

MHCC020017392014



Presented on : 31.01.2014  
Registered on: 31.01.2014  
Decided on : 28.04.2023  
Duration : 9Years 2Months 29Days

**Exhibit: 444**

**IN THE COURT OF SPECIAL JUDGE, CBI FOR GR.BOMBAY  
AT BOMBAY**

**SESSION CASE NO. 83 OF 2014**  
(CNR No.MHCC02-001739-2014)

**Central Bureau of Investigation, SCB, Mumbai ... Prosecution**

**Versus**

**Sooraj Aditya Pancholi ... Accused**

**Address as per charge-sheet:**

Shanti Bhavan, 6<sup>th</sup> Floor,  
Flat No.62, Gandhi Gram Road,  
Juhu, Mumbai – 400049.

**Permanent Address:**

Magnum Opus, 103, B-Wing,  
In front of Nana Nani Park,  
Versova, Andheri (West),  
Mumbai 400 061.

**Appearances:**

Ld. SPP Mr. Manoj Chaladan alongwith Adv. Mr. Abhinav Krishna for  
CBI, SCB, Mumbai.

Ld. Adv. Mr. Prassana Patil alongwith Adv. Mr. Rahul Deshmukh and  
Adv. Mr. Praful Soni for accused.

Ld. Adv. Ms. Sairuchita Chowdhary alongwith Adv. Ms. Rhea Francis i/b  
Shekhar & Co. for original complainant.

**CORAM : H.H.SPECIAL JUDGE SHRI A.S. SAYYAD.  
CBI SPECIAL COURT, COURT ROOM NO. 52  
DATE : APRIL 28, 2023.**

**JUDGMENT**

**(Dictated and pronounced in Open Court)**

A bollywood actor namely Sooraj Pancholi alleged to have abetted to his girlfriend bollywood actress namely Nafisa @ Jiah Khan to commit suicide on 03.06.2013. He therefore, is prosecuted for an offence punishable under section 306 of Indian Penal Code (in short 'IPC') and the facing trial for said offence.

**The facts of Prosecution case :**

2. The accused namely Sooraj Pancholi happens to be a young rising actor at the relevant time. He had a girlfriend namely Nafisa Khan @ Jiah Khan (in short 'the deceased') who happened to be a young and bright bollywood actress. The deceased displayed on screen as an actress in big films such as Gazani, Nishbdh and Housefull. The deceased mother namely Rabia Khan (in short 'the complainant') is British citizen residing in London. The complainant has her own house in Mumbai wherein the deceased was staying at the relevant time. An unfortunate incident took place on 03.06.2013. On that day the deceased committed suicide hanging herself with ceiling fan in her house. At the relevant time, the complainant was at the house of her friend one Anju Mahendroo who also once upon time was an actress. It was around 11.15 p.m. that when the complainant returned to her house, she noticed some odd circumstances that the lights were on, in

all rooms. The complainant took search of all rooms and in one guest bed room, she found her daughter in hanging position with ceiling fan in her own house. The complainant thereafter, called her friend and accordingly she came alongwith one Moin Beg. They thereafter untied and got down the deceased on the bed. Dr. Agrawal was called to spot, he checked the deceased and declared her dead. Meantime, somebody called the police, accordingly, the Juhu police came to spot. They brought the deceased first to cooper Hospital where the doctors brought her declared dead.

3. Pursuant to incident, On 04.06.2013 one ADR no.61/2013 got registered with Juhu police station. Initially an investigation of the said ADR was conducted one PSI Mr. Gawade Juhu police station. During his investigation, he prepared an inquest Panchnama, spot panchnama, seizure of cloths panchnama by recording the statement of the complainant and her friend Anju. During initial investigation of ADR nothing incriminating found and therefore no any action taken against anyone.

4. It was only on 07.06.2013 for the first time, the sister of the deceased found some letter from the wallet hidden away. On that day condolence meeting was to be held for offering condolence to the deceased. The said letter was handed over to the complainant. After reading the contents of the letter, it was the complainant realized that the deceased was harassed, tortured by the accused and he had been responsible for the suicidal death of the deceased. Therefore, on 10.06.2013 the complainant lodged report with Juhu police station against the accused. It was alleged in the said complaint that the accused and the deceased were in a live in relationship since September

2012 till the incident. Everything good going on between them for the initial period.

5. According to the complainant, in February 2013 when the deceased had visited her at London, she had disclosed her that the accused does not respect her and humiliates her in public life. However, the issue created between them was later on, mutually they settled and started living together. On 03.04.2013 the complainant returned to India. The accused used to visit their house. The accused used to take the complainant and the deceased for dinner regularly. The accused had confessed before the complainant that he madly in love with deceased. The complainant had gone for dinner alongwith the accused and the deceased on more than 2-3- times.

6. It is alleged that on 18.05.2013, the deceased had left the house alongwith her bag and baggage. Thereafter, the accused had called upon the complainant and with her permission, he had visited her house. The accused informed the complainant that the deceased missed the flight and therefore she had reached his house. The accused informed the complainant about the relations between them. He also disclosed to the complainant that since he has to pursue his career seriously, he would not be able to give ample time to the deceased and therefore, she is in a depressed state of mind. The complainant informed him that she was not depressed and she is normal.

7. It is alleged that the complainant was noticed that the accused had shifted his focus from her daughter to his career. It was on that occasion that the accused had informed the complainant and asked her whether she knew that on one occasion, the deceased had attempted to commit

suicide by cutting her veins. The complainant had told him that it would be a criminal case. However, the accused informed the complainant that he had called a private doctor and they had treated her. The accused also informed the complainant that the deceased is more involved in him than her own career. The complainant warned the accused that if he wants to pursue his career, then in that eventuality, he should not have approached her or loved her.

8. On 28.05. 2013 also the complainant had told the accused that he should not play games with her. The complainant was insisting the deceased to pursue her career and focus on her career instead of the accused. On that day, the deceased had shown her mother, the massage which was given by the accused. It alleged that the complainant had allegedly cautioned her daughter against the same. On 3.06.2013 the deceased returned to the house of the complainant and informed that there was a good news and that is she would be selected by the producer who had taken audition of her dances at Hyderabad. Thereafter, the complainant and deceased went for shopping. The deceased then visited her brother, whereas the complainant went to the house of her friend namely Anju. She returned from her friends house. At about 11.15.p.m. the complainant returned home. She shocked when she saw that her daughter had hanged herself to the ceiling fan of the house. According to the complainant, deceased was harassed and tortured by the accused and he compelled the deceased to take as such extreme step. The accused is sole responsible for the death of the deceased. With these allegations the complainant filed a complaint with Juhu police station requesting to take legal action against the accused.

9. Pursuant to that, an FIR No.204/13 under section 306 of IPC was registered. He was arrested on the same day. The primary investigation of the said ADR was conducted by PSI Gawade, Juhu police station. The aforesaid crime was handed over to Ms. Kalpana Gadekar police inspector of Juhu police station. During investigation of ADR, Ms. Kalpana Gadekar received documents such as inquest panchanama Exh.267, spot panchanama Exh.308, seizure panchanama Exh.297 and cloth panchanama and statement of two witnesses namely Rabia i.e. the complainant and Anju Mahendroo. On 07.06.2013, the statement of the complainant was recorded in Hindi language.

10. The investigating officer during investigation conducted house search following house search panchanama Exh.178. The cloths of deceased, tablets of medicine (Kalms) and samples and other things which recovered in investigation from the house of deceased, sent to CFSL for examination. The diary and letter which given by the complainant and some other letter and greetings which wrote by the deceased to the accused which recovered during investigation and the same sent to hand writing expert. On 26.10.2013 on the request of the complainant, again a statement of complainant was recorded in English which was dictated by Senior P.I. Bhagar and typed by investigating officer.

11. On 29.10.2013 two mobile phones of deceased and accused and two I-Pads and one laptop sent to CFST for examination. Near about 20-22 persons statement were recorded. The viscera which was preserved by the Doctor at the time of postmortem of the deceased was sent to CFSL for examination. The investigating officer sent multiple letters to CFSL and J.J. Hospital regarding postmortem of the deceased. After

completion of investigation a charge-sheet was filed against the accused in 10<sup>th</sup> ACCM Court, Andheri, Mumbai on 10.06.2014.

12. After the filing of charge-sheet by the investigating officer of Juhu police station, the complainant filed a criminal writ petition in the Hon'ble High Court requesting to hand over/transfer the investigation to SIT/FBI with a specific direction to re-investigate the matter to carry out further investigation and probe it from the point of view of homicidal death rather than suicidal death. Accordingly, the said criminal writ petition was allowed and investigation is transferred from Juhu police station to CBI.

13. Pursuant to that, on 13.08.2014, CBI registered the case in CR.No.204/13 of Juhu police station as RC.7/S/2014-Mum for further investigation. The investigation of the said case was entrusted to Senior Inspector of Police Mr. Rampiyare Gopinath Rajbhar on 22.08.2014. He received documents from Juhu police station under seizure panchanama. During the investigation on 22.08.2014, he visited scene of occurrence alongwith his HOB and colleague officers.

14. The investigating officer prepared seizure panchanama over there and seized some articles under seizure panchanama. The investigating officer prepared detailed spot panchanama under signature of panch witnesses. All the seized material kept in his custody in sealed condition and thereafter on 08.09.2014 he received some documents from Juhu police station which contains original ADR register, station diary, one magnetic micro video cassette recording postmortem, one CD containing CCTV footage of Novatel Hotel, one file containing medical report of the deceased. On 13.09.2014 he already seized materials send to CFSL for examination under covering letter.

15. On 16.09.2014 he collected one sealed envelope containing compact disc containing photograph of postmortem and one compact disc containing CDR and SDR seized by Juhu police station under seizure memo under his signature. On 18.03.2015 he collected some documents from Dr. Rahul Datta under receipt memo. On 09.04.2015 the letter sent to Chairman of Medical Board, Department of Forensic, PGIMER, Chandigarh alongwith all concerned documents alongwith medical report. On 13.05.2015, under search warrant, he searched premises of the accused and his father.

16. On 14.07.2015 he sent letter to SSHO, CFL for analysis of the documents. Letter is signed by HOB and questionnaires and specimen handwriting. On 17.07.2015 he sent letter to Sr. Scientific Aid Unit, CFSL, Navi Mumbai regarding statement of analysis of deceased letter. On 19.08.2015 he collected original patient agreement for medical documents from Dr. Sejal Viral Desai under seizure memo. Collected statement of Rahul Datta under section 164 of Cr.P.C., Finally he collected medical report and documents related to deceased from J.J. Hospital containing DNA report, nail clipping report, blood grouping, viscera etc. and the opinion of final cause of death of the deceased. The final cause of death of deceased was Asphyxia due to hanging (unnatural).

17. During his investigation, he examined certain witnesses recorded detail statements. After his investigation, he filed supplementary final charge-sheet for the offence under section 306 of IPC against the accused.

18. Since the offence under section 306 of IPC is exclusively triable by the Court of Sessions, the Ld. 10<sup>th</sup> ACCM Court, Andheri, Mumbai has



committed the same to Court of Sessions on 16.01.2014. The CBI submitted the supplementary final charge-sheet on 09.12.2015 directly in the Court of Sessions in session case no. 83 of 2014 requesting to take cognizance of the said offence.

19. A charge Exh.132 came to be framed by my Ld. Predecessor against the accused for the offence punishable under section 306 of IPC. The contents of the charge were read over and explained to accused in his vernacular. The accused refuted the charge and claimed trial.

20. To prove charge, the prosecution has examined total 22 witnesses. They are follows:

<b>PWs</b>	<b>Witness</b>	<b>Exhs.</b>	<b>Status</b>
1	Laxman Ramratan Das	177	Panch witness
2	Kolady Swapna David	263	Film Producer
3	Dr. Sejal Viral Desai	264	Treating Doctor
4	Anjali D'Cunha	271	Associate Producer
5	Dr. Vivek K. Jain	275	Treating Doctor
6	Dr. Ramesh K. Agrawal	278	Treating Doctor
7	Rahul Surinder Dutta	279	Treating Doctor
8	Anju Mahendroo	292	Friend of complainant
9	Karan Joshi	293	Mutual friend of the accused and deceased
10	Maneka Harsinghani	294	Fashion Stylist
11	Rahul Ajay Jhangiani	295	Dropped by prosecution
12	Faizan Ghajanfarali Khan	356	Cousin of the deceased
13	Dr. Bhalchandra Gopinath Chikhalkar	357	Doctor on postmortem

14	Surinder Rameshwar Paswan	361	Watchman
15	Dr. Ranjeeta Kumari	370	CFSL witness
16	Rabia Amin Khan	378	The Complainant
17	Sachin Kurhekar	386	CFSL witness
18	Dr. Murali G.	390	Witness on Forensic Medicine PGIMER
19	Kavita Bhakar	398	Sister of the deceased
20	Sonali Mestry	412	Scientific officer
21	Kalpna Yashwant Gadekar	416	1 <sup>st</sup> I.O. of State
22	Rampiyare Gopinath Rajbjhar	431	2 <sup>nd</sup> I.O. of CBI

21. Prosecution has relied upon the following documents :

<b>Nos.</b>	<b>Documents</b>	<b>Exhs.</b>
1	House search panchanama of accused	178
2	Lable on I-pad (Art.D)	179
3	D-65, page 2 consent form for medical abortion	265
4	D-65, page 1 seizure memo	265/1
5	D-68, page nos. 2 to 9	266 colly
6	Page no. 114 of charge-sheet	272
7	Page no. 115 of charge-sheet	273
8	Page nos. 109 to 113 of charge-sheet	274
9	D-68, page no.1 of seizure memo	276
10	Documents of Exh.266 colly	277 colly
11	D-67, page nos.1 to 7	280
12	Postmortem report page nos.49 to 55	358
13	D-57 (page 1)	371
14	D-61, page nos. 1 to 5	372 colly
15	D-62, page nos. 1 to 9	373 colly
16	D-60, page nos. 1 and 2	374
17	D-63, page nos. 1 to 9	375 colly

18	X colly for identification (3 pages notes)	380
19	X colly for identification (8 pages notes)	381 colly
20	Diary	382
21	Note Book	383
22	S-20 & S-21 (X colly for identification in P.W.1)	387 colly
23	D-66 (opinion page nos. 1 to 4)	388
24	D-66 (covering letter)	389
25	D-53 (page nos. 1 and 2)	391
26	D-48 Report (page nos. 1 to 9)	413
27	D-3 (page no.3)	417
28	FIR alongwith complaint (page nos.18 to 25 of police charge-sheet)	418 colly
29	Panchanama dated 29.10.2013 (page nos.38 to 45)	420
30	Letter dated 05.06.2013 (page nos. 219 and 220)	421
31	Letter dated 15.06.2013 (forwarding letter alongwith questionnaires, page nos.258 to 263)	422 colly
32	D-1, page nos. 1 to 6 (FIR)	432
33	D-58 (page nos. 1 to 6)	433 colly
34	Portion marked A in statement of P.W.10	434

### MUDDMAL ARTICLES

1	Two handwritten notes written by deceased one is on full scape size notebook paper and one is on red colour paper.	A colly
2	One letter written in pencil on page of spiral binding diary top of with word is written as "SDIPA"	B
3	Vaio Sony Company laptop	C
4	Bunch of handwritten papers	X colly for iden
5	I-pad of Apple company	D
6	2 CD's	M colly
7	Total 11 pages of notes or letter (for identification)	X1
8	Cream colour leggings	N

9	Underwear	O
10	Nighty	P
11	White colour dupatta	Q
12	Quilt	R
13	Quilt	S
14	Cylindrical pillow	T
15	Cylindrical pillow	U
16	One ceramic essence burner	V
17	Apple I-pad alongwith charger with black cover	W colly
18	2 Black berry mobiles alongwith 2 SIM cards and 2 memory cards	X colly
19	Brown colour package	Y
20	Hard-disk	Y-1
21	Green Envelope	Y-2
22	Sim card	D-1
23	1 laptop power adapter and 1 mobile phone charger	Z colly

22. Following documents are admitted by defence :

<b>Nos.</b>	<b>Documents</b>	<b>Exhs.</b>
1	Inquest panchanama	267
2	Information sheet page no.90 of charge-sheet	281
3	Documents page nos. 91 and 92 of charge-sheet	282 colly
4	Portion mark A in the statement of P.W. 7	283
5	Portion mark B in the statement of P.W. 7	284
6	Panchanama dated 04.06.2013	297
7	D-54 search list	300
8	D-55 search list	301
9	D-56 search list	302
10	D-4 Report of death of patient vide indoor No.25193 of Cooper Hospital, Mumbai alongwith OPD form (Original)	304

11	D-5 Request letter address to the medical officer of Cooper Hospital to hand over the body of Nafisa @ Jia Khan for post mortem dt.04.06.2013 (Carbon Copy)	305 colly
12	D-6 Request letter to the medical officer of JJ Hospital to conduct post mortem on the body of Nafisa @ Jia Khan dt.04.06.2013, Form-2 (Carbon Copy)	306
13	D-7 Receipt letter about body of Nafisa Amin Khan handed over to Smt. Rabiya Khan, the mother of deceased for final rites' dt.04.06.2013, Form-5 (Original)	307
14	D-10 Spot panchnama dt.04.06.2013, page no.26 of Police Charge-sheet	308
15	D-11 Provisional cause of advance certificate, page no.62 of CBI document file.	309
16	D-12 Letter sent from the Autopsy Surgeon, FMT, GGMC, Mumbai to the Chemical Analyzer Mumbai, page no.71 of CBI document file	310
17	D-13 Finger print opinion report of SOC dt.04.06.2013, CBI document file	311
18	D-14 Letter sent by Juhu Police Station to Jet Airways to collect the information of Jia Khan travel to Hyderabad and return to Mumbai on 01.06.20013 alongwith details of flight	312 colly
19	D-16 Letter sent to CFL Mumbai, by Juhu Police Station to analyze wearings of deceased and tablets i.e. "Kalms" dt.13.06.2013, page no.235 of Police Charge-sheet	313
20	D-17 Final cause of death certificate dt.05.08.2013, page no.56 of Police Charge-sheet	314
21	D-18 Examination report of nail cutting of deceased collected by Juhu Police Station vide M.L. Case No.B-3256/13 dt.16.08.13, page no.221 of Police Charge-sheet	315
22	D-19 Examination report of blood vide ML Case No.B-3257/13 dt.16.08.13, page no.223 of Police Charge-sheet	316

23	D-20 Examination report of Rectal Swab vide ML No.B-3258/13 dt.16.08.13 page no.225 of Police Charge-sheet.	317
24	D-21 Examination report of Vaginal Swab vide ML No.B-3259/13 dt.16.08.13, page no.227 of Police Charge-sheet	318
25	D-22 Examination report of Viscera vide ML No.A-2110/13 dt.03.07.13, page no.231 of Police Charge-sheet	319
26	D-23 Examination report of tablets and stained clothes vide ML No.A-2250/13 dt.16.08.2013 page no.240 of Police Charge-sheet	320
27	D-24 Examination report of wearing of deceased and tablets vide ML Case No.B-3409/13 dt.16.08.2013, page no.238 of Police Charge-sheet	321
28	D-25 Letter sent to FSL Mumbai regarding analysis of blood stain recovered from SOC by Juhu Police Station, Mumbai dt.31.10.2013 vide OW No.9146/13, page no.244 of Police Charge-sheet	322
29	D-26 Examination report (DNA) of nail clipping vide ML Case No.DNA-1327/13 dt.22.11.2013 addressed to the Autopsy Surgeon, JJ PM Center, Mumbai by CFS, Mumbai, page no.249 of Police Charge-sheet	323
30	D-27 Examination report of cloth stain piece of mattress vide ML Case No.DNA-1325/13 dt.22.11.2013, page no.252 of Police Charge-sheet	324
31	D-28 Examination report of blood stained filter paper vide ML Case No.DNA-1405/13 dt.22.11.2013, page no.254 of Police Charge-sheet	325
32	D-32 Questionnaire letter sent to the Medical Officer, JJ Hospital, Mumbai by the Juhu Police Station Mumbai dt.13.06.2013, page no.267 of Police Charge-sheet	326
33	D-33 Reply received on the questionnaire from the Medical Science Department of J.J. Hospital vide OW No.612/13 dt.15.06.2013, page no.268 of Police Charge-sheet	327
34	D-34 Questionnaire sent by the previous IO of Juhu	328

	PS to the Chemical Analyzer FSL, Kalina, Mumbai vide OW No.9146/13 dt.31.10.2013, page no.269 of Police Charge-sheet	
35	D-35 Reply received addressed to the PI of Juhu PS from the Directorate of Forensic Science Laboratory, Mumbai vide No.7127/13 dt.13.11.2013, page no.271 of Police Charge-sheet	329
36	D-36 Letter sent by the Sr. Inspector of Police of Juhu PS to the FSL, Mumbai for analysis of mobile phones, I-pads and laptop vide OW No.5115/13 dt.17.06.2013, page no.274 of Police Charge-sheet	330 colly
37	D-37 Analysis report received addressed to the Sr. Inspector of Police from FSL, Mumbai vide No.MS(S) 1179/13 dt.17.06.2013, page no.277 of Police Charge-sheet	331
38	D-38 Letter addressed to the Police Surgeon of Nagpada Police Hospital, Mumbai from PI of Juhu PS, Mumbai to collect blood sample of Suraj Pancholi for grouping vide OW No.9107/13 dt.30.10.2013, page no.293 of Police Charge-sheet	332
39	D-39 Medical examination certificate of accused vide No.46-A/12-1/2013 dt.30.10.2013, page no.295 of Police Charge-sheet	333
40	D-40 A form addressed to the Chemical Analyzer, Mumbai by the Police Surgeon of Nagpada Police Hospital vide No.46A/1201/2013 dt.30.10.2013, page no.297 of Police Charge-sheet	334
41	D-41 Seizure memo dt.22.08.2014 about taken over of the documents and articles related to the case from Juhu PS	335
42	D-42 Seizure memo dt.24.08.2014 relating to the seizure of Two Duvets (Razai), two pillows and a ceramic burner from SOC	336
43	D-43 Seizure memo dt.24.08.2014 relating to the seizure of DVR for the secretary of Sagar Sangeet apartment	337
44	D-44 Proceedings of spot panchnama dt.24.08.2014	338
45	D-45 Seizure memo dt.08.09.2014 relating to the	339

	seizure of original ADR register, station diary and other material form the Juhu PS	
46	D-46 Letter sent alongwith forwarding note and certificate of authority forwarded to the Director of CFSL, Gandhinagar, Gujarat vide OW No.4407/14 dt.13.09.2014 to analyze and report of Duvet and Pillows	340 colly
47	D-47 Seizure memo dt.16.09.2014 relating to the seizure of one compact disk containing video of post mortem and one compact disk containing CDR's relating to the case	341
48	D-48 Authority letter sent to the Addl. Director, FSL Kalina, Mumbai alongwith authority letter vide OW No.4479/14 dt.16.10.2014 to collect the analysis report of mobile phone, I-pad and laptop	342
49	D-49 Letter received from the Department of Forensic Medicine, Grant Goct. Medical Hospital, Mumbai alongwith certified xerox copy of postmortem reg. Place No.120 and Central Dead Body Register Vide No.FM/1691/2014 dt.09.12.2014	343 colly
50	D-50 Forensic examination report of Duvets and Pillows received from FSL Gandhinagar, Gujarat vide No.DFS/EE/2014/DNA/331 dt.10.10.2014	344 colly
51	D-51 Receipt memo dt.18.03.2015 relating to seizure of information sheet of patient Nafisa Rizvy and one half written sheet signed by Jiah Khan	345 colly
52	D-52 Letter sent to the Chairman of Medical Board, Department of Forensic Medicine, PGIMER, Chandigarh alongwith concerned reports and video of post mortem for opinion vide OW No.1330/15 dt.09.04.2015	346 colly
53	D-53 Panchnama proceedings dt.17.04.2015 relating to create working copy from the data sent after analysis of mobile phones and I-pad of accused and deceased from FSL Kalina, Mumbai (page nos.3 and 4)	347
54	D-64 Opinion report of Post Graduate Institute of Medical Education and Research, Chandigarh vide	348 colly



	No.EV(9)PGI-MS-63/2015 dt.14.07.2015	
55	D-69 Seizure memo dt.05.11.2015 collecting passport of Suraj Pancholi from the messenger of Juhu Police Station, Mumbai	349
56	D-70 Report dt.05.11.2015 received from Shri. R.S. Joshi, HC alongwith analysis report of FSL, Gandhinagar, Gujarat about mobile phones dt.14.10.2015	350 colly
57	D-71 Letter received from Sir JJ hospital, Mumbai alongwith the medical reports of deceased vide OW No.FMT/1384/14 dt.22.09.2014	351 colly
58	D-72 CDR of Nafisa Rizvy @ Jia Khan, the deceased	352
59	D-73 CDR of Suraj Pancholi, the accused	353
60	D-74 CDR of Rabiya Khan	354
61	D-75 CDR of Smt. Neelkamal Soni	355
62	Art.X-1 from Q1 to Q6	377
63	Four signatures of the complainant	384 colly
64	D-59 requisition letter dated 15.07.2015 alongwith Annexures A, B and C (page nos.1 to 5)	393 colly
65	Circular dated 05.01.2021 issued by Under Secretary to the Govt. of India, Ministry of Home Affair, Human Safety Division	395
66	Statement of complainant dated 03.06.2013	423
67	Portion marked A, E and G of statement of complainant dated 07.06.2013	424 colly
68	Remand report dated 11.06.2013, page nos. 209 to 211	425
69	Remand report dated 13.06.2013, page nos. 205 to 207	426
70	Portion marked A and B of statement of P.W.19	429 colly
71	Portion marked A of statement of P.W.21	435

**Following muddemal articles are admitted by defence :**

1	Black colour hard disk alongwith USB cable	E colly
2	One copper jug with cap cover	F colly
3	One glass box (empty)	G
4	One heart I-con candle of black colour	H
5	One black Budda clay statue	I
6	One ring with black stone	J
7	One candle stand	K
8	Pendent cross white gold with black diamond	L

23. On closure of evidence, the prosecution filed evidence closure pursis vide Exh.437. The accused called upon to explain the incriminating circumstances under section 313 of Cr.P.C. vide Exh.438 which transpired against him through evidence of witnesses. The accused filed his additional written statement in support of his defence vide Exh.438-A. The accused in support of his defence, did not lead any evidence. However, the defence of the accused throughout was of total denial and false implication at the instance of the complainant. The accused expressed his innocence stating he is a victim at the instance of the complainant as his entire career ruined because of this false case and claimed for acquittal for the charge as alleged against him.

24. Heard Ld. SPP Mr. Abhinav Krishna for CBI, SCB and Ld. Advocate Mr. Prassana Patil at the length of considerable time. Besides the oral arguments, both the sides filed their written notes of argument vide Exh.440 colly and Exh.442 respectively. The Ld. Advocate Ms. Sairuchita Chowdhary for the complainant has filed written notes of argument vide Exh.443. Both the sides relied upon citations as per index shown in application.

25. The points for consideration:

Sr. No.	Points	Findings
1.	Whether Nafisa Khan @ Jiah Khan met with a suicidal death?	Yes
2.	Whether the accused abetted the deceased Nafisa Khan @ Jiah Khan to commit suicide ?	No
3.	What order?	As per final order

### REASONS

#### As to point no.1:

26. At the very outset, it would relevant to mention some undisputed facts. The deceased and the accused were in a live in relationship and living together since September 2012 onwards till before incident in question. The alleged incident took place on 03.06.2013. The cause of death of the deceased as shown in postmortem report as Asphyxia due to hanging (unnatural). Besides the factual aspects, the defence undisputed the documents such as, the spot panchanama Exh.308, inquest panchanama Exh.267, postmortem report Exh.358, ADR Exh.417, cloth seizure panchanama Exh.297, final cause of death and other documents as described in para 22 of judgment. What disputed in the case by the accused is that he cannot be held responsible for the alleged incident stating he never and ever abetted the deceased to commit suicide.

27. Since inception, it is the case of prosecution that the deceased had committed suicide and it is unnatural death. The said fact is not

disputed by the defence. However, the complainant disputed the cause of death saying it is murder case and not suicide case through various legal proceedings up to Hon'ble Supreme Court and through her evidence as well. Hence, this aspect become crucial to examine minutely and carefully whether there is any substance as alleged by the complainant with the help of oral as well documentary evidence. The very fact of suicide by the deceased founds to be corroborated by the evidence of P.W.13 Dr. Bhalchandra Gopinath Chikhalkar Exh.357. The said witness conducted postmortem examination of the deceased on 04.06.2013 alongwith expert team. The said witness in his evidence stated that he himself and other Doctors had conducted postmortem on 04.06.2013 between 09.00 a.m. to 11.30 a.m.

28. On examination of dead body, they found a ligature mark situated around neck above thyroid cartilage just below chin and upper part of neck region. Total length of ligature mark was 30 cm the direction of ligature mark was horizontal in center at it extends on right lateral side of neck backwards slightly downward going posterior towards occipital region then on posterior part of neck upto occipital protuberance intermingling with posterior hair line over nape of neck, with deficient area of 8 cms on right lateral part from midline where it is developed superficially. The direction of left side from midline is laterally going backwards, slightly downwards till lateral. End of sternomastoid from where extending posteriorly slightly upwards towards occipital protuberance intermingling with posterior hair line on nape of neck.

29. The ligature mark shows upper and lower border prominent with reddish in colour. In between these prominent borders skin is pale. The

breadth of ligature mark in center is 3.5 cm, on right lateral side 3 cm, on left lateral side 3 cms and on posterior 3.5 cm.

30. Situation and dimension – The ligature mark situated at center 5 cms below chin (upper margin) and 14 cms above suprasternal notch (lower margin), on right lateral side 3 cms below right ear lobule (upper margin) and 13 cms above right shoulder blade (lower margin) on left lateral side 3.5 cms below left ear lobule (upper margin) and 14 cms above left shoulder blade (lower margin) posteriorly upper border intermingled with hair line and lower border 4 cms below hair line.

31. Colour of ligature mark is reddish with prominent upper and lower margins. At places skin under ligature mark is abraded prominent over center, left lateral side of neck and over area of 3.5 cm x 1 cms from center of neck extending towards right lateral side below chin with reddish colour. Also on right lateral side skin abraded under ligature mark linear of size 0.7 cms.

32. At center of neck adjacent to upper border of ligature mark, an oval pale area noted over submentum region of size 7 cms x 4 cms which surrounded with abraded skin of oval shape, reddish measuring of 14 cms circumference. This oval shaped abrasion is intermingling and merging with 4 cms of upper border of ligature mark at center. The colour and texture of this abraded area is similar to that of abraded area of prominent ligature mark on neck.

33. The whole ligature mark is reddish with parchmented and abraded skin as described above. And in between upper and lower border skin is pale and oedematous. Lips are cyanosed. Abraded small areas of ecchymosis of 0.3 cm present on lower lips at two places.

34. On examination of dead body the following internal injuries were found. On dissection of neck underneath skin is peppery, parchmentised, abraded and prominently felt at upper and lower border of ligature mark. On removal of skin flap of neck muscles the underlying soft tissues appears congested. No haemorrhages within the soft tissue muscles. Carotid sheath intact. Intima of carotid artery intact. Hyoid bone, thyroid cartilage, cricoid cartilage and tracheal rings intact, no fracture. Congestion and oedema of larynx and pharynx. Submandibular gland intact.

35. On dissection of cranial cavity, vessels congested brain intact, congested, edematous. All dissection of thorax cavity both lungs were intact. Thorax congested. Heart myocardium shows petechial hemorrhages. Coronaries intact patent. No atherosclerosis plaque at root of aorta. On detection of abdomen cavity no free fluid desophagus mucosa congested, stomach intact, 300 cc yellowish fluid present with fruitish smell perceived, no identifiable food particles, mucosa congested. Small and large intestine were partly loaded with feces and gas. Liver congested, pancreas and suprarenals severaly congested, spleen congested, kidneys - both kidneys were intact, congested cortico medullary junction well demarcated. Organs of generation uterus empty; normal size, endometrium in menstruating phase ovaries congested.

36. This witness further stated that accordingly they conducted postmortem and provisional cause of death was given evidence of ligature mark on neck, however, final opinion reserved pending for accessory examination report. During examination they have preserved for viscera for chemical analysis. Tissues for histo-pathological

examination, nail clipping, rectal, vaginal swab and blood. Samples were labeled and sealed and sent for chemical analysis through police.

37. During postmortem examination they have recorded photography and videography also photographs of it. During hanging as a terminal event and movement and friction with teeth it may be possible. There is postmortem staining. They have not found any injury which is suggesting assault and struggle injury. 52 ml / 100 ml of alcohol blood level was noted with these level person will not be under influence of alcohol or he can be capacitated. In nail clipping report no foreign tissue or object was found.

38. In pathological status the weight of the organ will altered they have not found any such ultration and it is not mentioned in postmortem report. **In their examination, they have not found any finding suggestive of homicidal hanging. External examination, corresponding internal examination and chemical analysis reports are suggestive or hanging of suicidal in nature.**

39. The above referred evidence supported by the medical evidence makes it clear that Jiah Khan @ Nafisa Khan died due to hanging and not as stated by the complainant in evidence. In the circumstances, I hold that Jiah Khan @ Nafisa Khan met with a suicidal death and answer point no.1 in the affirmative.

**As to point no.2: (Abetment):**

40. According to prosecution, the accused acted in such a manner with the deceased pursuant to that the deceased had left no option

except to commit suicide. The genesis of the present case originates the abetment at the instance of the accused to the deceased to commit suicide.

41. The Ld. SPP for the prosecution vehemently submitted that the prosecution has successfully proved the guilt of the accused beyond all reasonable doubts. The evidence available on record proves that the accused was harassing and torturing the deceased, due to such act of the accused, the deceased was nervous and unhappy. The accused continuously ill-treated the deceased and constantly abetted the deceased to commit suicide. Due to continuous abetment at the instance of the accused, the deceased had no left any other option except to commit suicide. The accused therefore is responsible for the suicidal death of the deceased. The Ld. SPP while buttressing his contention, relied upon the following case laws.

1. *Mariano Anto Bruno & Anr. Vs. The Inspector of Police (Criminal Appeal No. 1628 of 2022)*
2. *Ude Singh & Ors. Vs. State of Haryana (2019) 17 SCC 301*
3. *C. Munjappan v. State of T.N. (2010) 9 SCC 567*
4. *Neeraj Dutta vs. State (Govt. of N.C.T. of Delhi), (judgment dated 15.12.2022)*
5. *Sharad Birdhichand Sarda vs. State of Maharashtra*
6. *Murari Lal s/o Ram Singh vs. State of Madhya Pradesh AIR 1980 SC 531*
7. *Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi) Criminal Appeal No. 1473 of 2009.*

In view of the above citations, the Ld. SPP submitted that the accused deserves to be convicted and sentenced in accordance with law.



42. As against this, the Ld. Advocate for the accused vehemently argued that this is a unique case in which the complainant herself destroyed the case of prosecution. The complainant disowned from her own statements given before investigating agencies. For the sole reasons as above, the case of the prosecution comes under the shadow of doubt and consequently, the prosecution fails to establish the charge against the accused beyond reasonable doubts. It is further submitted that there is no evidence at all available on record which shows that the accused at any point of time ever abetted the deceased to commit suicide. It is further submitted that the case of the prosecution throughout regarding the suicidal death of the deceased. However, the complainant herself contradicted the case of prosecution stating that it was murder case. The complainant denied the fact that her statement was recorded by both the investigating agencies as per her say in which the complainant stated the death of the deceased was suicidal. No any prosecution witness has whispered a single word about the abetment at the instance of the accused to deceased. There is sufficient evidence came on record which shows that at the time of incident and before that long time the deceased was under depression because of her previous relations with one Mr. Jaydeep and Mr. Alex. There is no evidence on record to show the accused was held responsible for the pregnancy of the deceased. The letters which allegedly wrote by the deceased are doubtful as these were not found at the initial investigation in ADR by PSI Gawade on the very date of the alleged incident. The recovery regarding the said letters are doubtful. There is a serious doubt regarding the authorship of the said letters. The evidence of the various CFSL witnesses is not helpful as their evidence do not suggest the involvement of the present accused. There is a sufficient evidence came on record which shows that the deceased was a victim of her sentiments. There is no absolutely

evidence on record to show the accused committed the alleged offence. While buttressing his contention, the Ld. Advocate for the accused relied upon the following case laws:

1. *Gangula Mohan V. State* 2010 Cr.L.J. 2110
2. *Sohan Raj V. State* (2008) SCC 215
3. *Goura Venkata Reddy V. State* (2003) 12 SCC 469
4. *Shri Ram V. State* (AIR 1975) SC 175
5. *Sanju V. State* (2002) 5 SCC 371
6. *Rameshkumar V. State of Chattisgarsh* (2001) 9 SCC 618
7. *Swami Pralhaddas V. State of MP* (1995) Supp (3) SCC 438
8. *Mahendrasingh V. State of MP* (1995) Supp (3) SCC 731
9. *M. Mohan V. State* (2011) 3 SCC 626
10. *S.S. Chheena V. Vijay Kumar Mahajan* (2010) 12 SCC 190
11. *Madan Mohan Singh V. State of Gujrat* (2010) 8 SCC 628
12. *Geo Varghese V. State of Rajasthan* AIR 2021 SC 4764
13. *Mariano Anto Bruna V. Inspector of Police* AIR 2022 SC 4994
14. *State of Maharashtra V. Rajendra Kashirao Bhujade* 2017 (2) ABR (CRI) 692
15. *Balasaheb Ganpati Jadhav V. State of Maharashtra* (2016) 4 Bom CR (CRI) 321
16. *Suresh Purushottam Ashtankar V. State of Maharashtra & Anr* (2016) 4 Bom CR (CRI) 375
17. *Sooraj Pancholi V. State of Maharashtra – Bail Application No. 992 of 2013.*

In view of the above citations, the Ld. Advocate for the accused submitted that this is quite perfect acquittal case. The prosecution is miserably failed to establish the charge as alleged against the accused beyond the reasonable doubt.

43. Having heard both the sides at the length of considerable time. I have carefully gone through the case laws cited supra. I have also carefully gone through the written notes of argument submitted by both the sides.

44. At this juncture, before I shall proceed to consider the evidence of prosecution, it would profitable and most relevant to consider the various case laws of the Hon'ble Apex Court wherein the essential requirements laid down while establishing the offence under section 306 of IPC. In the matter of **Kashibai and Ors. vs. The State of Karnataka MANU/SC/0187/2023 dated 28.02.2023** and in the matter of **Mariano Anto Bruno and Ors. vs. The Inspector of Police**, the Hon'ble Apex Court given necessary requirements to convict the accused for offence under section 306 of IPC.

45. In **Mariano Anto Bruno and Ors. vs. The Inspector of Police, MANU/SC/1310/2022 dated 12.10.2022** in para 22 and 23, the Hon'ble Apex Court laid down the essential ingredients of section 306 of IPC.

Para 22: Section 306 of Indian Penal Code reads as under:

306. Abetment of suicide: It 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.

23. Abetment is defined under section 107 of Indian Penal Code which reads as under:

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 caused or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

2. Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.

46. While analysing the provision of section 306 of Indian Penal Code alongwith definition of abetment under section 107 of Indian Penal Code, the Hon'ble Apex Court its Hon'ble two Judges Bench in **Geo Varghese vs. State of Rajasthan and Anr. MANU SC/0785/2021** has observed in para 13 as under:

In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under section 309 of Indian Penal Code. The abetment of suicide by anybody is also an offence under section 306 Indian Penal Code. It is further held that though Indian Penal Code does not define the word 'Suicide' but the ordinary dictionary meaning of suicide is 'self killing'. The word is derived from a modern Latin word 'Suicidium', 'Sul' means 'oneself' and 'cidium' means

'killing'. Thus, the word suicide implies an act of 'self killing'. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

47. Section 306 of Indian Penal Code makes abetment of suicide a criminal offence and prescribes punishment for the same. The ordinary dictionary meaning of the word 'instigate' is to bring about or initiate, incite someone to do something. Instigation is to goad, urge forward, provoke, incite or encourage to do an act.

48. The scope and ambit of section 107 Indian Penal Code and its correlation with section 306 Indian Penal Code has been discussed repeatedly by the Hon'ble Apex Court in the case of **S.S. Cheena vs. Vijay Kumar Mahajan and Anr.** MANU/SC/0585/2010, it was observed as under:

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 Hon'ble Apex 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.

49. The ingredients of section 306 Indian Penal Code have been extensively laid out in **M. Arjunan v. State, represented by its**

**Inspector of Police MANU/SC/1469/2018** which are as under:

- (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 Indian Penal Code.

In order to convict an accused under section 306 Indian Penal Code, the state of mind to commit a particular crime must be visible with regard to determining the culpability. In the matter of **Ude Singh and Ors. vs. State of Haryana MANU/SC/0963/2019**, the Hon'ble Apex Court observed as under:

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 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 convicting 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 persons would not suffice unless there by 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.

50. 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 the Hon'ble Apex Court in the various decisions, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the person 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 of Indian Penal Code. 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 behavior, 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.

51. In the backdrop of law laid down as above, let us examine the evidence produced on record. It is seen that the alleged incident took place on 03.06.2013 around 11.00 p.m. and the same is not disputed. The first person who saw the deceased in hanging position is the mother of the deceased i.e. Rabia Khan P.W.16 the complainant. After having seen the incident, the complainant P.W.16 has made call immediately to her friend P.W.8 Anju Mahendroo who later on reached to the spot of incident alongwith one Moin Beg.

52. The body of the deceased was later on got down by Moin Beg with the help of the complainant and her friend Anju Mahendroo. The complainant, when reached to house on 03.06.2013 and when she found her daughter hanging position with ceiling fan with muslin dupatta, at that time, no any other person was present in the house. There was no any direct witness on the point of the alleged incident. However, on the point of first seen theory to the deceased, there are three material witnesses such as P.W.16 complainant, P.W.8 Anju Mahendroo and Moin Beg whose evidence stand scrutiny to arrive the proper conclusion of this case. It is a matter of record that the statement of these witnesses were recorded by both the investigating agencies i.e. the State I.O. and the CBI I.O. on various times. As per evidence of the complainant P.W.16 and her friend P.W.8, when they saw the deceased she was no more. However, after sometime, Dr. Ramesh K. Agrawal officially declared her dead.



53. It is also not disputed the fact that soon after incident immediately, Juhu police station reached to scene of occurrence as somebody informed them about incident. They started investigation by registering ADR no. 61/13. initially one cop Gawade of Juhu police station conducted investigation in ADR and done various panchnamas soon after registration of ADR on 04.06.2013. He conducted house search of the deceased and collected the articles under search panchnama. However, at that time, he did not find any incriminating from the spot. Later on, the investigation of the case was carried out by P.W.21 Ms. Kalpana Gadekar who during investigation collected relevant evidence by recording statement of various witnesses. During investigation, statement of the complainant was recorded on various times i.e. 04.06.2013, 07.06.2013 and 10.06.2013.

54. As per the evidence of P.W.16 the complainant, when she landed in Mumbai in September 2012, she came to know about the relationship of the accused and the deceased and she saw the accused for the first time then and there. It is her evidence that at that time, the accused offered her welcome bouquet. The journey of the relationship of the accused and the deceased appears to be from September 2012 till before incident. This mean that there was shorter time relation of approximately 10 months between the deceased and the accused.

55. The complainant in her evidence stated that when the deceased had come to London for celebrating Christmas in end of September 2012, she stated about the accused that the accused used to abuse and once he thrown her from the car. Thereafter, the accused and deceased settled their issue and again started living together. One another incident which stated by the complainant in her evidence is that the

accused and the deceased had been to Goa, there also the accused put her down before others and flirted her in front of others. The complainant stated that the accused was manipulative and creating false story of depression regarding the deceased.

56. The complainant stated in her evidence and tried to show that the deceased was protective and sharp girl who will never commit suicide. Her evidence reflected that she was happy in her life and was making good money from her work. Since the deceased was happy with her career, therefore she was not depressed and could not commit the suicide.

57. The complainant though tried to show that deceased was happy and was not in depression but the evidence of other witnesses reflects somewhat different. According to P.W.4 Anjali D'cunha, Associate Producer, the deceased has acted in films such as Gajani, Housefull and Nishabdh. However, the said witness in her cross examination admitted that post the deceased joining Kwan Company, the deceased never got big banner movie. The primary deceased was no happy with the roles that was offered her. The deceased was struggling for a good position in film industry. She was not happy about the situation of roles of her career.

58. The aforesaid facts found to be corroborated by the evidence of P.W.21 Ms. Kalpana Gadekar who was the first investigating officer stated that during investigation dated 11.06.2013 and 13.06.2013, it was revealed that the deceased did not get job, because of her under weight, by the producer of Hyderabad. P.W.21 further in her cross examination stated that she has recorded statement of Mr. Anilban Das

Bla for the reason that in the year 2012, the deceased was not having work and for getting work whether she met Mr. Bla. The reason behind to record the statement of Dr. Rahul Dutta as witness that the said Doctor treated the deceased for depression as well as the Doctor referred the deceased for blood test to another Dr. Sejal Desai.

59. On the point of theory of depression as put-forth by the accused, the evidence of P.W.7 Dr. Rahul Datta founds to be relevant and significant. The evidence of this witness is important to understand the mental health of the deceased. According to this witness, he was giving treatment to the deceased in 2008 for stress management. The deceased consulted him in 2008 for 7 sessions of stress management. This witness further stated that deceased disclosed reason for the stress was work related and not getting projects. He further stated that the deceased was emotionally suffering because of her relationship with Jaydeep and Alex.

60. P.W.7 in his cross examination in para no.5 admits that vide Exh.281 and therein, there is a specific question asked by him that, 'have you ever hypnotised before', deceased replied, 'no'. Further he admits that the reason to visit him by the deceased was mentioned in sheet, that she wants to avoid taking medication and become happier and to forget her past demons and not to be depressed.

61. P.W.7 further, admits in para no.6 that the deceased facing fear for not getting good projects and fear of not succeeding her career. He further admits that he gave several types of therapies to the deceased like emotional freedom technique, hypno therapy, angel therapy, plain induction, radical healing etc. to the deceased. This witness then explains about the said therapies.

62. P.W.7 in his cross examination admitted the portion marked A and B as Exh.283 and 284 respectively. In portion marked B Exh.284, he stated that the third session was also at her house in the afternoon on 05.06.2008, where he took under hypnosis and asked her the root cause of her problem. She zoned into a scene where she saw herself as an angel and felt very free. Then somebody in that space told her that she will now take breathe as a human being and she is the angel form felt sad. After she woke, she saw but she said she felt very free as an angel. The session lasted to 1 to 1 ½ hours.

63. This witness further stated that next 4<sup>th</sup> session was on 06.06.2008 at her house. He repeated emotion freedom technique and then they started hypnotherapy, she saw her younger-self (inner child). Again felt uncomfortable and came out of hypnotic-3 state. The session was left incomplete that as she did not want to continue. It took around 1 hour.

64. The 5<sup>th</sup> session was on 11.06.2008 at her house where she connected with her angel guides in a state of hypnosis (called as spiritual hypnosis). He cannot prove scientifically that angel exist her but she felt good after the session. He also taught her breathing exercises and gave her some positive affirmations to reside as she did not write the previous affirmation he gave her. The session lasted for 1 ½ hours.

65. The next 6<sup>th</sup> session was her house on 19.06.2008 where he again gave her some positive affirmation and again did foreign energy release. In this session the foreign energy came in as her then secretary and boyfriend Jaydeep. She was not happy in that relationship and she expressed that in the session. The session lasted around 1 to 1 ½ hours.

66. Next 7<sup>th</sup> session was on 02.07.2008 where they did “cord cutting” with Jaydeep to stop her from getting affected by his behavior. They did emotion freedom technique and again, and he made her aside positive affirmations again. She felt better. The session lasted for 1 to 1 ½ hours. He suggested in other session but she said she is feeling fine now and she gave him a written testimonial of her experience of therapy with him which is also he was handing over.

67. This witness further admits that he prescribed the deceased sleeping pills. Further he admits that during year 2011 the deceased insisted him to prescribe her tablet 'Yasmin' which is oral contraceptive pill. It is also admitted that the deceased contacted him for doing 'pap smear' test done which is to rule out cervical cancer in female. This witness further admits that the deceased was getting pap smear done from Dr. Dedhia to rule out sexually transmitted disease. He further admits that in April 2013 the deceased visited his clinic and requested for an injection to get sleep. It was informed by the deceased that she had taken 4 sleeping pills, however, she was not getting sleep.

68. This witness further admits that on 11.06.2014 his statement was recorded by the police. At that time, he has stated in his statement that the deceased was suffering from depression and for her loneliness. Further he admits that when his statement was recorded by police on 11.06.2013, he had not stated that the deceased was under stress but he has stated that she was under depression.

69. If the above evidence of P.W.7 taken into consideration in its entirety, it would reflect that P.W.7 was treating the deceased for depression and the reason for depression was of not getting work of fear

of failing in her career. The evidence of P.W.7 further, reflects that the deceased was in more than relationships and was sexually active even prior to accused came into her life. The evidence of this witness indicates that there are multiple gray areas of life of the deceased which to unveil, the investigators of the case miserably failed. It is not normal for any human being to witness angels and actually seek help from angels to come out of depression.

70. The fact of depression of the deceased because of one Mr. Jaydeep which brought on record by the accused founds to be corroborated by the evidence of P.W.22 Mr. Rampiyare Gopinath Rajbhor. This witness in his cross examination admits that the deceased was in relation with Mr. Jaydeep in 2008 and because of that, she was in mental stress and she took treatment from Dr. Rahul Datta. He has not recorded the statement of Mr. Jaydeep as he was not available for statement. The documents which he collected from Dr. Rahul Datta Exh.281 reflects that deceased wants to avoid taking medication to become happier and forget her past demons and not to be depressed. He has not investigating into the fact that since childhood of the deceased till 2008 she was in which depression.

71. P.W.22 further admitted that he inquired with the mother of the deceased regarding the depression of the deceased. However, her mother not responded him satisfactorily. He has not investigated the fact that the depression of the deceased from 2008 till the incident of 2012 whether aggravated or deteriorated. He has not recorded statement of person Mr. Alex. He has not recorded statement of daughters namely Karishma and Kavita of the complainant. He has not recorded the statement of step father of the deceased. This witness

further admits that he did not investigate the said aspect and reason for the depression of the deceased. The P.W.22 states that he did try to investigate with the complainant about the cause of depression of the deceased since childhood till date, however, the complainant did not cooperate with him in investigation. The facts cited above indicates that the complainant had complete knowledge about various factors and circumstances due to which the deceased was in depression. There is no evidence of the complainant to show as a responsible mother as to what she had taken attempts for providing the treatment and for caring her daughter.

72. P.W.15 Dr. Ranjita Kumar had admitted in her cross-examination that if the mental health of patient is not treated on time, his situations may aggravated and for even wrong treatment situation may be aggravated. This witness further admits that to know the psychological state of mind of the person the childhood trauma and the relation of the person with immediate blood relative is important.

73. According to the complainant, on 03.06.2013 the accused sent break-up bouquet at the hands of watchman writing thereon 'Best of Luck'. The deceased therefore gone under shock and could not overcome and therefore she finished her life. On the point of break-up bouquet theory, there is only one witness namely Mr. Surinder Paswan P.W.14. examined by the prosecution. As per evidence of said witness, he was watchman of the Sangar Sangit Building at the relevant time. In his entire evidence, the said witness did not whisper that the accused on 03.06.2013 sent a bouquet to deceased. His evidence is silent either on the name of the accused or the representative of the accused. Therefore,

the break-up bouquet theory which stated by the complainant in her evidence would be of no consequences.

74. P.W.21 in her cross examination stated that the mother of the deceased i.e. complainant P.W.16 was against the relation of the accused and the deceased. In her investigation, it was revealed that the deceased and the accused were in relation with their mutual consent. In her investigation, it was revealed that the deceased met the accused in morning in his house and thereafter till the incident she did not meet the accused. This witness further stated that in November 2012, the deceased had attempted to hurt herself then the accused called the Doctor, his friend Karan, Karan's sister Jaya and servant of the accused Mr. Deva to help the deceased.

75. This witness further stated that in her investigation, it is revealed that there is no evidence regarding the accused that he was responsible to pregnancy of the deceased. This witness further stated that during her investigation, it is revealed that the accused and the deceased were in relationship, the deceased got aborted and the complainant was asking to deceased and the accused to live separately, but the deceased and accused refused to live separately, for the reason as above, the deceased might have committed suicide.

76. According to P.W.16, she had a good friend P.W.8 Anju Mahendroo to whom she frequently give visit. The evidence of P.W.8 reflects that she knew the family of the deceased and the complainant since more than 20 years. They were friends so she knew the complainant. At the time of incident on 03.06.2013 about 09.30 p.m., the complainant came to her house. At that time her friends and her



mother were there. The complainant wants to buy sweets with her mother. So she left for that.

77. When P.W.8 received call from the complainant and knew about the incident, she thereafter went to home of the complainant alongwith Moin Beg. She alongwith Moin Beg entered into the house of the complainant and thereafter with the help of Moin Beg and the complainant, the body was taken down on the bed. At that time, she did not notice any injury mark on body of the deceased.

78. P.W.9 Karan Joshi was film producer stated in his evidence that in November 2012 he alongwith accused went to Parel. At that time, the deceased had call the accused for dinner. At that time, the accused told him the reason of calling by deceased that because she did something to herself. She had injury of her hand, then he called his sister Jaya Joshi and asked her to go house of the deceased and checked her what happened there. The accused instructed him to call his sister and Madir and request Dr. Anand Pal to come at the house of the deceased. At that time, Dr. Anand Pal, his sister, Deva and Madir were present at the house of the deceased. There was injury on the left hand of the deceased which appears like as self inflicted injury. He was in film industry and the deceased was not getting good work. The deceased was scared of her mother.

79. P.W.10 Maneka Harsinghani self employee stated in her evidence that she heard from someone else that Sikander was dating the deceased. She met the deceased in 2012. During her associates, the deceased was no getting big movie. When she met the deceased in 2012, she had no work and she was low down.

80. The sister of the deceased P.W.19 namely Kavita Bhakar stated in her evidence that she came to India in June 2013 for celebrating of her 21<sup>st</sup> birthday. In the month of June 2013 she landed in Mumbai and she came to know about the alleged incident and her sister. According to this witness, the deceased was very happy in beginning in relationship. The deceased and the accused used to go outside. The deceased told her about the relationship in November 2012. When the deceased went to London for celebrating the birthday, their relationship was no longer because the deceased stated her mother about her relationship as the accused abuses her. When this witness came to India, the deceased informed her personally about her abortion. She came to know from her friend about the accused that the accused was not nice. She found letters on 07.06.2013 within box of wallet hidden away. In the said letters, it was written that the deceased was unhappy and prefer to leave country. She handed over the said letters to her mother. Except the few lines as above, this witness nothing stated any incriminating against the accused and about his any act or overact and omission committed by the accused in respect of the deceased.

81. It is pertinent to note that alleged incident took place on 03.06.2013 before 12.00 midnight. On 04.06.2013 ADR No. 61/13 came to be registered and the same handed over to P.W.21 for investigation. During the ADR, PSI Gawade carried out detailed investigation till 10.06.2013. During the period from 04.06.2013 till 10.06.2013, the complainant, sister of the deceased and the some other witnesses are thoroughly interrogated by the investigating officer.

82. Their statements are recorded and confronted them. However, since 03.06.2023 till before 10.06.2023, instead of getting alleged

letters on 7.06.2023 and thereafter immediately no any complaint lodged by the complainant anywhere against anyone about the incident. The first investigation which carried out by the investigating officer P.W.21 reflects that during the aforesaid period, P.W.21 recorded statement of the accused as well as some other witnesses including the father of the accused and not found involvement of the accused.

83. It was later on happened that the letter which found to P.W.19 sister of the deceased on 07.06.2013 when the condolence meeting of the deceased was held. The said letters handed over to the complainant after that, the complainant raised suspects and pursuant to that crime was registered as FIR under section 306 of IPC with Juhu police station. It is pertinent to note that when the ADR No. 61/13 was registered at Juhu police station and it was thoroughly interrogated into the cause death of deceased. At that time, according to investigating officer P.W.21, she conducted detailed house search of the deceased. However, no any incriminating thing found from the spot which suggest that the accused was remotely held responsible for the alleged incident.

84. All of sudden, on 07.06.2013 the letter found which according to the complainant wrote by the deceased. The gap of 4 days in getting available the said letter remain unexplained satisfactorily by the complainant. One interesting thing in respect of the said letter came on record that according to the complainant the letters which wrote in notebook by the deceased, that notebook was of the complainant.

85. It has come in evidence of P.W.21 that when the said letter was demanded by her for interrogation, the complainant denied to hand over the same and instead of giving the said letter to her, the

complainant made it published before the electronic media. The letter whichever be given to investigating officer, according to complainant it was given only after notarizing. In fact, the said letter not found to be notarized as what stated by the complainant. The circumstances as above creates serious suspicious regarding the actual author of the said letter.

86. It was the evidence of second investigating officer P.W.22 that soon before the incident, the deceased was in touch of her Ex-boyfriend Mr. Alex. It was also revealed in the investigation of P.W.22 that the deceased before entering into relation with the accused, she had tried to hurt herself. The complainant in her evidence admitted that when the deceased was in London, there untoward incident had took place with the deceased. Regarding the said incident, the deceased and the complainant lodged complaint against the said person in respect of sexual abuses. Thereafter, the deceased was in relationship with one Mr. Jaydeep and thereafter with one Mr. Alex. One guy Mr. Sikander was also dating the deceased.

87. It has also come on record that the deceased was taking treatment from the Doctor for depression because she could not walk out from the relation of Mr.Jaydeep. The instances as above reflects that the deceased was very emotional and sensitive regards the relationship. It is the specific evidence of P.W.21 that during her initial investigation, it was revealed that the complainant was not happy with the relation between the accused and the deceased. She was asking to separate them from each other. However, the said attempt of the complainant went in vain. There is 6 days inordinate delay in lodging FIR which remain unexplained satisfactorily on the part of prosecution.

88. There is no any plausible explanation given by the complainant that as to why in such 6 days period she has not directly lodged FIR against the specific person i.e. accused and instead of as such serious offence she waited for 6 days for lodging FIR. The said delay creates doubt about the credibility of version of the complainant. The said unexplained delay is therefore fatal to the prosecution case and consequently the case of the prosecution comes under the shadow of doubt.

89. It is seen from the record that the statement of the complainant was recorded time to time by the investigating officer of Juhu police station and the investigating officer of CBI after transferring the investigation with him. The complainant through her evidence tried to show that the deceased never committed suicide, however, she was killed by the accused. However, it is not as such case of the prosecution. The complainant was the main and crucial witness of the prosecution, basing on her complaint, the law was set in motion. The complainant openly shown distrust on the prosecution. When the case of prosecution was of suicide, the complainant stated it was murder case. However, there is no charge of murder in this case.

90. Not only this but, the complainant went to extent stating that whatever statements recorded during investigation by both the investigating agencies have been not recorded as per her say. The FIR containing her statement the complainant denied confirming stating it was not as per her say. On the contrary, both the investigating officers P.W. 21 and P.W.22 categorically stated they recorded the statement of the complainant as per her say in presence of her relative and her Advocate.

91. In fact the complainant herself denied the case of the prosecution and disowned from her earlier statement. Instead of the said fact, the prosecution also not requested the court to declare her hostile and continued the trial with as such handicapped evidence. The almost evidence of the complainant was out of place and not in accordance with the charge against the accused. The complainant in her evidence directly blamed both investigating agencies stating they had not carried out proper and correct investigation.

92. By giving as such open contradictory evidence, the complainant herself destroyed the case of prosecution. When the expert witnesses gave their opinion regarding cause of death of the deceased as it was suicidal, the complainant took exactly contrary view stating the Doctors given wrong opinion as suicidal instead of the murder. The complainant raised doubt even on the Doctors who conducted postmortem examination of the deceased. The complainant raised doubt on everyone except herself.

93. It is seen that after long drawn and deep investigation, both the investigating officers concluded that it was suicide case. However, the complainant challenged the said investigation before the Hon'ble High Court by way of various writ petitions stating it was murder case. Though the complainant stating it is a murder case, but the available evidence on record does not reflect as what stated by the complainant. The 80% evidence which given by the complainant founds to be full-fledged with improvements and contradictions. The complainant herself by giving as such contradictory statements demolished the case of prosecution for which she is sole responsible.

94. The complainant in her evidence went to extent to state that whatever letter which sent for examination and the question documents thereof the handwriting therein was of her. The complainant by stating as such herself created chaos regarding the said letter. It has come on record that soon after the death of the deceased, on 23.06.2013 the complainant done the engagement of her another daughter P.W.19 at Mumbai. The conduct as such above not looks like normal person who in such grief situation also celebrate as such program.

95. It is also noteworthy that whenever the complainant knew about the differences in relation of the accused and the deceased, she at the relevant time never complained before anybody. Similarly, the deceased also not referred the name of the accused before anybody regarding as such ill-treatment as alleged by the complainant.

96. It has come on record that the complainant who makes material on the last instance regarding the break-up bouquet given by the accused, the evidence thereof is exact contrary. On the aforesaid point, the evidence of watchman nowhere suggests that the said bouquet was sent by the accused at any point of time. The evidence of this witness is totally silent on any specific name of person. Thus, basing on the as such evidence, it would difficult to draw adverse inference against the accused that he was given the said break-up bouquet to accused.

97. It has come on record that the mother of the deceased had arrived in India two months before the deceased committed suicide. After her arrival also the deceased has shown message to the complainant which clearly indicated that the deceased and the accused were deeply in love with each other. It is seen that the letters which were seized from the

house of the accused which shows that the deceased was deeply in love with the accused.

98. The deceased was about 3 years elder in age to the accused. She had clearly stated in those letters which were addressed to the accused that she was deeply romantic. She had given credit to the accused making her stable in her life. The deceased had further assured the accused that she would help the accused whatever way he wants and make him and his father proud. She felt obliged as the accused had helped her. The deceased had further stated that she is deeply romantic and genuine yet complex person. Take care of her, love her, she is just a lost girl but she feels safe with the accused.

99. It is further seen that in the letters which were found by the sister of the deceased and which were not addressed to anybody. It has been allegedly stated that the accused had shattered her dreams, that she had lost herself in his love and yet he happened to torture her every day. It is also stated that she had aborted a baby. One thing is clear that this script had appears to be never reached the accused and they were in their original form in the house of the deceased and therefore it cannot be said that the emotions which were reflected in the letters had ever reached to the accused.

100. In the instant case, it cannot be ignored that the deceased had suicidal tendency. It has come on record that on an earlier occasion, the deceased had attempted to commit suicide and at that time, it was the accused who had called upon a Doctor. The accused had treated the deceased and had tried to get her out of the said depression. The evidence of the complainant reflects that she was not even aware of



such an incident until the accused disclosed to her. There is nothing to indicate that the complainant and her daughter had at any point of time questioned the accused about it and said acts were out of volition and therefore it cannot be said that the accused had forced the deceased to undergo a medical termination of pregnancy or otherwise.

101. So far as regards the text message which received by the deceased on 03.06.2013. The said message would reveal that there was some misunderstanding between the accused and the deceased on the ground that the accused had been to meet another female friend and the deceased had suspected the accused. The conduct of the deceased as such above reflects that she was extremely obsessive and possessive about the accused. Thereafter, the said female friend had also sent a message to the deceased that there has been some miscommunication and that there was nothing serious and had further told the deceased that she should not misunderstand her and that she would visit her on next day. She had also tendered an apology for creating a misunderstanding. The text of the said message would show that there was an exchange of abuses in a fit of rage fury since there was misunderstanding between the accused and the deceased.

102. The complainant has alleged that the accused on 03.06.2013 had sent bouquet to the deceased with a card indicating that their relationship had come to an end and therefore the deceased committed the suicide as she was left with no alternative remedy. Having regard that, there is no evidence of the witness watchman which suggests that the accused at any point of time abetted the deceased to commit suicide. It appears that the complainant had misunderstood it to be an

indication of breaking of relations. It is the matter of record that on 03.06.2013 the accused had not met the deceased.

103. No doubt, it is an unfortunate incident that young girl has committed suicide. However, the available evidence on record reflects that the deceased was victim for her sentiments. She could not overcome the emotions. The deceased could have always walked out of the relationship. However, she could not overcome her sentiments and her love for the accused for which the accused cannot be held responsible. It has come on record that at the relevant time, the accused was also pursuing his career in acting and admittedly could not devote sufficient time for the deceased. However, on the earlier occasion, when the deceased tried to commit suicide the accused had saved her. He had helped her to come out of the depression.

104. If the entire evidence as above, produced by the prosecution is tested on the touchstone of the requirements laid down in the above cited rulings for establishing the offence under Section 306 of the Indian Penal Code, it will have to be held that the prosecution has utterly failed to produce sufficient, cogent and dependable evidence on record to establish the said ingredients. In the present case, the evidence on record against the accused is vague, general and omnibus. From this evidence any specific overt act or role can not be attributed to the accused. There is absolutely no evidence on record to show that on 03.06.2013 the accused had acted in any manner which could reflect a mens-rea that he wanted her to commit suicide. The prosecution further failed to prove that there was any action on the part of the accused which compels the deceased to commit suicide. Therefore, in the

absence of any mens-rea, instigation or aid, it cannot be said that the accused had driven her to commit suicide on that day.

105. For the forgoing reasons and discussion, this court is of the considered opinion that the prosecution has miserably failed to establish the charge which alleged against the accused beyond reasonable doubt. The accused therefore deserves to be acquitted from the charge as alleged against him. The point no.2 is therefore, answered in the negative and in answer to point no.3, the following order would meet the end of justice:

**ORDER**

1. The accused **Sooraj Aditya Pancholi** is acquitted of the offence punishable under Sections 306 of the Indian Penal Code vide Section 235(1) of the Code of Criminal Procedure.
2. The bail bond of accused is cancelled. He is set at liberty.
3. The accused shall execute bail bond in the sum of Rs.15,000/- with a surety in the like amount vide Section 437-A of the Code of Criminal Procedure.
4. All unmarked and marked articles including Muddemal Articles be preserved till the period of Appeal. If the Appeal is not preferred, same be handed to the SP/HOB, CBI, SCB, Mumbai for disposal as per the provisions of Law, and, if the Appeal is preferred subject to the order of the Hon'ble Appellate Court.
5. Dictated and pronounced in open Court.

**Date : 28.04.2023**



**(A.S. Sayyad)**  
Special Judge, CBI,  
CBI, Special Court,  
City Civil & Sessions Court,  
Gr. Bombay.

Dictated on :25, 26 & 28.04.2023  
Transcribed on :25, 26 & 28.04.2023  
Signed by HHJ on :28.04.2023

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

UPLOAD DATE AND TIME  
28.04.2023 (5.33 p.m.)

NAME OF STENOGRAPHER  
K.Y. INAMDAR

Name of the Judge (with Court Room No.)	Shri A.S. Sayyad C.R. No.52
Date of Pronouncement of JUDGMENT/ ORDER	28.04.2023
JUDGMENT/ORDER signed by P. O. on	28.04.2023
JUDGMENT/ORDER uploaded on	28.04.2023