while explaining the meaning of ‘Instigation’, this court stated that:

“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. Where the accused had, by his acts or omission or by a continued (2001) 9 SCC 618. 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 to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.”

13. Again the Hon’ble Supreme Court in the case of **Prabhu vs. the State Rep. By the Inspector of Police and another in SLP (Crl.) Diary No. 39981/2022 decided on 30th January, 2024** has reiterated the same legal position.

14. In light of the parameters laid down by the Hon’ble Supreme Court now the facts of the case have to be considered that the prosecution has collected Talasi Panchanama where no suicidal note ever was seized by the prosecution and even the witness nowhere stated that on the date of incident i.e. on 17.07.2017 the

applicant created a unbearable harassment or torture leading the deceased to commit suicide as the only escape. The material collected by the prosecution, particularly the statement of mother of the deceased, it is quite vivid that she has nowhere stated that by demanding fees the deceased was harassed by the applicant by scolding or by not allowing to participate in any educational programme. Even otherwise, if the deceased was studying in the school it is incumbent upon the parents to pay the fees. The material so collected by the prosecution does not prima-facie reflect that by demanding the fees the applicant has taken drastic action by removing the deceased from the school, therefore, demand of fees does not fall within the ambit of harassment to the deceased or abetment to commit suicide.

15. Thus, from the above stated discussion, it is quite vivid that the ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased. In case of psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the

person to commit suicide. After careful consideration of the facts and material collected by the prosecution the legal position is established through statutory and judicial pronouncements, as such there is no proximate link between instigate to suicide and commission of suicide, as one of the deceased sister was studying in the same school and the prosecution has failed to collect any evidence to substantiate the allegations due to non-payment of fee of another child they were tortured or removed from the school. The applicant has not played any active role or any positive or direct act to instigate or abet the deceased in committing suicide.

16. In the overall view of the matter, I am of the opinion that the applicant to trial on the charge that he abetted the commission of suicide by the deceased will be nothing but abuse of process of law, therefore, no case worth with the name against the applicant is made out. Accordingly, the revision is allowed and the order dated 25.10.2017 is quashed and the applicant is discharged from the charges levelled against him.
17. Interim order passed by this Court on 26.06.2018 is vacated.

Sd/-

(Narendra Kumar Vyas)
Judge