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

CRM-M-62885-2023

Date of Decision: 02.09.2024

SUNIL CHAUHAN

... Petitioner

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CRM-M-583-2024

MUBIN KHAN

... Petitioner

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. B.S. Tewatia, Advocate
for the petitioner in CRM-M-62885-2023.

Mr. Johan Kumar, Advocate
for the petitioner in CRM-M-583-2024.

Mr. Karan Garg, Asstt. A.G., Haryana
for respondent No.1.

Dr. S.K. Bhar, Advocate
for respondent No.2 in both the petitions.

JASJIT SINGH BEDI, J.

This order shall dispose of two petitions bearing No.CRM-M-62885-2023 titled as Sunil Chauhan Versus State of Haryana & another and CRM-M-583-2024 titled as Mubin Khan Versus State of Haryana & another as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRM-M-62885-2023.

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2. The prayer in the present petitions under Section 482 Cr.P.C. is for quashing of FIR No.357 dated 15.07.2023 (Annexure P-1) registered under Sections 306 and 34 IPC at Police Station Adarsh Nagar, District Faridabad and all subsequent proceedings arising therefrom.

3. The aforementioned FIR was got registered at the instance of the complainant-Shiv Kumar (respondent No.2) son of Chandrapal with the allegations that he and his brother Kehri Singh (deceased) were doing the work of building construction in the house of Sunil Chauhan (petitioner in CRM-M-62885-2023). He refused to make payment to them stating that the payments would be made only when the construction work was completed. Rs.4,00,000/- was due to them (complainant party) for the work done. Sunil Chauhan had introduced them (complainant party) to his friend Narendra Kumar Sharma who provided them (complainant party) construction work at a college for which half of the money received by them (complainant party) was taken by Narendra Kumar Sharma in cash as commission. Narendra Kumar Sharma had also borrowed Rs.6,73,000/- lakhs from his brother Kehri Singh. When this money was demanded back, Narendra Kumar Sharma refused to give it and threatened to initiate legal proceedings against his brother Kehri Singh. They (complainant party) had also done tiling work for Narendra Kumar Sharma for an amount of Rs.4,00,000/- which remained unpaid. Mubin Khan (petitioner in CRM-M-583-2024) who was also working in the college owed Rs.93,152/- to his brother which he had denied to pay. Thus, Narendra Kumar Sharma, Sunil Chauhan and Mubin Khan by not making payments to his brother had mentally harassed him and had

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compelled him to commit suicide. On 14.07.2023 his brother went to the house of Sunil Chauhan where construction work was going on earlier and committed suicide by hanging due to the said three persons.

The copy of the FIR is attached as Annexure P-1 to the petition.

4. As per the postmortem, the cause of death was stated to be asphyxia due to hanging.

5. The supplementary statement of the complainant was recorded to the effect that the three above named persons had harassed his brother as they were not paying him his dues because of which he was forced to commit suicide. A suicide note which had been found written in a diary was being produced which had been written by the deceased. The translated version of the suicide note is reproduced hereinbelow:-

Suicide Note

(on first page):- I, Kehri Singh s/o Chander Pal Singh have committed suicide and there are 3 persons who compelled me to commit suicide namely 1) Narendra Kumar Sharma, Address. Sector 06, plot no. 26, SRS city Palwal (STO Civil THSTI) 2) Sunil Chauhan, Address. Aurangabad Mitrol, Palwal 3) Mubin Khan contractor. Said persons have not only usurped my money but they have also compelled me to die.

(on second page):-and Narendra Kumar has grabbed my money. I lent him money and entire money was given in cash. Now, my amount of ₹6,73,000 is lying outstanding against Narendra Kumar whereas amount of about 4,00,000 is lying outstanding against Sunil Chauhan and amount of about 2,75,000 is lying outstanding against Mubin Khan (signature Kehri Singh). If said persons give money, it would be good but if they do not give money, then it would also be good.

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6. A video recording was also recovered as per which the deceased was heard stating that he was going to commit suicide on account of non-payment of dues by the three named accused.

7. On conclusion of the investigation, the report under Section 173(2) Cr.P.C. was submitted against Sunil Chauhan, Suresh Chauhan and Mubin Khan on 15.11.2023. Narendra Kumar Sharma, however, was not challaned and was found innocent. The matter is now listed for framing of charges on 25.10.2024.

8. The learned counsels for the petitioners contend that taking the allegations to be correct, merely because money due to the deceased and the complainant was not paid by the accused did not amount to abetment in the absence of any overt act or omission in terms of Section 107 IPC on the part of the accused. The complainant party could very well have availed their legal remedies in accordance with law to recover the amounts due. Merely because the names of the petitioners and others were mentioned in the suicide note did not establish the guilt of the accused unless the ingredients of the offence were made out. On the identical set of allegations, Narendra Kumar Sharma had been exonerated. They, therefore contend that the FIR and all subsequent proceedings were liable to be quashed. Reliance is placed on the judgments in the cases of *Chitresh Kumar Chopra Versus State (Govt. of NCT of Delhi), 2009(16) SCC 605, Vikas Chandra Versus State of Uttar Pradesh & another, 2024 INSC 261, Gauri Devi Versus State of J&K, 2021(4) J.K.J. 319, Harbhajan Sandhu Versus State of Punjab & another,*



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CRM-M-34495-2021, decided on 23.02.2022 and **State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383.**

9. A reply dated 22.08.2024 by way of an affidavit of Vinod Kumar, HPS, Assistant Commissioner of Police, Ballabgarh, Faridabad has been filed in CRM-M-62885-2023 on behalf of the State by the learned counsel for the State. The same is taken on record. He alongwith the learned counsel for the private respondent No.2 contend that a bare reading of the FIR and the suicide note leaves no doubt that it was on account of the conduct of the petitioners and the other accused that the deceased committed suicide having been left with no other alternative. Even otherwise, the suicide note specifically named the accused. Therefore, the present petitions were liable to be dismissed. Reliance is placed on the judgment in the case of **Didigam Bikshapathi & another Versus State of A.P., 2008(1) R.C.R. (Criminal) 209.**

10. I have heard the learned counsel for the parties.

11. Before proceeding further in the matter, it would be apposite to examine Sections 107 and 306 of the Indian Penal Code, 1860 and the same are reproduced hereinbelow:-

Section 107 IPC, 1860

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



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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.”

Section 306, IPC, 1860

306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

12. The judgments relied upon by the learned counsel for the petitioners are discussed hereinbelow:-

In **Chitresh Kumar Chopra** (supra), it was held as under:-

“ 10. Section 306 of the Indian Penal Code reads as under :

"306. Abetment of suicide If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

11. From a bare reading of the provision, it is clear that to constitute an offence under Section 306 Indian Penal Code, the prosecution has to establish: (i) that a person committed suicide, and (ii) that such suicide was abetted by the accused. In other words, an offence under Section 306 would stand only if there is an "abetment" for the commission of the crime. The parameters of "abetment" have been stated in Section 107 of the Indian Penal Code, which defines abetment of a thing as follows :

"107. Abetment of a thing



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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."

12. As per the Section, a person can be said to have abetted in doing a thing, if he, firstly, 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 to Section 107 states that any wilful misrepresentation or wilful concealment of material fact which he is bound to disclose, may also come within the contours of "abetment". It is manifest that under all the three situations, direct involvement of the person or persons concerned in the commission of offence of suicide is essential to bring home the offence under Section 306 of the Indian Penal Code.

13. Therefore, the question for consideration is whether the allegations levelled against the appellant in the FIR and the material collected during the course of investigations, would attract any one of the ingredients of Section 107 Indian Penal Code ?



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14. As per clause firstly in the said Section, a person can be said to have abetted in doing of a thing, who "instigates" any person to do that thing. The word "instigate" is not defined in the Indian Penal Code. The meaning of the said word was considered by this Court in *Ramesh Kumar v. State of Chhattisgarh*, 2001(4) RCR (Criminal) 537 : (2001)9 SCC 618. Speaking for the three-Judge Bench, R.C. Lahoti, J. (as His Lordship then was) said that 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 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.

15. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action: provoke to action or reaction" (See: *Concise Oxford English Dictionazy*); "to keep irritating or annoying somebody until he reacts" (See: *Oxford Advanced Learner's Dictionary - 7th Edition*). Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to



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provoke, incite or encourage the doing of an act by the latter. As observed in Ramesh Kumar's case (supra), where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that: (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

16. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self.

17. In the present case, the charge against the appellant is that he along with other two accused "in furtherance of common intention", mentally tortured Jitendra Sharma (the deceased) and abetted him to commit suicide by the said act



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of mental torture. It is trite that words uttered on the spur of the moment or in a quarrel, without something more cannot be taken to have been uttered with mens rea. The onus is on the prosecution to show the circumstances which compelled the deceased to take an extreme step to bring an end to his life. In the present case, apart from the suicide note, extracted above, statements recorded by the police during the course of investigation, tend to show that on account of business transactions with the accused, including the appellant herein, the deceased was put under tremendous pressure to do something which he was perhaps not willing to do. Prima facie, it appears that the conduct of the appellant and his accomplices was such that the deceased was left with no other option except to end his life and, therefore, clause firstly of Section 107 of the Indian Penal Code was attracted. Briefly dealing with the material available on record, in the order directing framing of charge against the appellant, the learned trial court has observed as under:

"In the present case the evidence shows threatening given to the deceased. One witness called Kartar Singh says that CK Chopra was heard saying to the deceased that the deceased had become dishonest because he was refusing to sign a paper in which the share in some joint property was shown to be 10%. On another occasion Chopra was heard by this witness to say that Chopra would ruin the deceased if he did not give up his claim for 25% and did not agree to accept 10%. Witness Padam Bahadur has stated inter alia that he overheard Jahoor and Mahavir telling the deceased that Chopra had asked them to say that this was the last opportunity to sign the document and that if he wanted to live in the society he should sign the agreement or should die by taking poison. Soon thereafter the deceased committed suicide.



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Thus the evidence is not of a mere quarrel in which one person told the other go and die without actually suggesting that the opponent should commit suicide. In the present case the evidence collected by the investigation suggest that the deceased had been actually pushed to the wall and the escape by committing suicide was suggested by the accused persons."

*18. In the light of the material on record, in our judgment, it cannot be said that the trial court was in error in drawing an inference that the appellant had "instigated" the deceased to commit suicide and, therefore, there was ground for presuming that the appellant has committed an offence punishable under Section 306 read with Section 34 Indian Penal Code. It is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At this stage, the court has to consider the material only with a view to find out if there is ground for "presuming" that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction. (See : *Niranjan Singh Karam Singh Punjabi & Ors. v. Jitendra Bhimraj Bijja & Ors.*, (1990)4 SCC 76).*

(emphasis supplied)

In **Vikas Chandra** (supra), it was held as under:-

"4. Compendiously stated, the case of the appellant is that respondent No.2 committed abetment of suicide inasmuch as his father Shri Brijesh Chandra, committed suicide, by consuming poison, in the office of Sub- Mandi, Alhaganj, where



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he was working, after leaving a suicide note attributing responsibility for the same on respondent No.2. The appellant's father was earlier working in Mandi Samiti, Puwaya as Security Guard and the respondent No.2 was the then Secretary of the Mandi Samiti. The complaint is to the effect that the salary of the deceased from March, 2004 to August, 2004 and September, 2004 onwards was not paid by Mandi Samiti, Jalalabad and on 12.10.2004, when he requested for its release, respondent No.2 told: - "I will see that how will you get your salary and who will help you in getting your salary, I will bring out your military-man-ship and either you die or your children, but I do not care, get out of here, why you do not take poison".

5. According to the appellant, the deceased was a retired military man and subsequent to the events on 12.10.2004 he returned home in moony mood and on 23.10.2004 at around 10.00 a.m. went to attend duty at Sub-Mandi, Alhaganj from Warikhas and committed suicide thereafter leaving a suicide note noting down such incident as well.

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21. Certain relevant and indisputable aspects revealed from the material on record are also to be noted, with reference to the relevant decisions, as under:

(i) There is no explicit or implicit reference about any occurrence on 12.10.2004 involving the deceased and the respondent No.2, as alleged in the complaint and as stated by the complainant in the inquiry, is made in the so-called suicide note dated 23.10.2004;

(ii) There is no proximity between the alleged occurrence of utterance of the so-called instigative words on 12.10.2004 and the commission of suicide by Brijesh Chander inasmuch as it was committed only on 23.10.2004. The so-called suicide note did not refer to any such occurrence. If any such incident had, in troth, occurred and if that was the



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reason which pushed him to commit suicide it would have been mentioned, explicitly or implicitly in the so-called suicide note, as rightly observed and held by the High Court. What makes it dubious and unfit for being formative foundation for prosecution for an offence under Section [306](#), IPC, will be dealt with a little later.

*22. It is to be noted that apart from the above mentioned alleged incident, there is no allegation of continued course of conduct (against the respondent No.2) creating circumstances compelling the victim to or leaving the victim with no other option but to, commit suicide. In this contextual situation from the decision of this Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* (2009) 16 SCC 605, paragraphs 16 and 17 therein dealing with the expression 'instigation' are worthy for reference and they read thus:-*

"16...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 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."

"17.Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action; provoke to action



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or reaction" (see Concise Oxford English Dictionary); "to keep irritating or annoying somebody until he reacts..."

(emphasis in original)

23. *In the decision in Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618], this Court held that where the accused by his acts or continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an instigation may be inferred.*

24. *Now, reverting to the so-called suicide note, we do not find any reason to interfere with its evaluation by the High Court, for reasons more than one. We have already noted the conspicuous absence of any reference about the alleged incident on 12.10.2004 involving the deceased and the respondent No.2, either explicitly or implicitly, therein. Before looking into and applying the principles enunciated for appreciation of a suicide note in the decisions of this Court in Netai Dutta v. State of West Bengal (2005) 2 SCC 659 and Madan Mohan Singh's case (supra), we will have a glance at the tenor of the suicide note. As observed and held by the High Court, the so-called suicide note would not reveal and reflect that the victim was disturbed on account of non-receipt of salary and for that reason, he was bent upon to commit suicide. Though it is stated that the respondent No.2 is responsible for his suicide however, there is absolute absence of any material or even a case in the complaint and in the so-called suicide note that the respondent No.2 has abetted late Brijesh Chandra in a manner that will attract the provisions under Section [107](#), IPC. There is absolute absence of any allegation of continued course of conduct on the part of the respondent No.2 with a view to create circumstances leaving the deceased with no other option except to commit suicide. In such circumstances, the mere statement in suicide note dated 23.10.2004, 'Shri Ram Babu Sharma, Secretary, Mandi Samiti, Puwaya will be responsible for his suicide' would not*



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be a ground at all to issue summons to the respondent No.2 to face the trial for the offence under Section 306, IPC. The principles enunciated in Madan Mohan Singh's case (supra) and Netai Dutta's case (supra), on application to the facts obtained in this case would also justify the interference by the High Court with the subject summons.

25. In the case on hand, the undisputable position is that at the time of the commission of suicide, the deceased was not working in the office of Mandi Samiti, Puwaya where the respondent No.2 was working as Secretary and when the former committed the suicide he was attached to the office of the Mandi Samiti, Jalalabad and was working in Sub-Mandi, Alhaganj.

26. In Madan Mohan Singh's case (supra), the salary of the deceased, who was allegedly abetted to commit suicide, for 15 days was deducted by the accused. That apart, in that case also a suicide note was left by the deceased, which in so far as it is relevant was quoted in paragraph 7 of the said decision thus: -

"I am going to commit suicide due to his functioning style. Alone M.M. Singh, DET Microwave Project is responsible for my death. I pray humbly to the officers of the Department that you should not cooperate as human being to defend M.M. Singh. M.M. Singh has acted in breach of discipline disregarding the norms of discipline. I humbly request the enquiry officer that my wife and son may not be harassed. My life has been ruined by M.M. Singh".

27. Paragraph 13 and 14 of the said judgment, in so far as they are relevant are also worthy to be extracted. They read thus: -

"13..... In fact, there is no nexus between the so-called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution



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under Section [306](#) IPC, much more material is required. The courts have to be extremely careful as the main person is not available for cross-examination by the appellant-accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in the present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature...

14. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are allowed to continue on such basis, it will be difficult for every superior officer even to work."

28. In Netai Dutta's case (supra) from the dead body a suicide note was recovered and on its basis the police registered a case against the appellant under Section [306](#), IPC. Paragraphs 5, in so far as it is relevant, and 6 of the said decision read thus: -

"5. ...An offence under Section [306](#) IPC would stand only if there is an abetment for the commission of the crime. The parameters of "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 takes place in pursuance of that conspiracy, or the person should have



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intentionally aided any act or illegal omission. The Explanation to Section 107 says that any wilful misrepresentation or wilful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

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 whereby the appellant herein is alleged to have committed any wilful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in 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."

29. In short, applying the principles of the decisions referred above to the facts of the case on hand would reveal that the impugned judgment of the High Court did not suffer from any legal infirmity, illegality or perversity and the conclusions are arrived at after a rightful appreciation of the complaint and the other materials on record, within the permissible parameters.

30. Considering the facts and circumstances of the case, we do not find anything warranting any interference by this Court. The appeal is, therefore, dismissed."

(emphasis supplied)

In **Gauri Devi** (supra), it was held as under:-

"11. The allegation against the petitioner is that she refused to return the money to the deceased, as a result of which he committed suicide. In order to constitute an offence of abetment, the act committed by the accused must be of such nature so that the deceased must be left with no other option but to take extreme step of ending his life. Though the different persons may react or respond to a particular situation differently but this court is of the considered opinion that



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mere refusal to repay the loan cannot in any way can be considered to be an act of abetment to drive the deceased to commit suicide.

12. In Madan Mohan Singh v. State of Gujarat and another, (2010) 8 SCC 628 the deceased was a driver who had undergone a bypass surgery and was advised against performing any stressful duties. The accused was a superior officer who had rebuked the deceased harshly and threatened to suspend him when the deceased had failed to comply with his directions. The deceased thereafter committed suicide and left behind a suicide note stating that the accused was solely responsible for his death. In these facts, Apex Court held that there must be allegations to the effect that the accused had either instigated the deceased in some way to commit suicide or had engaged with some other person in conspiracy to do so or that the accused had in some way aided any act or illegal omission to bring about the suicide. The prayer for quashing preferred by the accused was accepted by Apex Court and the proceedings were quashed.

13. In Swamy Prahaladdas v. State of M.P. & Anr. 1995 Supp. (3) SCC 438, the appellant was charged for an offence under Section 306 I.P.C. on the ground that the appellant during the quarrel is said to have remarked the deceased to go and die. Apex Court was of the view that mere words uttered by the accused to the deceased to go and die were not even prima facie enough to instigate the deceased to commit suicide.

14. Further in Vaijnath Kondiba Khandke v. State of Maharashtra and another, (2018) 5 Supreme 345, the accused therein assigned some work to his employee and further the said employee was called at odd hours and even on holidays to get the work done and the said accused had stopped his salary for one month and also threatening that his increment would be stopped. Apex Court held that the same cannot be held to be an offence under Section 306 of the IPC and the



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FIR for commission of the offences under Section 306 of the IPC was quashed by the Hon'ble Supreme Court.

15. Viewed thus, this Court is of the considered opinion that the ingredients of offence under Section 306 of the RPC are absolutely lacking in the instant case and the learned trial Court has not considered this vital aspect of the case and as such the order impugned is set aside. The petitioner is discharged for commission of offences under Section 306 RPC and the challan stands dismissed.”

(emphasis supplied)

In **Harbhajan Sandhu** (supra), it was held as under:-

“14. Another factor which would go to the root of the matter is that there has been absolutely no positive act on the part of the petitioner-accused to instigate or aid in the committing of suicide. From the allegations and from the record, it is not established that the petitioner-accused intended to push the deceased into such a position that he ultimately committed suicide. Issuance of the alleged threats three months prior to the suicide without any positive act of aiding or instigating would not by itself create an offence under Section 306 IPC.

**** **** ****

16. Even, otherwise, merely being named in a suicide note would not by itself establish the guilt of an accused until the ingredients of an offence are made out. In the present case, taking the suicide note to be absolutely correct, the allegations therein do not constitute an offence for which the petitioner can be prosecuted.

(emphasis supplied)



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13. The judgment relied upon by the learned State counsel and counsel for respondent No.2-complainant is discussed hereinbelow:-

In **Didigam Bikshapathi** (supra), it was held as under:-

“3. Accusations which led to the institution of the proceedings are essentially are as follows :

Budida Krishnamurthy (hereinafter referred to as the 'deceased') had close friendship with the appellant (A1). About four years back he appointed deceased and others as field officers in his finance firm namely; Uma Hire Purchase and Finance. While so, the appellant No. 1 joined as a partner in Kanaka Mahalaxmi Real Estate Ventures run by Mekala Ravi and Mekala Venu. The deceased and two other field officers namely; Budida Laxmaiah (L.W.7) and Thandra Mallaiah (L.W.8) sold about 15 plots in that group to Kommaipalli villagers and collected various amounts from them and handed over the same to the appellant no.1. As he did not pay the money to the Kanaka Mahalaxmi Real Estate Ventures, the other partners did not register the plots in favour of the persons, who paid the money to the deceased. Since the deceased demanded for registration of the plots in favour of the prospective purchasers, he (appellant No. 1) escaped with his family from Jangaon and was staying at his in-laws house. The deceased went there and demanded registration of the plots, but the appellants abused him in filthy language and the accused neither registered the plots nor returned the amount. Due to the mental harassment and unable to bear the pressure from the purchasers of the plots, the deceased committed suicide by falling under an un-known train in the night of 17.4.2001 leaving a suicide note narrating the reasons for his committing suicide.

4. Before the High Court the stand was that the ingredients necessary to constitute offence under Section 306 Indian Penal Code are absent. There is no element of abetment. The High Court



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did not accept the contention taking note of the statement made in the suicide note. The High Court felt that this was not a fit case where the jurisdiction under section 482 of the Code is to be exercised.

*5. In support of the appeal learned counsel for the appellant submitted that there was no question of abetment. Merely because the person committed suicide having been insulted and humiliated due to the comments or utterances made by the accused, that does not constitute an offence punishable under Section 306 Indian Penal Code. Therefore, the High Court ought to have quashed the proceedings. Strong reliance was placed on a decision of this Court in *Netai Dutta v. State of West Bengal, 2005(1) Apex Criminal 535* . Further it was submitted that there was only a vague reference to appellant No. 2 wife of appellant No. 1, and on that score, the appeal deserves to be allowed so far as she is concerned.*

*** *** ***

*11. The suicide note clearly refers to the background in which the victim took the extreme step of taking away his own life by committing suicide. It is not a case where there is no reference to any act by the accused. In *Netai Dutta's case (supra)* para 6 it was observed as follows :*

"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 whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in 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."

12. In the instant case the suicide note clearly refers to the acts of the accused-appellant and the roles played by them. Therefore, the High Court rightly rejected the prayer of exercise of power under



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section 482 of the Code. We make it clear that any observation made by the High Court and by us while dismissing of the present appeal shall be construed to be determinative factor in the trial.”

(emphasis supplied)

14. A perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide inasmuch as the instigation or illegal act of omission or commission at the hands of the accused must be the only factor which subsequently led the deceased to commit suicide. To constitute abetment, the intention and involvement of an accused to aid or instigate the commission of suicide is imperative. There must be a positive act on the part of an accused to aid or instigate the deceased to commit suicide. Further, merely being named in a suicide would not by itself establish the culpability of an accused until the ingredients of an offence are made out.

15. Further, while dealing with a petition for quashing of an FIR under Section 306 IPC, the test that the Court must apply is the reaction of a normal person of ordinary prudence when faced with incidents of harassment. If the Court feels that the level of harassment faced was such that even a person of ordinary prudence with normal behaviour and reactions would be forced to take the extreme step of committing suicide, then the Court would do well in not quashing proceedings. On the other hand, if the Court comes to the conclusion that an ordinary person with normal reactions to harassment would not commit suicide but the deceased did so on account of his hypersensitive nature or other contributing factors then the Court must not hesitate in quashing the proceedings.



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16. As regards the principles governing quashing of an FIR, the Hon'ble Supreme Court in the case of **State of Haryana & others Versus Ch. Bhajan Lal & others, 1991(1) R.C.R. (Criminal) 383**, has held as under:-

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

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

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

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

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable



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offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

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

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

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

(emphasis supplied)

17. Coming back to the facts of the present case, a perusal of the FIR and the suicide note does not disclose any specific incidents of acute harassment which was likely to drive the deceased to commit suicide. In fact, there has been absolutely no positive act on the part of the petitioners to aid or instigate the deceased for committing suicide. From the allegations and the from the record it has not been established that the petitioners intended to push the deceased to such a situation that he would ultimately commit suicide. Therefore, apparently a person of ordinary prudence would not have committed suicide in similar circumstances but the deceased did due to his

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hypersensitive nature. In fact, the complainant party including the deceased could very well have availed their legal remedies in accordance with law to recover the amounts due to them.

18. The case of *Didigam Bikshapathi* (supra) relied upon by the learned counsel for the State and complainant is clearly distinguishable on facts inasmuch as in the said case, the accused persons had abused the deceased in filthy language. In the instant case, the allegations are only to the effect that the accused persons had refused to either return the borrowed money to the deceased or pay him for the construction work done.

19. Keeping in view the aforementioned principles in mind and on an examination of the FIR and the report under Section 173(2) Cr.P.C. the uncontroverted allegations levelled in the FIR and the evidence collected in support of the same clearly do not disclose the commission of any offence by the petitioners.

20. In view of the above, I find considerable merit in the present petition. Therefore, the FIR No.357 dated 15.07.2023 (Annexure P-1) registered under Sections 306 and 34 IPC at Police Station Adarsh Nagar, District Faridabad and all subsequent proceedings arising therefrom stand quashed.

(JASJIT SINGH BEDI)
JUDGE

02.09.2024

JITESH

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