

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2023

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BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPPASANNA

CRIMINAL PETITION No.3095 OF 2022

BETWEEN:

1 . SRI.V.V.SINGARA VELU
S/O LATE V.K.VITTAL RAO
AGED ABOUT 59 YEARS.

2 . SMT. VASANTHI VELU
W/O SINGARAVELU V.V.,
AGED ABOUT 56 YEARS.

BOTH ARE RESIDING AT
NO.292/1, 1ST MAIN
DEFENCE COLONY
HAL 2ND STAGE
INDIRANAGAR
BENGALURU – 560 038.

... PETITIONERS

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE A/W
SRI LAKSHMIKANTH G., ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
BY PULAKESHINAGAR P.S.,
REPRESENTED BY SPP
HIGH COURT COMPLEX

BENGALURU – 560 001.

2 . SRI V.GIRIVELU
S/O LATE V.K.VITTAL RAO
AGED ABOUT 62 YEARS
NO.3/3, WHEELER'S ROAD
FRAZER TOWN
BENGALURU – 560 005.

... RESPONDENTS

(BY SMT.K.P.YASHODHA, HCGP FOR R-1;
SRI S.P.S.KHADRI, ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE ENTIRE CHARGE SHEET AND THE PROCEEDINGS THEREON IN C.C. NO. 50169/2022 (CRIME NO. 444/2021 OF PULAKESHINAGAR P.S.) FOR OFFENCES P/U/S 306 R/W 34 OF IPC WHICH IS NOW PENDING ON THE FILE OF LD. XI ADDL. CMM COURT MAYO HALL BANGALORE CITY.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 07.06.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Petitioners/accused 1 and 2 are before this Court calling in question proceedings in C.C.No.50169 of 2022 pending before the XI Additional Chief Metropolitan Magistrate, Bengaluru arising out of Crime No.444 of 2021 registered for offences punishable under Section 306 r/w 34 of the IPC.

2. Brief facts, as projected by the prosecution, are as follows:-

Accused No.1/petitioner No.1 is the brother of the complainant. Accused No.2 is the wife of the brother of the complainant. In connection with father's property, accused No.1 has filed a suit for partition in O.S.No.25938 of 2018 which is pending adjudication. Petitioner No.1 along with his wife file complaints relating to his father's property against the complainant, his wife one Smt. Revathi and their son G. Vikram. In this regard on the night of 23-11-2021 the son of the complainant, G.Vikram aged about 33 years committed suicide in the second floor room of the residence by hanging himself leaving a death note alleging that in the month of October, 2021 petitioners 1 and 2 had cornered him near the Bruhat Bengaiuru Mahanagara Palike Office in Bangalore and threatened him that they will destroy his parents life and the reason for him taking the extreme step is this incident. After the death of the son of the complainant, a complaint comes to be registered alleging that the petitioners are the ones who are responsible for the death of the deceased. The complaint becomes a crime in Crime No.444 of 2021 for offences punishable under

Section 306 r/w 34 of the IPC. The petitioners are the accused in the said crime. The Police after investigation file a charge sheet implicating the petitioners as accused and filing of the charge sheet leads the petitioners to this Court in the subject petition.

3. Heard Sri Sandesh J.Chouta, learned senior counsel appearing for the petitioners, Smt. K.P.Yashodha, learned High Court Government Pleader appearing for respondent No.1 and Sri S.P.S. Khadri, learned counsel appearing for respondent No.2.

4. The learned senior counsel would vehemently contend that none of the ingredients that are necessary for an offence under Section 306 of the IPC to be proved are even present in the case on hand. The alleged death note divulges and alleges that the petitioners in connection with a property dispute chided the deceased and that was in the month of October, 2021 and the alleged date of incident is 23-11-2021. Even if it is taken as correct, there is no proximity for the death to be blamed upon the petitioners. Therefore, the petitioners are in no way responsible for abetting the commission of suicide of the deceased.

5. On the other hand, the learned counsel representing the 2nd respondent/complainant would vehemently oppose the petition by contending that the Police after investigation have filed a charge sheet against the petitioners. In the light of the charge sheet so filed, further proceedings should be permitted to be continued. The complainant has lost his son. It is a grave agony that has befallen on the family of the complainant. Therefore, the petitioners should not be spared. Whether they have abetted or not to the commission of suicide of the son is a matter of trial. It is for the petitioners to come out clean in the said trial.

6. The learned High Court Government Pleader would also toe the lines of the learned counsel representing the 2nd respondent to contend that there is a death note. The death note reveals names of petitioners and if the death note reveals names of accused it is for those petitioners to come out clean in the trial as if there is no evidence, they would be acquitted and if there is evidence, consequences would ensue. She would seek to place reliance on the judgment of the Apex Court in the case of **MAHENDRA K.C. v.**

STATE OF KARNATAKA¹ and would submit that in the light of the judgment of the Apex Court, petition deserves to be dismissed.

7. The learned senior counsel in reply to the aforesaid submissions of the respondents would seek to contend that the judgment in the case of **MAHENDRA.K.C.** (*supra*) was on different set of facts as there was proximity with the death therein. In the case at hand, there is no proximity to the death as what is found in the death note is some alleged abuses in the month of October, 2021 and the incident is on 23.11.2021. Therefore, the said judgment would not be applicable to the facts of the case. He would seek termination of proceedings.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts though not in dispute would need a little elaboration. The protagonists to the *lis* are the 1st

¹ (2022) 2 SCC 129

petitioner/accused No.1 and the complainant/2nd respondent who are brothers. The 2nd petitioner is the wife of accused No.1. Therefore, she is the sister-in-law of the complainant. The parties to the *lis* have a *lis* among themselves. The *lis* concern the property dispute or partition being sought of the property in O.S.No.25938 of 2018. The plaintiff is the 1st accused and defendants are the complainant, his wife and son. The said proceedings are pending adjudication. Therefore, the members of the family are before the civil Court on a property dispute.

10. The petitioners register a private complaint against all the three viz., the complainant, his wife and son in P.C.R.No.54194 of 2021 alleging that the petitioners who were staying abroad came back to India only to get to know that the father of the 1st petitioner had died and his death was not even informed to the petitioners. On the death of the father, several documents with regard to the properties had changed hands all without the knowledge of the 1st petitioner. Therefore, the 1st petitioner invokes Section 200 of the CrPC and seeks to register a crime for offence punishable under Sections. 299, 300, 302 r/w 34 of the IPC. The learned Magistrate

refers the matter for investigation under Section 156(3) of the Cr.P.C., which becomes a crime in Crime No.427 of 2021 having registered it on 13-11-2021. Therefore, the 1st petitioner has instituted a civil suit and a crime in Crime No.427 of 2021. It appears that the Police after investigation filed a 'B' report and the matter is now at the stage of answering a protest petition. The aforesaid two cases are not the subject matter of the present *lis*.

11. On 23-11-2021 the son of the complainant dies by committing suicide by hanging himself. Prior to the death, the son had left a death note. The death note points at the petitioners, for him taking the extreme step. The death note reads as follows:

"To whomsoever it may concern

My Suicide Note

I, Vikram G, son of V Giri Velu residing at #3/3 Wheeler's Road, Frazer Town, Bangalore - 560005 with utmost grief am writing this letter and hold my uncle V.V.Singara Velu - Civil Engineer son of Late V.K.Vittal Rao residing at #292/1, 1st Main, Defence Colony, HAL 2nd Stage, Indiranagar, Bangalore - 560 038 (working for DUTCO company in Dubai, UAE) and Vasanthi Velu wife of V.V.Singara Velu residing at #292/1, 1st Main, Defence Colony, HAL 2nd Stage, Indiranagar, Bangalore 560 038 fully responsible for my suicide.

By the time you read this letter, I would have sadly already left this beautiful world.

In the month of October, 2021, my uncle V.V.Singara Velu and his wife Vasanthi Velu had suddenly cornered me near B.B.M.P office in Bangalore and threatened me Vikram G that they will destroy my parent's life by any way and means possible. V.V.Singara Velu and his wife Vasanthi Velu very well knowing about my sensitive nature, abused me in foul and filthy language and mentioned to me that the Police Department are in their pocket and that they also have good friendship with local politicians namely Pradeep Kumar Reddy (ex-corporator), George (ex-minister) and George's PA and that with the help of the Politicians and the Police they will do whatever they want. V.V.Singara Velu and his wife Vasanthi Velu told me that if I give up my life then they will not harm my parents. This is the only option they had given me. After hearing their cruel, wicked and unbearable words from them, I was deeply hurt and I broke down completely both physically and mentally. Even now I am still in shock and I am not being able to digest and recover from what V.V.Singara Velu and his wife Vasanthi Velu told me to do.

I love my parents very much as they are my world to me. After giving in a lot of thought what V.V.Singara Velu and his wife Vasanthi Velu told me to do, I have finally decided to end my own life to throw light on the seriousness of the situation and I state V.V.Singara Velu and his wife Vasanthi Velu totally responsible for my suicide.

As my uncle V.V.Singara Velu and his wife Vasanthi Velu are totally responsible for my death by suicide, I humbly pray the concerned authorities to punish them and take strict actions against them immediately in accordance with law.

I bequeath everything that is in my possession including my personal belongings to go to my mother U.Revathi.

Goodbye World

Sd/-

(Vikram G)

(Emphasis added)

The foundation in the death note is in the month of October, 2021 the 1st petitioner and his wife suddenly cornered the deceased and threatened that they will destroy his parents' life by all means possible. It further notices that the son was of sensitive nature and unable to bear the said abuse. It is also stated that if he ends up his life the petitioners would not trouble his parents and as such has committed suicide. It is this suicide note that brings the petitioners as accused in Crime No.444 of 2021. The 2nd respondent is the complainant and the complaint so registered reads as follows:

"Respected Sir,

This is to state that my father name is V K Vittal Rao and I his son V Giri Veiu father of G.Vikram, 33 yers old and G Revathi mother of G Vikram residing at 3/3 Wheelers Rd, Frazer Town, B'lore 560 005 were residing a simple and peaceful life. On 23/11/2021 last is spoke to my son G Vikram at 9 pm and then I went to take rest in my room. Then in the morning on 24.11.2021 at around 6.00am to 7.00am he usually goes to start the car and his scooter and he puts biscuit to the dog near my house and then goes upstairs on the second floor and then he does his exercise on the tread mill and then usually goes to the room on second floor and listens to music for some time and then comes down to have his bath. At around 6.30 am I rang the bell which is inside the second floor room, usually when we ring the bell he comes outside the room and he answers I will come, but on ringing the bell there was no answer from Vikram G, then again after few minutes at around 7am again I rang the bell again there was not a answer from Vikram G. Then I thought he would have gone to start the car. When informed

my wife, she also told me might be he has gone to start the car. Then my wife G Revathi had gone to the rooftop to pluck flowers from the flower plants. After plucking the flowers she went to room situated on the second floor and tapped at the door, still there was no response and she called Vikram, still there was no response. Then suddenly in the entrance of the Door she saw some written papers and she read it, the note written by Vikram which mentioned "Please Do Not Break Open, call Media and Police for proof and Evidence and let them break open the door (For Witness). Then I Giri Velu immediately went rushing to the Pulakeshinagar Police Station and informed them about the incident. Then immediately the police personnels came to my residence situated at 3/3 Wheeler Rd., Frazer Town, B'lore - 5 and went to the spot and saw that the Door was locked from inside and then broke open the door and went inside the room and saw Vikram G my son was found hanging from the railing of the Roof Top and in the entrance of the Door Vikram G had left a suicide note mentioning that there is a original suicide note in his pocket for which the police has taken the original suicide death note from his pocket for which the police has taken the original suicide death note from his pocket and all other suicide death notes mentioning that V V Singara Velu and his wife Vasanthi Velu are solely responsible for his suicide and death and found that Vikram.G has also written on the wall of the room mentioning that V V Singara Velu & Vasanthi Velu are solely responsible for his suicide & death.

Sir this is to state that my brother V.V.Singara Velu and his wife Vasanthi Velu often has given fake and false complaints against me V Giri Velu, my wife G Revathi and my son Vikram G and always wanted spoil my family reputation in different places. And for all V V Singara Velu and his wife Vasanthi Velu's complaints against us we have proved all the complaint false & wrong with complete proof of documents. V V Singara Velu & his wife Vasanthi Velu in the month of October, 2021 has cornered my son Vikram G near the BBMP office Bangalore and threatened him Vikram G That they will destroy his parents V.Giri Velu and G Revathi by anyway and means possible.

V.Singara Velu and his wife Vasanthi Velu told Vikram G that if he gives up his life then only they will not harm his parents V.Giri Velu & G Revathi. After hearing their cruel, wicked and unbearable words & behavior from them, Vikram G my son was

deeply hurt and Vikram G broke down completely both physically and mentally and he was still in a shock and was not able to digest and recover from what V V Singara Velu and his wife Vasanthi Velu told and threatened him to do. Based on these threatening statements made to Vikram G by V V Singara Velu & Vasanthi Velu his wife, Vikram G my son of V Giri Velu had finally decided to end his own life and Vikram G has mentioned that V V Singara Velu and his wife Vasanthi Velu are solely and totally responsible for his suicide & his death. He has requested the police department and concerned authorities to punish both Singara Velu & his wife Vasanthi Velu and to take strict action against them immediately in accordance with law.

Sir this is suicide death note left behind by Vikram G my son of V Giri Velu and his mother G Revathi.

Sir, we V Giri Velu & my wife G Revathi request the respected police department to take very very strict action against V V Singara Velu and his wife Vasanthi Velu solely responsible for my son Vikram G suicide to death. Sir kindly do the needful & oblige."

The Police after investigation have filed a charge sheet. The summary of the charge sheet is found in column No.7 reading as follows:

"ಬೆಂಗಳೂರು ನಗರ ಪುಲಕೇಶಿ ನಗರ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿಗೆ ಸೇರಿದ ವೀಲರ್ಸ್ ರಸ್ತೆಯ #3/3, ರಲ್ಲಿ ಸಾಕ್ಷಿ-1 ರವರು ವಾಸವಾಗಿರುತ್ತಾರೆ. ಅಂಕಣ-2 ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಎ1 ಆರೋಪಿಯು ಸಾಕ್ಷಿ-1 ರವರ ತಮ್ಮನಾಗಿದ್ದು, ಎ2 ಆರೋಪಿತೆಯು ಎ1 ಆರೋಪಿಯ ಹೆಂಡತಿಯಾಗಿರುತ್ತಾರೆ. ಸಾಕ್ಷಿ-1 ರವರು ವಸವಾಗಿರುವತ #3/3 ರ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಎ1 ಆರೋಪಿಯು ಸ್ವತ್ತನ್ನು ಪಾಲುದಾರಿಕೊಡುವಂತೆ ಮೆಯೋ ಹಾಲ್‌ನ ಕೋರ್ಟ್ ಹಾಲ್ ನಂ:58 ರಲ್ಲಿ ಓ.ಎಸ್ ನಂ:25938/2018 ರಲ್ಲಿ ಪಾರ್ಟಿಶಿಯನ್ ಸ್ಯೂಟ್ ದಾವೆಯನ್ನು ದಾಖಲಿಸಿದ್ದು ಇದು ವಿಚಾರಣೆಯಲ್ಲಿ ಇರುತ್ತದೆ. ಅಲ್ಲದೇ ಸದರಿ ಎ1 & ಎ2 ಆರೋಪಿಗಳಿಬ್ಬರು ಆಸ್ತಿಯ ವಿಚಾರವಾಗಿ ಸಾಕ್ಷಿ-1 ಸೇರಿದಂತೆ ಸಾಕ್ಷಿ-1 ರವರ ಹೆಂಡತಿಯಾದ ಶ್ರೀಮತಿ ರೇವತಿ ಮತ್ತು ಮಗನಾದ ಶ್ರೀ ವಿಕ್ರಂ.ಜಿ ಎಂಬುವವರ ಮೇಲೆ ದೂರುಗಳನ್ನು ದಾಖಲಿಸಿರುತ್ತಾರೆ.

ಸಾಕ್ಷಿ-1 ರವರ ಮಗನಾದ ವಿಕ್ರಂ.ಜಿ, 33 ವರ್ಷ ಈತನು ನಾನು ವಾಸವಾಗಿದ್ದ ಮನೆಯ 2ನೇ ಮಹಡಿಯಲ್ಲಿನ ರೂಮಿನಲ್ಲಿ ದಿ:23/24-11-2021 ರಂದು ರಾತ್ರಿ **In the month of October 2021 My uncle V.V.Singara Velu and his wife**

Vasanthi velu had cornered me near BBMP Office in Bangalore and threatened me that they will destroy my parents life, V.V.Singaravelu and his wife Vasanthi Velu told me that if I give up my life then they will not harm my parents. This is the only option they had given me. I state V.V Singaravelu and his wife Vasanthi Velu totally responsible for my Suicide ಎಂಬುದಾಗಿ ಡೆತ್‌ನೋಟ್ ಬರೆದಿಟ್ಟು ತಾರಸಿಯ ಪೈಪಿಗೆ ಸೀರೆಯಿಂದ ನೇಣು ಹಾಕಿಕೊಂಡು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ.

ಸದರಿ ಎ1 ಮತ್ತು ಎ2 ಆರೋಪಿಗಳು ಆಸ್ತಿಯ ವಿಚಾರವಾಗಿ ಸ್ವಾಕ್ಷಿ-1 ಮತ್ತು ಅವರ ಕುಟುಂಬದವರ ಮೇಲೆ ಕೇಸುಗಳನ್ನು ದಾಖಲಿಸಿ ತೊಂದರೆ ನೀಡುತ್ತಾ ಮೃತನಿಗೆ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ಇದರಿಂದ ಮನನೊಂದಂತಹ ಸ್ವಾಕ್ಷಿ-1ರವರ ಮಗ ವಿಕ್ರಂ.ಜಿ ಈತನು ನೇಣು ಹಾಕಿಕೊಂಡು ಮೃತನಾಗಿರುತ್ತಾನೆ. ಆದ್ದರಿಂದ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಮೇಲ್ಕಂಡ ಕಲಂ ರೀತ್ಯ ದೋಷಾರೋಪಣ ಪಟ್ಟಿ ಸಲ್ಲಿಸಿರುತ್ತದೆ.

ನಿವೇದನೆ: ಮೃತನು ಬರೆದಿರುವ ಅಸಲು ಡೆತ್‌ನೋಟ್‌ಗಳನ್ನು ಪಂಚರ ಸಮಕ್ಷಮ ಸೀಲ್ ಮಾಡಿರುವ ಲಕೋಟೆಯಲ್ಲಿ ಸಂಗ್ರಹಿಸಿದ್ದು, ನ್ಯಾಯಾಲಯದ ವಿಚಾರಣೆಯ ಕಾಲದಲ್ಲಿ ಘನ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಿವೇದಿಸಿಕೊಳ್ಳಲಾಗುವುದು. ಪಂಚರ ಸಮಕ್ಷಮ ಸದರಿ ಡೆತ್‌ನೋಟ್‌ಗಳ ನಕಲು ಪ್ರತಿಗಳನ್ನು ತೆಗೆದು ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯೊಂದಿಗೆ ಲಗತ್ತಿರುತ್ತದೆ.”

(Emphasis added)

The issue now is whether sufficient ingredients for an offence under Section 306 of the IPC are available on record for the petitioners to face the trial. The moment crime is registered, the petitioners were before this Court in Criminal Petition No.9951 of 2021 challenging the FIR. During the pendency of the petition, charge sheet comes to be filed by the Police. It is then, the petitioners seek liberty to challenge the same by withdrawing the petition. It is, therefore, the present petition is preferred challenging the charge sheet. The

charge sheet alleges offences punishable under Section 306 r/w 34 of the IPC. Section 306 of the IPC reads as follows:

"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.*"

Abetment is the soul of Section 306. If one abets or drives a person to the extent of commission of suicide, the offence would become punishable for abetment to suicide. Abetment is defined under Section 107 of the IPC. Section 107 of the IPC reads as follows:

"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 willful misrepresentation, or by willful 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."

Therefore, the presence of ingredients of Section 107 of the IPC is ***sine qua non*** for an offence under Section 306 of the IPC. Interpretation of Section 306 of the IPC and the presence of ingredients under Section 107 need not detain this Court for long or delve deep into such interpretation.

12. The Apex Court has in plethora of judgments, right from ***MAHENDRA SINGH AND ANOTHER v. STATE OF MADHYA PRADESH***² has held as follows:

"1. Criminal Appeal No. 743 of 1989 is filed by Mahendra Singh, the husband and his mother Radhabai the mother-in-law of the deceased Khema Bai. The appellant in Criminal Appeal No. 402 of 1989 is Gayatri Bai the sister-in-law of the husband of the deceased Khemabai. These three appellants stand convicted under Section 306 I.P.C. where under they have been sentenced to three years R.I. each. In so far as the appellants in Criminal Appeal No. 743 of 1989 are concerned, they have undergone the sentence imposed on them. Sentence of the appellant in Criminal Appeal No. 402 of 1989 stands suspended under orders of this Court after the appellant has undergone sentence barely of about ten days. The charge under Section 306 I.P.C. is basically based on the dying declaration of the deceased which when translated reads as follows:

"My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning."

² (1995) Supp (3) SCC 731

2. Learned Counsel for the appellant rightly submitted that but for the statement of the deceased there is no other pointed evidence from which it could be inferred that there was any abetment so as to bring the acts of the appellants within Section 306 I.P.C. under which the appellants have been punished. The dying declaration, per se, could not involve the appellants in offence punishable under Section 306 I.P.C., because it provides for abetment of suicide. Whoever abets the commission of suicide, and if any person commits suicide due to that reason, he shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Abetment has been defined in Section 107 I.P.C. to mean that a person abets the doing of a thing who firstly instigates any person to do a 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. Neither of the ingredients of abetment are attracted on the statement of the deceased. The conviction of the appellants under Section 306 I.P.C. merely on the allegation of harassment to the deceased is not sustainable. The appellants deserve to be acquitted of the charge."

(Emphasis supplied)

In **RAMESH KUMAR v. STATE OF CHHATTISGARH**³ the Apex

Court has held as follows:

"9. So far as the offence under Section 306 of IPC is concerned, in our opinion, the Trial Court and the High Court have committed gross error of law in holding the accused-appellant guilty and therefore conviction

³ (2001) 9 SCC 618

under Section 306 IPC deserves to be quashed and set aside.

10. Section 306 IPC provides that if any person commits suicide whoever abets the commission of such suicide, shall be liable to be punished. The ingredients of abetment are set out in Section 107 of IPC which reads as under:

"107. Abetment of thing.-A person abets the doing of a thing, who- First.- Instigate 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."

... ..

13. The present case is not one which may fall under clauses, secondly and thirdly of Section 107 of Indian Penal Code. The case has to be decided by reference to the first clause, i.e., whether the accused-appellant abetted the suicide by instigating her to do so.

14. It is beyond doubt that Seema did commit a suicide. Undisputedly, such suicide has been committed within a year of the date of marriage. What happened on the date of occurrence is very material for the purpose of recording a finding on a question of abetment. Enough material is available on record by way oral and documentary evidence with which we shall now deal with.

... ..

20. Instigation is to goad, urge forward, provoke, incite or encourage to do `an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable

certainty to incite the consequence must be capable of being spelt out. The present one is not a case 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 been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

(Emphasis supplied)

In **SANJU ALIAS SANJAY SINGH SENGAR v. STATE OF M.P.**⁴

the Apex holds as follows:

"12. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25th July, 1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased 'to go and die'. For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 Cr.P.C. when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Cr.P.C. is annexed as annexure P-3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him 'to go and die'. Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged abusive words,

⁴ (2002) 5 SCC 371

said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between to think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 derived the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly pointed out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below.

.... ..

14. A plain reading of the suicide note would clearly show that the deceased was in great stress and depressed. One plausible reason could be that the deceased was without any work or avocation and at the same time indulged in drinking as revealed from the statement of the wife -- Smt. Neelam Sengar. He was a frustrated man. Reading of the suicide note will clearly suggest that such a note is not a handy work of a man with sound mind and sense. Smt. Neelam Sengar, wife of the deceased, made a statement under Section 161 Cr.P.C. before the Investigation Officer. She stated that the deceased always indulged in drinking wine and was not doing any work. She also stated that on 26th July, 1998 her husband came to them in an inebriated condition and was abusing her and other members of the family. The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25th July, 1998 and if the deceased came back to the house again on 26th July, 1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken pace on 25th July, 1998. Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of 'abetment' are totally absent in the instant case for an offence under Section 306 I.P.C. It is in the

statement of the wife that the deceased always remained in a drunken condition. It is a common knowledge that excessive drinking leads one to debauchery. It clearly appeared, therefore, that the deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25th July, 1998 where the appellant is stated to have used abusive language. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to irresistible conclusion that it is the deceased and he alone, and none else, is responsible for his death."

(Emphasis supplied)

In **S.S.CHHEENA v. VIJAY KUMAR MAHAJAN**⁵ the Apex Court has held as follows:

"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

26. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.

27. When we carefully scrutinize and critically examine the facts of this case in the light of the settled legal position the

⁵ (2010) 12 SCC 190

conclusion becomes obvious that no conviction can be legally sustained without any credible evidence or material on record against the appellant. The order of framing a charge under Section 306 IPC against the appellant is palpably erroneous and unsustainable. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under Section 306 IPC against the appellant is quashed and all proceedings pending against him are also set aside."

(Emphasis supplied)

In **M.ARJUNAN v. STATE**⁶ it is held by the Apex Court as follows:

"7. The essential ingredients of the offence Under Section 306 Indian Penal Code are: (i) the abetment; (ii) the intention of the Accused to aid or instigate or abet the deceased to commit suicide. The act of the Accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the Accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, Accused cannot be convicted Under Section 306 Indian Penal Code.

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

(Emphasis supplied)

⁶ (2019) 3 SCC 315

In **GURCHARAN SINGH v. STATE OF PUNJAB**⁷ the Apex Court holds as follows:

"15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified Under Section 107 of the Indian Penal Code, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the Appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous. However, what transpires in the present matter is that both the Trial Court as well as the High Court never examined whether Appellant had the mens rea for the crime, he is held to have committed. The conviction of Appellant by the Trial Court as well as the High Court on the theory that the woman with two young kids might have committed suicide, possibly because of the harassment faced by her in the matrimonial house, is not at all borne out by the evidence in the case. Testimonies of the PWs do not show that the wife was unhappy because of the Appellant and she was forced to take such a step on his account.

....

20. In such circumstances, we have no hesitation in declaring that the Trial Court and the High Court erred in concluding that the deceased was driven to commit suicide, by the circumstances or atmosphere in the matrimonial home. This is nothing more than an inference, without any material support. Therefore, the same cannot be the basis for sustaining conviction of the Appellant, Under Section 306 of the Indian Penal Code."

(Emphasis supplied)

⁷ (2020) 10 SCC 200

The Apex Court in the aforesaid judgments has clearly held that abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. It should be a positive act on the part of the accused to instigate or aid commission of suicide failing which such cases of conviction cannot be sustained as there should be clear *mens rea* on the part of the accused to drive the deceased for commission of such act.

13. The Apex Court in **MAHENDRA SINGH** (*supra*) was considering a case where the wife of the accused had committed suicide. The allegation was that the husband was having illicit relationship with the sister-in-law and, therefore, the wife had committed suicide by burning. The Apex Court acquits the accused. In the case of **RAMESH KUMAR** (*supra*), the Apex Court observes that investigation was to goad, urge forward, provoke incite or encourage to do an act. If these ingredients are not present such actions would lead to acquittal. In the case of **SANJU** (*supra*) the allegation was that the accused had used abusive language and reportedly told the deceased to go and die which by itself would not

mean instigation to go and die. Therefore, the Apex Court in all the aforesaid cases considered ingredients of abetment.

14. The Apex Court, in later cases, while interpreting Section 306 of the IPC holds that there should be a positive act, proximate to the time or date of occurrence of the incident and that positive act should be either direct or indirect. The Apex Court in the case of **AMALENDU PAL v. STATE OF WEST BENGAL**⁸ has held as follows:

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act

⁸ (2010) 1 SCC 707

of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

14. The expression "abetment" has been defined under Section 107 IPC which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause Firstly or to do anything as stated in clauses Secondly or Thirdly of Section 107 IPC. Section 109 IPC provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence. Learned counsel for the respondent State, however, clearly stated before us that it would be a case where clause Thirdly of Section 107 IPC only would be attracted. According to him, a case of abetment of suicide is made out as provided for under Section 107 IPC."

(Emphasis supplied)

Later, the Apex Court in the case of **UDE SINGH AND OTHERS v.**

STATE OF HARYANA⁹ has held as follows:

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the

⁹ (2019) 17 SCC 301

deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. *For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.*

16.2. *We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently*

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

(Emphasis supplied)

The Apex Court in the case of **KANCHAN SHARMA v. STATE OF UTTAR PRADESH AND ANOTHER**¹⁰ has held as follows:

"9. "Abetment" involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306IPC. To proceed against any person for the offence under Section 306IPC it 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."

(Emphasis supplied)

In the case of **GEO VARGHESE v. STATE OF RAJASTHAN AND ANOTHER**¹¹ the Apex Court has held as follows:

¹⁰ 2021 SCC OnLine SC 737

"23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.

....

42. In the absence of any specific allegation and material of definite nature, not imaginary or inferential one, it would be travesty of justice, to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience and the appellant who is a teacher would certainly suffer great prejudice, if he has to face prosecution on absurd allegations of irrelevant nature."

(Emphasis supplied)

Following the aforesaid judgments the Apex Court in the case of **DAXABEN v. STAE OF GUJARAT**¹² has held as follows:

"8. Section 306 of the IPC reads:

"306. Abetment of suicide. -If any person commits suicide, whoever abets the commission of

¹¹ 2021 SCC OnLine SC 873

¹² 2022 SCC OnLine SC 936

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."

9. As argued by Ms. Shenoy, learned Senior Counsel appearing on behalf of the Respondents, what is required to constitute alleged abetment of suicide under Section 306 of the IPC is that there must be an allegation of either direct or indirect act of incitement to the commission of the offence of suicide."

(Emphasis supplied)

Again the Apex Court in **MARIANO ANTO BRUNO AND ANOTHER v. INSPECTOR OF POLICE**¹³ has held as follows:

"42. To convict a person under Section 306 IPC, there has to be clear mens rea to commit offence. It also requires an active act or direct act which leads deceased to commit suicide finding no other option and the act must be such reflecting intention of the accused to push deceased into such a position that he commits suicide. The prosecution has to establish beyond reasonable doubt that the deceased committed suicide and Appellant No. 1 abetted the commission of suicide of the deceased. In the present case, both the elements are absent.

.... ..

43. It is well settled that the Courts ought to be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. Reference may be made to the judgment of a three-Judge Bench of this Court in Ramesh Kumar v. State of Chhattisgarh⁹, wherein this Court set-aside the conviction of the accused for the offence

¹³ 2022 SCC OnLine SC 1387

under Section 306 IPC as ingredients of Section 306 IPC were not satisfactorily proved. It was observed as under:—

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case 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 been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

21. In State of West Bengal v. Orilal Jaiswal¹⁰, this Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

(emphasis supplied)

In a later judgment the Apex Court in the case of **V.P. SINGH v. STATE OF PUNJAB AND OTHERS**¹⁴ has held as follows:

"11. On perusal of the charge sheet, it was found that there is no other independent witness whose statement was recorded or who is cited as a witness to the actual incident. In view of the letter exchanged including his apology letter, it is quite obvious that the complaint has embellishments and endeavour to make out a case of abetment of suicide. If one may say, on even reading of the charge sheet, on the basis of the complaint as it is, there is still no case made out for abetment of suicide.

... ..

16. In fact in *Indrajit Kundu case (Supra)* the judgment referred to us in *Sarju case (supra)* was once again referred to where the husband and wife's quarrel resulted in the husband telling the wife "to go and die" and the suicide was committed two days later, was not said to have proximity to the quarrel even if stated in the suicide note.

17. To examine the factual matrix in the present case, in view of the aforesaid legal position, we find not an iota of material on record even assuming the complete charge sheet to be correct which could lead to a conviction in a case of abetment as there was absence of the necessary ingredients to make the offence. While we appreciate the anguish of a father who has lost a young son, that cannot result in blaming the world (in the present case, the institution and its teachers) for what is a basic disciplinary action necessary for running the institute. A contra position would create a lawless and unmanageable situation in an educational institution. The suicide note further shows that there is something to be said about the relationship between the deceased and his

¹⁴ Criminal Appeal No.2103/2010 decided on 24-11-2022

father where in fact the deceased thought that his father could be blamed for the episode and thus asked to not to trouble his father. The anguish of the father ought not to have been converted into a case of abetment of suicide and certainly the investigation and the approach of the trial Court could have been more realistic keeping in mind the surrounding facts and circumstances in which the suicide episode occurred."

(Emphasis supplied)

15. All aforesaid judgments of the Apex Court were acquitting the accused who were convicted of offences punishable under Section 306 of the IPC. In some cases the Apex Court directs High Courts to entertain such petitions in exercise of its jurisdiction under Section 482 of the Cr.P.C., and following the said judgments this Court in plethora of cases has quashed proceedings in exercise of its jurisdiction under Section 482 of the Cr.P.C.

16. On a coalesce of the judgments rendered by the Apex Court as afore-quoted, right from 1995 to 2023, what would unmistakably emerge is, that there must be *mens rea* and *actus reus* for an offence under Section 306 of IPC, as there must be a positive act to instigate in aiding suicide. Proximate to the death must be a dynamic act, be it direct or indirect. It should be proximate to the occurrence of death and it should be instigation of

the kind that it drives a person to commit suicide. Thus, if these ingredients are present in a given case, exercise of jurisdiction under Section 482 of the Cr.P.C., would not be available. Likewise, if they do not find place in a given case, this Court would step in and obliterate the proceedings. If on the afore-quoted law, that is laid down, the facts obtaining in the case at hand are re-assessed what would unmistakably emerge is, that the death of the son of the complainant has no proximity to any of the alleged instigations of the petitioners.

17. The complaint itself narrates that the incident happened in the month of October, 2021 with no date specified. Therefore, it could be taken that it has happened from 1st October, 2021 to 31st October, 2021. Litigations in the family galore – civil suit is filed by the petitioners against the complainant and his family and crime is registered against the complainant by the petitioners. Even that was on 13-11-2021. They are legal proceedings taken up by the petitioners against the complainant and his family members. If the suicide note/death note is taken into consideration, it only narrates

that in the month of October 2021 the petitioners had hurled abuses and have registered several proceedings against the complainant and his family members and therefore, the son commits suicide on 23-11-2021. There cannot be any proximity or any instigation which would drive the son of the complainant to commit suicide. As observed by the Apex Court in the aforesaid cases, if the ingredients of Section 107 of the IPC are completely absent, no offence under Section 306 can even be proved. It is, therefore, in a given case this Court has to step in, in exercise of its jurisdiction under Section 482 of the Cr.P.C., and obliterate those proceedings which would, on the face of it, be abuse of the process of law and result in miscarriage of justice.

18. Insofar as the judgment relied on by the learned High Court Government Pleader in the case of **K.C. MAHENDRA** (*supra*) is concerned, the facts obtaining in the case therein were entirely different from what are obtaining in the case at hand. Therefore, the said judgment becomes distinguishable without much *ado*. The facts obtaining in the case at hand are circumstances enough for

this Court to interfere and terminate the proceedings, failing which it would result in miscarriage of justice.

19. For the aforesaid reasons, I pass the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) Impugned proceedings in C.C.No.50169 of 2022 pending before the XI Additional Chief Metropolitan Magistrate, Mayo Hall, Bengaluru City arising out of Charge Sheet in Crime No.444 of 2021 of Puiikeshinagar Police Station stand quashed.
- (iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of petitioners under Section 482 of Cr.P.C. and the same shall not bind or influence the other proceedings between the parties, before any other *fora*, or against any other accused.

Consequently, I.A.No.1 of 2023 also stands disposed.

**Sd/-
JUDGE**

Bkp/CT:MJ