

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA
ON THE 28th OF MAY, 2024
MISCELLANEOUS CRIMINAL CASE No. 14371 of 2024**

BETWEEN:-

1.

2.

3.

.....APPLICANTS

(BY SHRI SANKALP KOCHAR - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION SUATLA DISTRICT
NARSINGHPUR (MADHYA PRADESH)**

2.

.....RESPONDENTS

***(SHRI DILIP PARIHAR – PANEL LAWYER FOR RESPONDENT NO.1/STATE,
SHRI RAVI SHANKAR PATEL – ADVOCATE FOR RESPONDENT NO.2)***

.....
*This application coming on for admission this day, the court passed
the following:*

ORDER

This application under Section 482 of Cr.P.C. has been filed seeking following reliefs:

“It is, therefore, prayed that this Hon’ble court may kindly be pleased to Quash the FIR, subsequent charge-sheet and consequential proceedings bearing crime no.295/2023 (Annexure A/2) dated 15.07.2023 lodged before P.S. Suatla District Narsinghpur (M.P.) in the interest of justice.”

2. It is the case of the applicants that applicant No.1 is the wife of deceased Manish Lodhi. On 06.05.2023, she lodged an FIR against Manish Lodhi (husband), Smt. Ramwati Lodhi (mother-in-law) and Pramod Lodhi (father-in-law) for offence under Sections 498-A, 406, 294, 506 read with Section 34 of IPC at Police Station Rahatgarh, District Sagar, which was registered as Crime No.289/2023. The Police after investigating the matter, filed the charge sheet against her husband Manish Lodhi as well as Pramod Lodhi and Smt. Ramwati Lodhi for offence under Sections 498-A, 406, 294, 506, 34 of IPC and under Section 3/4 of Dowry Prohibition Act. It was specifically alleged by applicant No.1 that she got married to Manish Lodhi on 12.06.2022 as per Hindu rights and rituals and her parents had given sufficient dowry in accordance with their financial condition. However, Manish Lodhi and her parents-in-law used to abuse her frequently and were treating her with cruelty on the ground that her parents have given less dowry. They were also insisting that applicant No.1 should bring an amount of Rs.5 Lakhs, gold chain and a vehicle and only then they will keep her properly. Her husband was also an alcoholic and on this issue he also used to harass her physically and mentally. When she did not listen to

the illegal demands made by her husband and her in-laws, then they are pressurizing her to take divorce. On 24.04.2023 again her husband and parents-in-law started pressuring to talk to her parents to bring an amount of Rs.5 Lakhs and vehicle. When applicant No.1 informed her in-laws that financial condition of her parents is not such where they can satisfy the demand of in-laws, then she was beaten by her husband, parents-in-laws and she was filthily abused and after snatching all her *stridhan*, she was turned out of her matrimonial house. Her in-laws were also abusing her parents and also extending a threat to kill her. On earlier occasion she had made a complaint against her husband and parents-in-laws and now they are threatening the applicant No.1 and her parents that either they should fulfill their demand or should go for divorce and thus, the FIR was lodged for taking action against her husband and her parents-in-laws.

3. It is submitted by counsel for applicants that on 25.05.2023, Manish Lodhi committed suicide by consuming some poisonous substance. The statements of witnesses were recorded. It was alleged by father of the deceased that deceased was insisting that his wife should not lodge a false case against him. All the witnesses have stated that the deceased had committed suicide on account of registration of criminal case under Section 498-A of IPC, which according to the deceased was a false case. Therefore, the Police has registered the offence under Sections 306, 34 of IPC against the applicants. Applicant No.1 is the wife of deceased Manish Lodhi, whereas applicant No.2 is the mother of applicant No.1 and applicant No.3 is the father of applicant No.1 i.e. mother-in-law and father-in-law of the deceased Manish Lodhi.

4. Challenging the impugned FIR, it is submitted by counsel for applicants that even if the entire allegations are accepted on their face value, then it would be clear that no offence under Section 306 of IPC would be made out. It is submitted that applicant No.1 was subjected to cruelty and if she lodged an FIR thereby taking the legal recourse against her in-laws, then it cannot be said that applicants had in any manner abetted the deceased to commit suicide. It is further submitted that if the deceased was of hypersensitive in nature, then the same cannot be said to be an abetment to commit suicide.

5. *Per contra*, application is vehemently opposed by counsel for the State as well as respondent No.2. However, it is fairly conceded by counsel for parties that only allegation against applicants is that on account of lodging of false FIR under Section 498-A, 406, 294, 506 of IPC and under Section 3/4 of Dowry Prohibition Act, deceased Manish Lodhi had committed suicide.

6. Considered the submissions made by counsel for parties.

7. The moot question for consideration is as to whether registration of crime and filing of charge sheet, which according to deceased is a false case, would amount to abetment to commit suicide or not?

8. Before considering the aforesaid aspect, this Court would like to consider the law relating to abetment of suicide.

9. Section 306 of I.P.C. reads as under :-

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

10. “Abetment” is defined under Section 107 of I.P.C. which reads as under :-

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

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

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

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

Explanation 1.—A person who, by 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.

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, willfully 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 facilitate the commission thereof, is said to aid the doing of that act.”

11. The Supreme Court in the case of **Chitresh Kumar Chopra vs. State (Government of NCT of Delhi)** reported in **(2009) 16 SCC 605**, while dealing with the term “instigation”, held as under :-

“16.....instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of ‘instigation’, though it is not necessary that actual words must be used to that effect or what constitutes ‘instigation’

must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. *Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an 'instigation' may have to be inferred.* A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

17. Thus, to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by 'goad' or 'urging forward'. The dictionary meaning of the word 'goad' is 'a thing that stimulates someone into action; provoke to action or reaction' (see *Concise Oxford English Dictionary*); "to keep irritating or annoying somebody until he reacts" (see *Oxford Advanced Learner's Dictionary*, 7th Edn.)."

12. The Supreme Court in the case of **Praveen Pradhan vs. State of Uttaranchal and Anothers** reported in (2012) 9 SCC 734 held as under :-

"17. The offence of abetment by instigation depends upon the intention of the person who abets and not upon the act which is done by the person who has abetted. The abetment may be by instigation, conspiracy or intentional aid as provided under Section 107 IPC. However, the words uttered in a fit of anger or omission without any intention cannot be termed as instigation. (Vide: *State of Punjab v. Iqbal Singh* ((1991) 3 SCC 1), *Surender v. State of Haryana* ((2006) 12 SCC 375, *Kishori Lal v. State of M.P.* (2007) 10 SCC 797) and *Sonti Rama Krishna v. Sonti Shanti Sree* ((2009) 1 SCC 554)

18. In fact, from the above discussion it is apparent that instigation has to be gathered from the circumstances of a particular case. No

straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Therefore, in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed suicide. More so, while dealing with an application for quashing of the proceedings, a court cannot form a firm opinion, rather a tentative view that would evoke the presumption referred to under Section 228 CrPC.”

13. The Supreme Court in the case of **Sanju @ Sanjay Singh Sengar vs. State of M.P.** reported in **(2002) 5 SCC 371** has held as under :-

“6. Section 107 IPC defines abetment to mean that a person abets the doing of a thing if he firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing.”

Further, in para 12 of the judgment, it is held as under:

“12. The word “instigate” denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of *mens rea*, therefore, is the necessary concomitant of instigation.”

14. The Supreme Court in the case of **Gangula Mohan Reddy vs. State of Andhra Pradesh** reported in **(2010) 1 SCC 750** needs mentioned here, in which Hon’ble Apex Court has held that “abetment

involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on part of accused to instigate or aid in committing suicide, conviction cannot be sustained. In order to convict a person under section 306 IPC, there has to be a clear *mens rea* to commit offence. It also requires an active act or direct act which leads deceased to commit suicide seeing no option and this act must have been intended to push deceased into such a position that he commits suicide. Also, reiterated, if it appears to Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to society to which victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstances individual in a given society to commit suicide, conscience of Court should not be satisfied for basing a finding that accused charged of abetting suicide should be found guilty. Herein, deceased was undoubtedly hypersensitive to ordinary petulance, discord circumstances of case, none of the ingredients of offence under Section 306 made out. Hence, appellant's conviction, held unsustainable".

15. In the case of **State of West Bengal vs. Orilal Jaiswal and Another** reported in (1994) 1 SCC 73, the Supreme Court has held that "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 appears 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 that accused charged of abetting the offence of suicide should be found guilty.”

16. The Supreme Court in the case of **M. Mohan vs. State represented by the Deputy Superintendent of Police** reported in **AIR 2011 SC 1238** has held that “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 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 this act must have been intended to push the deceased into such a position that he/she committed suicide.”

17. The Supreme Court in the case of **Kishori Lal vs. State of M.P.** reported in **(2007) 10 SCC 797** has held in para 6 as under:-

“6. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107.

Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. “Abetted” in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.”

18. In the case of **Amalendu Pal @ Jhantu vs. State of West Bengal** reported in **(2010) 1 SCC 707**, the Supreme Court has held as under:-

“**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 their being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

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

proved and established by the prosecution before he could be convicted under Section 306 IPC.

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.

15. In view of the aforesaid situation and position, we have examined the provision of clause thirdly which provides that a person would be held to have abetted the doing of a thing when he intentionally does or omits to do anything in order to aid the commission of that thing. The Act further gives an idea as to who would be intentionally aiding by any act of doing of that thing when in Explanation 2 it is provided as follows:

“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.”

16. Therefore, the issue that arises for our consideration is whether any of the aforesaid clauses namely firstly alongwith explanation 1 or more particularly thirdly with Explanation 2 to Section 107 is attracted in the facts and circumstances of the present case so as to bring the present case within the purview of Section 306 IPC.”

19. The Supreme Court in the case of **Amit Kapur vs. Ramesh Chander and Another** reported in **(2012) 9 SCC 460** has held as under :-

"35. The learned counsel appearing for the appellant has relied upon the judgment of this Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* (2009) 16 SCC 605 to contend that the offence under Section 306 read with Section 107 IPC is completely made out against the accused. It is not the stage for us to consider or evaluate or marshal the records for the purposes of determining whether the offence under these provisions has been committed or not. It is a tentative view that the Court forms on the basis of record and documents annexed therewith. No doubt that the word "instigate" used in Section 107 IPC has been explained by this Court in *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618 to say that where the accused had, by his acts or omissions or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, an instigation may have to be inferred. In other words, instigation has to be gathered from the circumstances of the case. All cases may not be of direct evidence in regard to instigation having a direct nexus to the suicide. There could be cases where the circumstances created by the accused are such that a person feels totally frustrated and finds it difficult to continue existence."

20. The word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Instigation is to goad, urge forward, provoke, incite, urge or encourage to do an act.

21. The Supreme Court in the case of **Ramesh Kumar Vs. State of Chhattisgarh** reported in **(2001) 9 SCC 648** has held that "a word

uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. 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.”

22. The Supreme Court in the case of **Kumar @ Shiva Kumar Vs. State of Karnataka** decided on 01.03.2024 in **Criminal Appeal No.1427/2011** has also laid down the same law.

23. If a married woman makes a complaint to the Police with regard to commission of an offence under Section 498-A, 406, 294, 506, 34 of IPC and under Section 3/4 of Dowry Prohibition Act and if the Police after recording statements files the charge sheet for the said offence, then by no stretch of imagination it can be said that the married woman, who had lodged the report against her in-laws, had in any manner abetted the deceased to commit suicide. Lodging of an FIR is certainly in accordance with law. If some offence has been committed, then the only option available with the complainant is to lodge an FIR and if somebody decides to take recourse of legal remedy available to her, then the said act of the complainant cannot be said to be an illegal Act thereby abetting the deceased to commit suicide. Whether the allegations made in the FIR are correct or not is to be decided by the trial Court after recording evidence of the witnesses. A person would get an opportunity to cross-examine the complainant and her witnesses to

dislodge her case that she was ever treated with cruelty. If a person is hypersensitive and therefore, decides to put an end to his life, then such an act of the deceased cannot be said to be an outcome of abetment. By lodging the FIR, the applicants had not committed any illegal act and since a victim has a solitary option of approaching the Police and thereafter to the Court for redressal of her grievances and if the suicide committed by the deceased on the pretext that he has been falsely framed in offence under Section 498-A, 406, 294, 506, 34 of IPC and Section 3/4 of Dowry Prohibition Act, then it cannot be said that the widow of the deceased or her parents had abetted the deceased to commit suicide.

24. Considering the totality of the facts and circumstances of the case, this Court is of considered opinion that no offence under Sections 306, 34 of IPC is made out against the applicants.

25. Accordingly, FIR in Crime No.295/2023 registered at Police Station Suatala, District Narsinghpur and the charge sheet as well as consequential proceedings are hereby **quashed**.

26. Application succeeds and is hereby **allowed**.

(G.S. AHLUWALIA)
JUDGE

SR*