

Reserved on : 19.07.2024
Pronounced on : 09.08.2024



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 09TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.9707 OF 2023

BETWEEN:

MAYUKH MUKHERJEE
AGED ABOUT 31 YEARS
S/O DEBABRATA MUKHERJEE
RESIDING AT NO.76/1B-76/2
GEAR ROAD, KAVERAPPA LAYOUT
KADUBISANAHALLI
PANATHUR, BENGALURU – 67.

PRESENTLY RESIDING AT
NO.78, WEST WIND FLAT-13B
BLOCK-4, RAJA S. C.,
MALLICK ROAD, GARIA
SOUTH-24, PARGANAS
WEST BENGAL – 700 084.

... PETITIONER

(BY SRI SANDESH J.CHOUTA, SR. ADVOCATE A/W
SRI PRATHEEP K. C., ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
REPRESENTED BY
MARATHAHALLI POLICE STATION

BENGALURU CITY
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU – 01.

- 2 . PRONAB KUMAR SHARMA
S/O LATE DEBENDRA KUMAR SHARMA
AGED ABOUT 70 YEARS
RESIDING AT SETTLEMENT LINK ROAD
WARD NO.5, KMB, POST P.S.,
KARIMGANJ
STATE OF ASSAM – 788 710.

... RESPONDENTS

(BY SRI THEJESH P., HCGP FOR R1;
SMT DEEPA J., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN S.C.NO.859/2023 ON THE FILE OF XLV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-46) AT BENGALURU FOR THE OFFENCE P/U/S 498A, 306 OF IPC.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 19.07.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CAV ORDER

The petitioner, sole accused in S.C.No.859 of 2023 pending before the XLV Additional City Civil and Sessions Judge, Bengaluru arising out of crime in Crime No.47 of 2023 registered for offences under Sections 498A, 306 and 34 of the IPC is before this Court calling in question the entire proceedings.

2. *Sans* details, facts germane are as follows:-

The 2nd respondent is the complainant, father-in-law of the petitioner. The petitioner gets married to one Piyali Mukherjee ('the victim'), the daughter of the complainant on 05-02-2021. It appears that the relationship between the two turned completely sore and on several grievances, she commits suicide by hanging herself on 24-02-2023. The 2nd respondent/father then registers a complaint against the husband, mother-in-law and father-in-law of the deceased for having abetted the suicide of the victim on demand of dowry. The complaint is registered on 26-02-2023 which results in a crime in Crime No.47 of 2023. The police conduct investigation and file a charge sheet. While filing the charge sheet

the father-in-law and mother-in-law of the deceased are dropped as nothing was found against them and charge sheet is filed only against the petitioner/husband. The matter is committed to the Court of Sessions where it is registered as S.C.No.859 of 2023. On 23-08-2023 the Court of Sessions directs the matter to be posted for framing of charges. It is at that juncture the petitioner knocks the doors of this Court in the subject petition.

3. Heard Sri Sandesh J. Chouta, learned senior counsel appearing for the petitioner, Sri P. Thejesh, learned High Court Government Pleader appearing for respondent No.1 and Smt J. Deepa, learned counsel appearing for respondent No.2.

4. The learned senior counsel Sri Sandesh J.Chouta submits that the victim by herself was suffering from depression. She has shot a video of her suicide, transcript of which clearly indicates that she is blaming none in the family. She further says that no action should be taken against the husband or in-laws as she is committing suicide on such depression. The learned senior counsel would further submit that there is neither goading, instigation nor

proximity to the death of the victim. He would contend that the issue in the *lis* stands completely covered by what this Court has held in **DAVID D'SOUZA v. STATE OF KARNATAKA**¹. The learned senior counsel submits that this Court in David D'Souza's case has considered the entire spectrum of the law and, therefore, he would not rely on any other judgment *qua* the offence punishable under Section 306 of the IPC. Insofar as the offence under Section 498A of the IPC is concerned, the learned senior counsel would submit that there is not even a single ingredient of demand of dowry in the complaint, except harassment now and then, as noted by the victim in her diary. Insofar as Section 498A is concerned, the learned senior counsel would place reliance upon the judgment of the Apex Court in the case of **ACHIN GUPTA v. STATE OF HARYANA**². He would seek quashment of the proceedings placing reliance upon the aforesaid two judgments and on emphasizing the fact that the petitioner/husband has never instigated the victim to commit suicide.

¹ 2024 SCC OnLine Kar.47

² 2024 SCC OnLine SC 759

5. Per contra, the learned counsel Smt. J. Deepa appearing for the 2nd respondent/complainant would take this Court through the documents appended by the petitioner himself to the petition which are all charge sheet materials to contend that instigation, goading and all other necessary ingredients of Section 107 of the IPC have clearly become an offence under Section 306 of the IPC which punishes one who abets commission of suicide. She makes a particular reference to the transcript of the audio and the writings of the victim in her diary to contend that there is a death clip and other history notes of torture of the husband on the wife and him having extra-marital affair. It is these factors that led the victim to commit suicide. She would seek dismissal of the petition contending that these are all matters of trial.

6. The learned High Court Government Pleader would also toe the lines of the learned counsel for the complainant in seeking dismissal of the petition.

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

8. The afore-narrated facts are not in dispute. The relationship between the complainant and the petitioner is that of father-in-law and son-in-law. The daughter of the complainant who is the victim, gets married on 05-02-2021. After the marriage, the petitioner and the victim shifted to Bengaluru on avocation of the petitioner. It is the averment that intermittently the victim used to travel to Karimganj, her parents place and then come back to matrimonial house at Bengaluru. On the fateful day i.e., 24-02-2023 the victim hangs herself and commits suicide. Then her parents were informed and they came down and immediately register a complaint on 26-02-2023. The complaint was against all three i.e., the husband, father-in-law and mother-in-law of the deceased. The offence was instigation to commit suicide. The

complaint so registered reads as follows:-

To

Date: 26-02-2023.

*The Police Inspector,
Marathahalli Police Station
Bangalore - 560 037.*

From

*Pronab Kumar Sharma, 70 years,
S/o late Debendra Kumar Sharma
Settlement Link Road
Ward No.5, KMB, P/o P.S.Karimganj
State: Assam, Pin-788 710,
Phone # 9954845407, 8638041746
Email# rajeshghosh308@gmail.com
Mail2bindiyasharma@gmail.com
Caste: Brahmin.*

Dear Sir,

Subject: *Complaint against Mayukh Mukherjee, Dehabrata Mukherjee and Swati Mukherjee for instigating Piyali Mukherjee to commit suicide.*

--

I am writing this complaint in respect of suicide of my daughter Piyali (30 years) which was informed over the phone by the mother-in-law of my daughter on 24-02-2023 evening. I got same information from the Marathahalli Police Station. I requested police to preserve my daughter's dead body until I arrive. My daughter Piyali was married to Mayukh Mukherjee on Feb 5, 2021. They were living in Pune initially and moved to Bangalore in January 2022 and were residing at the below mentioned address since then - Flat 201, Block A, Sraddha Palmera Apartments, Varthur Hobli, Sy.Nos. 76/1B-76/2, Gear Road, Kaverappa layout, Kadubeesanahalli, Panathur, Bengaluru- 560 103.

We visited the house and the room where my daughter hung herself and found a death note in a diary and a video on her phone which she captured before the death. Piyali found out my son-in-law Mayukh Mukherjee has an extra-marital affair and confronted him many times and asked him to change his behavior and live a happy married life with her. Piyali mentioned about this to her father-in-law and mother-in-law but both of them did not say a word of their son to make any changes and live life of a dutiful husband. All these things have put my daughter Piyali into immense mental harassment. In the death note, my daughter Piyali has mentioned of physical harassment also by the family which is his father Debabrata Mukherjee and mother Swati Mukherjee and Mayukh himself.

Since the marriage in Feb, 2021 till now, there is also a mention about father-in-law Debabrata Mukherjee harassing my daughter by unnecessary blaming and accusing her on having eyes on their properties, when in fact my daughter had no interest on it as she was herself earning very well.

The father-in-law has repeatedly harassed my daughter mentally and emotionally by making these false allegations and statements which has hurt my daughter immensely. Not only Piyali's father-in-law and mother-in-law not take care of her, but also did not advise their son to stop his extra marital affair. Being elders of the family they did not advise Mayukh to live a happy married life for which the whole marriage had taken place.

From reading through the death note, it is clear that these 3 people have harassed my daughter and provoked her and have abetted her to commit suicide. There constant harassment led her to take the ultimate step of giving away her life due to everyday harassment she was going through.

My daughter had a very bad relationship in the marriage due to extra marital affair by my son-in-law and his irrational behavior towards my daughter by not even picking up her calls or responding to her messages and leaving her all alone in the

house with his parents. He did not give any attention or care and necessary love that she is entitled to as a wife.

My daughter was a very strong, well educated and self made person who was working in a reputed company, Amazon Bangalore, at a good position of a Trainer. She was working from home. My daughter even though was a strong lady was pushed to a point to take this extreme step of giving away her life due to the harassment of these 3 people.

Piyali is my youngest daughter who is extremely talented and the loved child. She was a strong woman and these 3 people have forced her to take this step. Therefore, I am requesting the Police authorities to conduct investigation in the interest of my daughter and take necessary actions to bring justice to her as she is no more in this world due to these 3 people. All proofs about relationship and suicide are available in her phone and the death note in the diary. I was in Assam State when I was intimated about my daughter's death. I came yesterday late night to Bengaluru and now I am giving this complaint for necessary action.

Thanking you,

*Sincerely,
Sd/-
(Pronab Kumar Sharma)"*

The complainant narrates several instances that his daughter had narrated to him throughout. The issue was that the husband continued to have extra-marital affair. The investigation leads to discovery of material that the victim had left prior to the commission of suicide. Those materials are video clip/audio which is transcribed. Since video was in Bengali language all three minutes video was translated pursuant to a communication from the

Investigating Officer. The translation Centre for Indian and Foreign languages attaches to it a complete transcript of the audio voice found in the video. The audio script assumes complete significance in the case at hand and reads as follows:-

"This video is for you. I just want to say you one thing that I had really loved you, which you could not understand. I further state that before you had betrayed me by having an illicit relationship with another woman and also you have disrespected me all the time. I have even tried to understand all the issues of dispute that were happening between me and you. I have even requested you to visit a marriage counselor along with me and all these things I have even requested via messages but you have never bothered to understand me. You do not have any interest to keep this relation. I even took sleeping pills but nothing happened to me but because of that I am unable to speak properly. You do not have to look over my parents, my parents will settle themselves of their own and may be after some days you will also marry someone else. I may die today but I don't want anything bad happens to you ad I have even wrote a note about the same. Further, even if I think you are guilty of whatever dispute has arose between me and you, for that I don't want to punish you. I further state that I am responsible for my death and I know my elder sister will take care of my parents and before I die I am watching our picture several times which is kept in our bed room. I even tried to contact you several times and resolve the dispute between me and you but you don't even have 2 minutes for me. Puneeth you were not like this after coming to Bangalore your priorities have changed. I further state that, I have never insisted you to stay away from your family or abandon your parents, in fact you have made many derogative and demeaning comments against your family, where I have patiently calmed you down and also asked you not to say or think like that against them. Like I stated how your family is

important to you, similarly I am also important. I have left everything and come with you to stay together with you and lead our married life happily but you didn't understand me. If you would have tried to rectify everything this divorce would not have happened and today whatever decision I have to take it is just because to avoid this situation that I am going through now. If I would have not taken this step you would have never realized what you have done towards me and I would have again pardoned you if you would have understood me and also avoided this divorce. But today I am killing myself as because I want to avoid this painful situation and this is my voluntary decision. Further when I die my parents will be upset and broken for many days but eventually everything will be normal someday. I had promised you that, until I die I will love you and I will love you forever. I thank you for showing me care and love before and now what you have done towards me you will have no regret. I am leaving forever. Bye."

(Emphasis added)

The victim narrates that she is dying on that day. The reason for the death is the husband not changing himself from having an extra-marital affair and, therefore, she dies. While so saying, she also says that she loves the husband and love him forever. She is killing herself to avoid any painful situation and it was a voluntary decision. The investigation leads to a diary which shows that the victim is in the habit of writing of the incidents. Though not complete narration of diary, certain pages of the diary are necessary to be noticed, and they read as follows:

"When some person loses interest to carry on this life, that does not mean that person have lost power to fight

back. That may also mean that person is unable to bear more pain in life and today my situation is very much same and now I cannot bear any more pain and now I am in much pain and agony. I further state that I am in this painful situation almost every day and no one will know what's happening inside the four walls between the husband and the wife, that there is no relation between me and you and further only I can understand the amount of pain that I have to bear through, being a married woman having an unsuccessful married life. One person gets married, in order to leave a peaceful and happy life but whereas in front of myself my life has become a matter of joke. I think in this generation I am the first wife, who eve after knowing that her husband is having an extra-marital affair but still I have given a chance to you, in order to save the marriage but now everything has turned meaningless. It's not that I have not tried after that and even now I am trying but I doubt how many days I can bear this pain. I have no reason to live anymore. I have further stated from the very beginning of the marriage that it's one of my biggest wish to become a mother but when I got pregnant for the first time, he forced me to abort the baby showing that you have a financial issue.

... ..

*I could not take it anymore and he is behaving in such a way that I feel like dying. But until now I was having lot of **zeol** to live this life. But, now I cannot take this anymore and the people those who have no feelings it's hard to make them understand how I feel. I know by taking this extreme decision I am betraying my parents and it would be very painful for them but if I would have lived this life, at would be more painful for them.*

I don't want to punish anyone, all of you life happily.

Further Daddy I don't have any agreed towards your property in Kolkata and that's why I used to tell him that we will all stay in a rented house, which he misinterpreted or wrongly interpreted about me.

And dad you are so matured, even after week is that the way you have scolded me I could not think about, further during that period of time even you had lost of quarrels with him where he told you whatever that came through his mouth, but nothing happened at that point of time, again you have consoled and convinced him and everything went calm for that point of time. There is big difference in calling me as your daughter and really accepting me as your daughter.

... .."

(Emphasis added)

The rest of the material of the diary would not be germane at this juncture. Certain statements of witnesses are recorded namely of CW-1 to CW-13. The handwriting of the victim was sent for examination to Forensic Science Laboratory. It is confirmed that it is the hand writing of the victim. Even the audio and video is also confirmed that it is of the victim. Those documents are also appended to the petition. On the basis of the said documents, the police file a charge sheet before the concerned Court. The summary of the charge sheet reads as follows:

"17. ಕೆಲಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಸಾಕ್ಷಿ-1 ರವರ ಮಗಳಾದ ಮೃತೆ ಶ್ರೀಮತಿ ವಿಯಾಲಿ ಮುಖರ್ಜಿ ರವರು ದಿನಾಂಕ 05-02-2021 ರಂದು ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯ ಕಾಲಂ ನಂ-12 ರಲ್ಲಿ, ನಮೂದಿಸಿರುವ ಎ-1 ಆರೋಪಿಯ ಜೊತೆಯಲ್ಲಿ. ಹಿಂದು ಸಂಪ್ರದಾಯದ ಪ್ರಕಾರ ಮದುವೆಯಾಗಿದ್ದು, ನಂತರ ಸಾಕ್ಷಿ-1 ರವರ ಮಗಳು ಮೃತೆ ವಿಯಾಲಿ ಮುಖರ್ಜಿ ಮತ್ತು ಎ1 ಆರೋಪಿಯು ಬೆಂಗಳೂರು ನಗರ ಮಾರತ್ನಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆಯ ಸರಹದ್ದಿಗೆ ಬರುವ ಕಾವೇರಪ್ಪ ಬಡಾವಣೆ ಶ್ರದ್ಧಾ ಪಾಲಮೇಲಾ ಅಪಾರ್ಮೆಂಟ್ ನ 'ಎ' ಬ್ಯಾಕ್ 201 ರಲ್ಲಿ,

ಜನವರಿ 2022ನೇ ಸಾಲಿನಿಂದ ವಾಸವಾಗಿದ್ದು, ಮದುವೆಯಾದ ನಂತರ ಎ-1 ಆರೋಪಿಯು ಸ್ವಾಕ್ಷಿ-1 ರವರ ಮಗಳಾದ ಮೃತ ಪಿಯಾಲಿ ಮುಖರ್ಜಿ ರವರ ಜೊತೆಯಲ್ಲಿ.. ಸರಿಯಾಗಿ ಸಂಸಾರವನ್ನು ಮಾಡದೇ, ಬೇರೆ ಹೆಣ್ಣಿನ ಜೊತೆಯಲ್ಲಿ, ಸಂಬಂಧವನ್ನು ಇಟ್ಟುಕೊಂಡಿದ್ದು ಈ ಸಂಬಂಧ ಮೃತ ಶ್ರೀಮತಿ ಪಿಯಾಲಿ ಮುಖರ್ಜಿ ರವರು ತನ್ನ ಗಂಡ ಎ1 ಆರೋಪಿಯ ನಡವಳಿಕೆಯನ್ನು ಬದಲಾಯಿಸಿಕೊಂಡು ಉತ್ತಮ ಜೀವನವನ್ನು ಮಾಡಲು ಕೋರಿಕೊಂಡರು ಸಹ ಎ1 ಆರೋಪಿಯು ಮೃತಳ ಮಾತನನ್ನು ಕೇಳದಿದ್ದ ಕಾರಣ ಮೃತ ಶ್ರೀಮತಿ ಪಿಯಾಲಿ ಮುಖರ್ಜಿ ರವರು ಪ್ರತಿದಿನ ಮಾನಸಿಕವಾಗಿ ನೊಂದುಹೋಗಿದ್ದು, ತದನಂತರ ಎ1 ಆರೋಪಿಯು ಶ್ರೀಮತಿ ಪಿಯಾಲಿ ಮುಖರ್ಜಿ ರವರ ಫೋನ್ ಕರೆಗಳಿಗೂ ಸಂದೇಶಗಳಿಗೂ ಸಹ ಪ್ರತಿಕ್ರಿಯಿಸುತ್ತಿರಲಿಲ್ಲ. ಪ್ರತಿ ದಿನ ಮೃತ ಶ್ರೀಮತಿ ಪಿಯಾಲಿ ಮುಖರ್ಜಿ ರವರಿಗೆ ತನ್ನ ಗಂಡನಾದ ಎ1 ಆರೋಪಿಯು ನೀಡುವಂತಹ ಮಾನಸಿಕವಾಗಿ ಮತ್ತು ಭಾವನಾತ್ಮಕವಾಗಿ ಅನುಭವಿಸುತ್ತಿದ್ದ ಕಿರುಕುಳದ ಬಗ್ಗೆ ಪ್ರತಿ ದಿನ ಒಂದು ಡೈರಿಯಿಲಿ., ಬರೆದು, ದಿನಾಂಕ 24-02-2023 ರಂದು ಸ್ವಾಕ್ಷಿ-1 ರವರ ಮಗಳಾದ ಮೃತ ಶ್ರೀಮತಿ ಸ್ವಾತಿ ಮುಖರ್ಜಿ ರವರು ತನ್ನ ಮನೆಯಲ್ಲಿ ನೇಣುಬಿಗಿದುಕೊಂಡು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳಲು ಕಾರಣವಾಗಿದ್ದು ತನಿಖೆಯಲ್ಲಿ ದೃಢಪಟ್ಟಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಮೇಲ್ಕಂಡ ಕಲಂ ಪ್ರಕಾರ ಆರೋಪಿಯ ವಿರುದ್ಧ ದೋಷಾರೋಪಣ ಪಟ್ಟಿ.”

While filing the charge sheet, the officer in-charge of the Police Station drops accused 2 and 3 holding that there was no evidence against them for the offences so alleged. Therefore, the charge sheet is filed only against the petitioner/husband. In the teeth of the aforesaid facts, whether it amounts to ingredients of Section 306 of the IPC is required to be noticed.

9. Section 306 of the IPC punishes any person who abets commission of suicide. Therefore, abetment is the soul of Section 306. 'Abetment' is defined under Section 107 of the IPC. Therefore,

it becomes necessary to notice both Sections 306 and 107 of the IPC. They read 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."

... ..

107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

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

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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

For an offence to become punishable under Section 306 of the IPC, it is necessary that it has the ingredients of Section 107 of the IPC to become abetment of suicide. The interpretation of abetment need not detain this Court for long or delve deep into the matter. Plethora of judgments are rendered by the Apex Court as to what constitutes abetment. All of which bear consideration in the judgment rendered in David D'Souza case *supra*. The judgments relied on in the case of David D'Souza are as follows:-

- (1) **SWAMY PRAHALADDAS V. STATE OF M.P.**³
- (2) **SANJU V. STATE OF M.P.**⁴
- (3) **S.S. CHHEENA V. VIJAY KUMAR MAHAJAN**⁵
- (4) **AMALENDU PAL V. STATE OF WEST BENGAL**⁶
- (5) **GURCHARAN SINGH V. STATE OF PUNJAB**⁷
- (6) **KANCHAN SHARMA v. STATE Of UTTAR PRADESH**⁸
- (7) **DAXABEN v. STATE Of GUJARAT**⁹
- (8) **KUMAR @ SHIVA KUMAR v. STATE OF KARNATAKA**¹⁰
- (9) **MAHMOOD ALI v. STATE Of U.P.**¹¹
- (10) **STATE Of HARYANA v. BHAJAN LAL**¹²

³ 1995 Supp (3) SCC 438

⁴ (2002) 5 SCC 371

⁵ (2010) 12 SCC 190

⁶ (2010) 1 SCC 707

⁷ (2020) 10 SCC 200

⁸ 2021 SCC OnLine SC 737

⁹ 2022 SCC OnLine SC 936

¹⁰ 2024 SCC OnLine SC 216

¹¹ 2023 SCC OnLine SC 950

¹² 1992 Supp (1) SCC 335

All the judgments so relied on by this Court in the aforesaid judgment were concerning statement being made by the accused to the victim to "go and die". That would not amount to an offence under Section 306 of the IPC is what is held. To hold thus, this Court had considered the facts therein observing that there was neither instigation nor goading nor proximity with the crime.

10. In the case at hand, it is not that there was no instigation or no goading. The issue in the *lis* concerns the happenings between the husband and the wife. The wife is crying foul right from the day of marriage or thereafter when they shifted to Bengaluru that the husband had extra-marital affair. If this were to be imaginary, it would have been an altogether different circumstance. The imagination has led to the victim scripting several pages in her diary and also shooting a video of her suicide. All the blame is on the husband. In the life of husband and wife it cannot be said that there should be minimum proximity. The wife being driven to the wall to an extent of commission of suicide cannot happen at the spur of the moment. It is a collection of agony that has resulted in the fateful incident. It is akin to the

explosion of a dormant volcano. Instigation or otherwise of a husband for commission of suicide of the wife can only be deciphered in a full blown trial; it would undoubtedly require evidence, as the truth between the husband and the wife will not come out in a petition under Section 482 of the Cr.P.C. unless there is a trial conducted. Goading and instigation could be throughout the days. It is not that the marriage had taken place 10 years ago. The marriage prior to the death of the victim was 24 months old and the video and writings are clear that there was clear instigation on the part of the husband *albeit prima facie*, at this juncture. These are matters which require a full blown trial.

11. None of the judgments that the learned senior counsel would seek to place reliance upon, which all have been considered in the case of David D'Souza, would become applicable to the facts of the case at hand. On the other hand, it becomes germane to notice the judgment of the Apex Court in the case of **UDE SINGH v. STATE OF HARYANA**¹³. The law concerning abetment is

¹³ (2019) 17 SCC 301

extensively analyzed in the case of **UDE SINGH** by the Apex Court from paragraphs 15 to 26 and they read as follows:

"....

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

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

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

16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the

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

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

case is required to be dealt with on its own facts and circumstances.

17. *Having taken an overall view of the applicable principles, we may notice that the real questions arising in this appeal are:*

17.1. *Whether the accused persons are guilty of the acts and utterances attributed to them.*

17.2. *If the answer to Question (i) is in the affirmative, as to whether such acts and utterances had only been of insult or intimidation or had been of instigation; and whether such acts and utterances amounted to abetment of suicide?*

18. *Before entering into the questions aforesaid, it may be observed that the fact that the daughter of the complainant indeed committed suicide with hanging by neck is not of any dispute in this appeal. The fact has been established on record and the trial court as also the High Court have concurrently found this fact proved. No further dilation on this aspect of the matter is requisite. Similarly, a feeble suggestion on behalf of the accused persons that Accused 3 and 4 were not present in the village on 5-5-1996 does not carry any substance and the finding in that regard is also not required to be interfered with.*

19. *Coming to the material points for determination in the matter, the question as to whether the accused persons were guilty of the actions and utterances imputed on them does not detain us much longer. The fact that they indeed did so and made such utterances is amply established in the testimony of the prosecution witnesses, particularly PW 1, PW 2 and PW 11, as noticed above. It is also established beyond doubt that such utterances were not of a solitary or one-off incident but the accused, working in unison, had continuously made the imputed utterances towards the daughter of the complainant and continuously taunted the girl, who committed suicide next day after her last encounter with the accused. In the given fact situation, the question is as to whether such actions and utterances of the accused persons lead to the offence of abetment of suicide or only to the offence of insult and/or intimidation?*

20. *Having examined the record in its totality, we are clearly of the view that the actions and utterances of the accused, directed towards the deceased on continuous basis, had driven her to suicide; and accused persons are guilty of the offence of abetment of suicide.*

21. *The relevant background aspects of the matter make it clear that the complainant (father of the deceased) and the accused persons, residing in the same village in the State of Haryana, were closely related as cousins but were estranged in relations; and were involved in several civil and criminal cases against each other. Admittedly, there was a property dispute between the parties that was later on compromised but, the relations of the parties did not improve. There was a criminal case by Accused 1 (since deceased) against the complainant and his brother, allegedly involving offence under Section 307 IPC. Then, there was another criminal case wherein wife of the complainant (PW 11 Smt Krishna) alleged that Accused 1 of this case had assaulted her with gandasa. The incident of 15-4-1996 (when the deceased girl was dragged by Accused 1) had allegedly taken place after evidence in the said criminal case lodged by the mother of the deceased girl. The parties, therefore, were not standing on good terms and there had been the elements of rather abject animosity towards each other. On the other hand, the position of the deceased girl had been that she was about 18 years of age; she had failed to clear her 10th standard examination and was practically a drop out from her studies; and she was engaged for the purpose of marriage but, six months before the incident in question, her engagement had broken. Accused 1 and 2 were uncles in her relation whereas, Accused 3 and 4 were her cousins.*

22. *In the given set-up and the respective position of the parties, if Accused 1 continuously addressed or called the deceased girl as his "wife", in our view, the utterance was not merely of teasing but of demeaning and destroying the self-esteem of the young girl whose engagement had broken and whose uncle was mocking her to join him in matrimony. It was the act of humiliation of highest order for the girl, who had personally suffered the set-back of broken engagement, apart from that she was unable to clear even 10th standard examination. Obviously, she was being ridiculed*

and taunted for her broken engagement. The other accused persons chose to join Accused 1 and aggravated the humiliation of the girl by addressing her as younger brother's wife or aunt. There remains nothing to doubt that the accused persons were working with the common intention to harass and humiliate the girl with reference to her broken engagement. The significant part of the matter is that such taunting and humiliation of the deceased at the hands of the accused persons had not been a singular event or one-off affair but had been a continuous feature, as amply established by the prosecution witnesses. The incident of 5-5-1996 drew the final straw when the hapless girl received the same taunts from the accused persons and she even rebuked them. We find no reason to disbelieve the statement of PW 2 Jai Narain as regards the incident of 5-5-1996. Equally, there is no reason to disbelieve the statement of PW 11 Smt Krishna that her daughter wept the whole night after the said incident; and on being frustrated and exasperated with such humiliations, expressed her intention to end her life. The fact of the matter remains that the victim girl ended her life in the early morning very next day.

23. Taking an overall view of the matter, we are satisfied that the present one had not been a case of a mere eve teasing, insult or intimidation but the continuous and repeated acts and utterances of the accused persons were calculated to bring disgrace to the village girl and to destroy her self-esteem; rather the acts and utterances were aimed at taking her to the brink of helplessness and to the vanishing point of tolerance. It had not been a case of mere intimidation or insult. The incessant intimidation and insult of the innocent girl had been of instigation; and such instigation clearly answers to the description of abetment of suicide. Therefore, in our view, Accused 1 and 3 have rightly been held guilty of offence of abetment of suicide.

24. The contention of the appellants that their intention had never been to make her commit suicide is required to be rejected because, as noticed above, the hapless girl was intentionally chosen for humiliation by

the accused, who were otherwise involved in several litigations with her parents. The accused persons also knew it that the father of the girl was posted in his duty outside the village. As noticed, the intention of the accused had only been to drive the deceased to the brink of helplessness and intolerance; they in fact succeeded in doing so on 5-5-1996, when the girl rebuked them for their utterances. However, the victim girl found no way out because the humiliation at the hands of the accused had been everyday affair; and, in the given set-up of the society she belonged to, any action against the accused by her family was being avoided for the sake of her honour.

25. The present case indeed represents a sordid state of affairs in relation to the young girl in the rural setting, whose honour and self-esteem got brutally violated by none other but her own relatives, who found her to be the soft target to settle their scores with her parents. The accused rather exhibited their denigrating mentality while targeting the young girl, who was otherwise required to be treated by them with affection and respect, for being their niece and their cousin. The facts of this case lead only to the conclusion that the accused persons had intentionally, with their incessant acts and utterances, goaded the victim girl to commit suicide. She indeed committed suicide within few hours of her last and unbearable encounter with the accused. The acts and deeds of the accused in the evening of 5-5-1996 had been too proximate to the event of suicide by 9 a.m. in the morning of 6-5-1996. As testified by PW 11 Smt Krishna, her daughter cried the whole night for being unable to bear the daily humiliation at the hands of the accused and ended her life in the morning.

26. For what has been discussed hereinabove and having examined the matter in its totality, we find no reason to consider any interference in the impugned judgment and order dated 5-5-2008 [Hem Karan v. State of Haryana, 2008 SCC OnLine P&H 659] in relation to Appellants 1 and 3.”

(Emphasis supplied)

The Apex Court, taking overall view of the matter before it, holds that it was not a matter of eve teasing of the victim girl. Insult, intimidation and utterances of the accused persons were calculated to bring disgrace and destroy her self-esteem. Continuance of repeated acts and utterances are what formed the crux of the judgment of the Apex Court in the case of **UDE SINGH** which would become applicable to the facts of the case at hand as well. Reference being made to another judgment of the Apex Court in the case of **MAHENDRA K.C. v. STATE OF KARNATAKA**¹⁴ which was also concerning an offence under Section 306 of the IPC would become apposite. The Apex Court holds as follows:

"C. Analysis

16. *On reading the judgment [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395] of the Single Judge, it would appear that the Single Judge has failed to notice the distinction between a petition for quashing under Section 482 (which was being considered) and a criminal trial or an appeal against a conviction on a charge under Section 306. The Single Judge has transgressed the limits of the jurisdiction under Section 482 CrPC. The judgment is replete with hypotheses and surmises on the basis of which the Single Judge has reached an inference on facts. The Single Judge has tested the veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. At the stage when the High Court considers a petition for quashing under Section 482 CrPC, the test to be applied is whether the*

¹⁴ (2022) 2 SCC 129

allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto."

20. *These principles emanate from the decisions of this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426] and State of M.P. v. Surendra Kori [State of M.P. v. Surendra Kori, (2012) 10 SCC 155: (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247: (2012) 2 SCC (L&S) 940]. In Surendra Kori [State of M.P. v. Surendra Kori, (2012) 10 SCC 155: (2012) 4 SCC (Civ) 921: (2013) 1 SCC (Cri) 247: (2012) 2 SCC (L&S) 940], this Court observed: (Surendra Kori case [State of M.P. v. Surendra Kori, (2012) 10 SCC 155: (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247: (2012) 2 SCC (L&S) 940], SCC p. 163, para 14)*

"14. The High Court in exercise of its powers under Section 482 CrPC does not function as a court of appeal or revision. This Court has, in several judgments, held that the inherent jurisdiction under Section 482 CrPC, though wide, has to be used sparingly, carefully and with caution. The High Court, under Section 482 CrPC, should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of wide magnitude and cannot be seen in their true perspective without sufficient material."

21. *In Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , this Court laid down the principles for the exercise of the jurisdiction by the High*

Court in exercise of its powers under Section 482 CrPC to quash an FIR. Ratnavel Pandian, J. laid down the limits on the exercise of the power under Section 482 CrPC for quashing the FIR and observed : (SCC pp. 378-79, para 102)

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 CrPC 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 FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) CrPC except under an order of a Magistrate within the purview of Section 155(2) CrPC.

(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 FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a

police officer without an order of a Magistrate as contemplated under Section 155(2) CrPC.

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

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (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."

The judgment in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] has been recently relied on by this Court in State of Telangana v. Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] .

22. Based on the above precedent, the High Court while exercising its power under Section 482 CrPC to quash the FIR instituted against the second respondent-accused should have applied the following two tests : (i) whether the allegations made in the complaint, prima facie constitute an offence; and (ii) whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint. Before proceeding further, it is imperative to briefly discuss the law on the abetment of suicide to determine if a prima facie case under Section 306 IPC has been made out against the respondent-accused.

23. Section 306 IPC provides for punishment of the abetment of suicide:

"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."

Section 107 IPC defines the expression "abetment":

"107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

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

24. The essence of abetment lies in instigating a person to do a thing or the intentional doing of that thing by an act or illegal omission. In Ramesh Kumar v. State of Chhattisgarh [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , a three-Judge Bench of this Court, speaking through R.C. Lahoti, J. (as the learned Chief Justice then was), observed : (SCC p. 629, para 20)

"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."

25. A two-Judge Bench of this Court in *Chitresh Kumar Chopra v. State (NCT of Delhi)* [*Chitresh Kumar Chopra v. State (NCT of Delhi)*, (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] , speaking through D.K. Jain, J., observed : (SCC pp. 611-12, paras 19-20)

"19. As observed in *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , 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.

20. *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 suicidality 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."*

(emphasis in original)

26. *This has been reiterated in the decision in Amalendu Pal v. State of W.B. [Amalendu Pal v. State of W.B., (2010) 1 SCC 707: (2010) 1 SCC (Cri) 896] , where it has been observed : (SCC p. 712, para 12)*

"12. ... 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."

(See also in this context the judgments in Praveen Pradhan v. State of Uttaranchal [Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734: (2013) 1 SCC (Cri) 146], Vaijnath Kondiba Khandke v. State of Maharashtra [Vaijnath Kondiba Khandke v. State of Maharashtra, (2018) 7 SCC 781: (2018) 3 SCC (Cri) 362], M. Arjunan v. State [M. Arjunan v. State, (2019) 3 SCC 315: (2019) 2 SCC (Cri) 219], Ude Singh v. State of Haryana [Ude Singh v. State of Haryana, (2019) 17 SCC 301: (2020) 3 SCC (Cri) 306], Rajesh v. State of Haryana [Rajesh v. State of Haryana, (2020) 15 SCC 359: (2020) 4 SCC (Cri) 75] and Gurcharan Singh v. State of Punjab [Gurcharan Singh v. State of Punjab,

(2020) 10 SCC 200: (2021) 1 SCC (Cri) 417]. These decisions have been recently referred to in the judgment of this Court in Arnab Manoranjan Goswami v. State of Maharashtra [Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 2 SCC 427: (2021) 1 SCC (Cri) 834]).

27. *While adjudicating on an application under Section 482 CrPC, the High Court in the present case travelled far away from the parameters for the exercise of the jurisdiction. Essentially, the task before the High Court was to determine whether 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 did or did not prima facie constitute an offence or make out a case against the accused.*

28. *Instead of applying this settled principle, the High Court has proceeded to analyse from its own perspective the veracity of the allegations. It must be emphasised that this is not a case where the High Court has arrived at a conclusion that the allegations in the FIR or the complaint are so absurd and inherently improbable on the basis of which no prudent person could ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Nor is this a case where the criminal proceeding is manifestly mala fide or has been instituted with an ulterior motive of taking vengeance on the accused. On the contrary, the specific allegations in the FIR and in the complaint find due reflection in the suicide note and establish a prima facie case for abetment of suicide within the meaning of Sections 306 and 107 IPC. The entire judgment [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395] of the High Court consists of a litany of surmises and conjectures and such an exercise is beyond the domain of proceeding under Section 482 CrPC. The High Court has proceeded to scrutinise what has been disclosed during the investigation, ignoring that the investigation had been stayed by an interim order of the High Court, during the pendency of the proceedings under Section 482.*

29. *The High Court observed that a prima facie case for the commission of offence under Section 306 IPC is not made out since : (i) the suicide note does not describe the specific threats; (ii) details of the alleged demand of Rs 8 lakhs from the deceased by the respondent-accused are not set out in the*

suicide note; and (iii) no material to corroborate the allegations detailed in the suicide note has been unearthed by the investigating agency. The High Court observed that since the deceased took considerable time to write a twelve page suicide note, "it would have been but natural for the author to set out the details". The High Court has evidently travelled far beyond the limits of its inherent power under Section 482 CrPC since instead of determining whether on a perusal of the complaint, a prima facie case is made out, it has analysed the sufficiency of the evidence with reference to the suicide note and has commented upon and made strong observations on the suicide note itself.

30. *Paras 32, 33, 34 and 39 of the order [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395] of the High Court are extracted below : (L. Bheema Naik case [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395] , SCC OnLine Kar)*

"32. In Para 21 [of the suicide/death note] [Ed. : As per para 31 of the impugned judgment of the High Court in L. Bheema Naik case, it is recorded as follows:"... The deceased has written a detailed death note consisting of 21 numbered and one unnumbered paragraphs. Out of 22 paragraphs, 20 paragraphs pertain to alleged dealings and the only probable portion of the death note, which could be relied upon to establish the culpability of the petitioner are Para 21...."] , a bald statement is made stating that because he is aware of all the above transaction, he was given a death threat. In the next sentence, he states that he has been psychologically/emotionally in trouble and hence, he is consuming poison and that the petitioner and his driver alone are responsible. For a person, who has detailed 20 transactions, it can be prudently expected of such a person to give details of the threat.

33. In the next unnumbered paragraph, a totally different story/note is set out as a reason for the petitioner threatening the deceased. In the unnumbered paragraph, he states that there was shortage in the cash to the tune of Rs 8 lakhs and that the petitioner suspected him as being responsible for the same and

hence, threatened him that if the deceased did not repay said Rs 8 lakhs, he would have the deceased killed at the hands of rowdies. Thereafter, in the next sentence he states that in view of the same, he has decided to consume poison and that the petitioner and his driver are responsible for the same.

34. In Para 20 [of the suicide/death note], the deceased holds the petitioner responsible for withholding the salary for the last three months. The other paragraphs including Para 20 [of the suicide/death note] detail the properties said to have been amassed by the petitioner and other illegal transactions. After having perused and scrutinised the death note, a query was put to the learned High Court Government Pleader and the counsel appearing on behalf of 2nd respondent as to whether the investigation has thrown up any material that corroborates any of the allegations set out in the death note. The learned High Court Government Pleader would fairly submit that they have not been able unearth any material to corroborate any of the allegations.

39. As discussed above, the death note contains no incriminating statement or material except for a bald and vague statement but that the accused had threatened him. Even the complaint does not disclose any details of the alleged threat nor does the complaint state that the deceased had on multiple occasions complained of having received threats from accused. Even the allegation of the demand for repayment of Rs 8 lakhs rings hollow as neither the prosecution nor the de facto complainant have been able to place an iota of material that the deceased was or had in fact been in possession of huge sum of money."

Further, the observation of the High Court that there is no material to corroborate the allegations made in the suicide note is erroneous since it is not a consideration for the High Court while exercising its power under Section 482 CrPC, particularly in view of the fact that the trial has not begun and the Single Judge had stayed the investigation in the criminal complaint.

31. *The Single Judge, other than deciding on the merits of the case while exercising the power under Section 482 CrPC, has also made observations diminishing the importance of mental health. The mental health of a person cannot be compressed into a one-size-fits-all approach. In para 37 of the impugned judgment [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395], the Single Judge observed: (L. Bheema Naik case [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395], SCC OnLine Kar)*

"37. It is not the case of the deceased that the accused had deprived him of his wealth or have committed acts that have shattered his hopes in life or separated him from his family and friends."

The Single Judge then makes the following observation in paras 41 and 43: (L. Bheema Naik case [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395], SCC OnLine Kar)

"41. ... It is not the case of the prosecution that the deceased was running away from or escaping the petitioner or his henchmen, but as is his habit, to visit his parents and to spend time with his friends. If the deceased had really felt threatened, he would have definitely approached the police. It is not that he was naive or not worldly-wise. If his employment with the petitioner was true, then the Police Commissionerate was only a stone's throw away. It is not that the deceased was a weakling. The deceased by profession, is a driver. A profession where, accidents causing loss of life and limb are a daily occurrence and every driver is aware that he could be involved in an accident at any time.

43. His act of attending a relatives marriage in a different town and his interacting with friends and relatives are all actions of a normal person and not of a person under severe duress. The contention that this criminal case would jeopardise his career progression also cannot be brushed aside. It is also not forthcoming as to how he sourced the poison."

32. *The Single Judge has termed a person who decided to commit suicide a "weakling" and has also made observations on*

how the behaviour of the deceased before he committed suicide was not that of a person who is depressed and suffering from mental health issues. Behavioural scientists have initiated the discourse on the heterogeneity of every individual and have challenged the traditional notion of "all humans behave alike". Individual personality differences manifest as a variation in the behaviour of people. Therefore, how an individual copes up with a threat—both physical and emotional, expressing (or refraining to express) love, loss, sorrow and happiness, varies greatly in view of the multi-faceted nature of the human mind and emotions. Thus, the observations describing the manner in which a depressed person ought to have behaved deeply diminishes the gravity of mental health issues.

33. *The High Court by its order [L. Bheema Naik v. State of Karnataka, 2020 SCC OnLine Kar 3395] has prevented the completion of the investigation in the complaint registered as Crime No. 565 of 2016 pending on the file of the IInd Additional Civil Judge (Junior Division) and JMFC Court, Maddur, Mandya District. The alleged suicide is of a person who was working as a driver of a Special Land Acquisition Officer, who is a public servant and against whom serious and grave allegations of amassing wealth disproportionate to the known sources of income were made by the deceased. The suicide note contains a detailed account of the role of the accused in the events which led to the deceased committing suicide. These are matters of investigation and possibly trial. The High Court stalled the investigation by granting an interim order of stay. If the investigation had been allowed to proceed, there would have been a revelation of material facts which would aid in the trial, for the alleged offence against the second respondent."*

(Emphasis supplied)

The Apex Court holds that in cases concerning abetment to suicide particularly of the person suffering from mental health issues should not be analyzed and assessed by the High Court in exercise

of its jurisdiction under Section 482 of the CrPC. A learned Judge of this Court had held that a victim was on a weekly and was suffering from depression and mental health issues. This description of this Court to quash the proceedings did not auger well with the Apex Court. It sets aside the order passed by this Court and permitted investigation to be carried out. It is these two judgments of the Apex Court that would become applicable to the facts of the case at hand. Therefore, this Court is of the considered view that there is no warrant of interference insofar as the offence under Section 306 of the IPC is concerned.

12. The other offence that remains is under Section 498A of the IPC. The reasons so rendered *supra* to affirm the offence of Section 306 of the IPC would become applicable to the offence under Section 498A of the IPC as well, as the allegation is cruelty meted out against the wife by the husband. Whether it is for demand of dowry or otherwise is a matter that has to be tried while trying the offence under Section 306 of the IPC. In the case of **ACHIN GUPTA** *supra* there was only a bald allegation of torture, abuse and beating after consumption of alcohol. The Apex Court

holds that they were unsubstantiated, vague and bald allegations. If allegations had remained allegations in the case at hand, this Court would have undoubtedly come to the aid of the petitioner following the judgment of the Apex Court in the case of **ACHIN GUPTA**. The allegations have not remained as allegations. The wife has committed suicide. Therefore, the gravity of the allegations both under Sections 498A and 306 of the IPC get so much blown that the petitioner should come out clean in a full blown trial. Finding no merit in any of the submissions made by the learned senior counsel for the petitioner, there is no warrant of interference with the pending proceedings before the concerned Court.

13. In the result, I proceed to pass the following:

ORDER

- (i) The petition lacking in merit stands **rejected**.
- (ii) 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 petitioner under Section 482 of the Cr.P.C. and the same shall not bind or

influence the proceedings pending against him before the concerned Court.

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

Sd/-
(M. NAGAPRASANNA)
JUDGE

bkp
CT:SS