



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

R/CRIMINAL MISC. APPLICATION NO. 25398 of 2017  
(FOR QUASHING & SET ASIDE FIR/ORDER)

With

CRIMINAL MISC. APPLICATION (FOR STAY) NO. 1 of 2023

In

R/CRIMINAL MISC.APPLICATION NO. 25398 of 2017

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI : Sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	YES
2	To be referred to the Reporter or not ?	YES
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

MAHESHBHAI DHIRUBHAI DARJI

Versus

STATE OF GUJARAT & ANR.

**Appearance:**

MR SI NANAVATI, Sr. Adv. with MS ANUJA S NANAVATI(5229)  
for the Applicant(s) No. 1

MR TRUPESH KARATHIYA APP for the Respondent(s) No. 1  
TATVDEEP J JANI(7227) for the Respondent(s) No. 2

**CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

**Date : 16/08/2024**

**CAV JUDGMENT**

- Draft amendment is allowed. To be carried out forthwith.
- By way of present application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC" for short), the applicant



has prayed for quashing and setting aside the FIR being C.R. No. I-188/2017 registered with Shaherkotada Police Station for the offences under Section 306 of the Indian Penal Code (hereinafter referred to as "IPC" for short") and under Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and subsequent proceeding pursuant to filing of the chargesheet being Atrocity Case No.22/2020 pending before the court of learned 9<sup>th</sup> Additional City Civil & Sessions Judge, Ahmedabad (City).

3. Heard learned Senior Counsel, Mr. Sudhir Nanavati, assisted by learned advocate, Ms. Anuja Nanavati for the applicant, learned APP Ms. Vrunda Shah for the respondent – State of Gujarat and learned advocate, Mr. Tatvdeep Jani for the respondent no.2.
4. The gist of the FIR is that,  
The husband of the complainant viz., Hashmukhbhai was working in Arvind Ltd., where the applicant, who was his superior officer, was showing discrimination and also used to give mental tyranny by pressurizing him in work and also for taking leave and because of mental harassment meted out to her husband, he committed suicide by hanging himself and thereby the applicant has abetted the deceased for suicide and committed alleged offences.
5. Learned Senior Counsel, Mr. Nanavati for the applicant submitted that as per the case of the



prosecution, so-called incident occurred during the period between 01.10.2013 to 05.10.2017, whereas FIR is lodged on 08.10.2017, therefore, there is gross delay in registration of the FIR. Learned Senior Counsel submitted that it is an admitted position of fact that the present applicant was working as Senior Manager in the Arvind Ltd., where the deceased was working under him. At this stage, learned Senior Counsel submitted that before dwelling into the issue of allegation leveled against the present applicant, he would like to narrate certain sequence of incident of events occurred before registration of the FIR. As per contents of the FIR, so-called incident occurred on 04.10.2017 and on that very day, the complainant has informed to the police officer specifically stating that her daughter left house for her college situated at Himmatnagar but neither she reached college nor hostel and due to out of anxiety, the husband of the complainant i.e. the deceased strangulated himself with electric wire at their residence on the very next day i.e. on 05.10.2017. It is stated in the FIR that on 07.10.2017, the complainant had found one diary purportedly written by the deceased from the cupboard, wherein the deceased has specifically stated that he was working in the company since last 19 years starting from apprentice to permanent employee but he is fed up with the "Hitlarsahi" of the accused and below the said



writing, the deceased has made his signature mentioning the dated as 17.09.2017 and time around 12:00 p.m. Learned Senior Counsel submitted that it is the alleged that the deceased has made noting in his own handwriting on number of pages, wherein he had stated that he is fed up with the life due to torture meted out to him by the applicant. Learned Senior Counsel submitted that the applicant is possessing qualification of B.Sc (Chemistry) and Diploma in Processing Technology and is working as Senior Manager in the Inspection Department. Learned Senior Counsel submitted that the applicant was appointed in the year 1988 in Arvind Ltd. and, thereafter, gradually he got promotion from the department and at the time of incident, he was working as Senior Manager. Learned Senior Counsel submitted that in fact, as per the case of the prosecution, the occurrence of the incident as mentioned in FIR is divided into two parts i.e. firstly on 04.10.2017, when the daughter of the deceased had eloped with one boy and had not reached to hostel or college in time, due to which, the deceased suffered bout of depression and also apprehending about the security of his daughter and the said fact was initially informed by the complainant to the police officer and, thereafter subsequently, she received one diary purportedly written by the deceased and on the strength of the said writing, the present complaint is registered on 08.10.2017.



Learned Senior Counsel submitted that immediately after the occurrence of the incident of his daughter, the deceased has committed suicide and press-note in that regard was also published in the daily newspaper, which is also produced on record. Learned Senior Counsel submitted that after registration of the aforesaid FIR, the applicant has approached this Hon'ble Court for quashing of the impugned FIR and this Hon'ble Court, after considering the submissions canvassed by learned advocate for the applicant and perusing the averments and allegations leveled in the impugned FIR, granted protection by passing an order of no coercive but permitted the concerned IO to carry out investigation. Learned Senior Counsel submitted that in fact, the IO has submitted chargesheet before the Hon'ble Court and on filing of the chargesheet, draft amendment was filed permitting to add certain averments in the petition and also to challenge the filing of chargesheet.

6. Learned Senior Counsel submitted that it is the case of the complainant that the present applicant was Senior Officer in the department and the deceased was working under him. Learned Senior Counsel, however, submitted that it is found out from the record that the deceased has committed certain irregularities in his duty and thereby shown negligency in discharge of his duty and the said fact has come on record during audit report,



therefore, a show cause notice was issued upon the deceased on 19.08.2016 under Rule 22(1) of Administrative Rules and by submitting reply on 31.08.2016, the deceased had fairly conceded and accepted his mistake specifically stating that on that particular day, he was on duty and in discharge of his duty, he has to maintain the record but he failed to do so and ultimately the said fact has come to the notice during audit and that was the mistake committed by him but he assures that in future, he will not repeat such mistake and considering his admission on his part, the said proceedings were closed. Learned Senior Counsel submitted that except the said incident, not a single incident has occurred in the factory premises. Learned Senior Counsel submitted that being a head of the department and Senior Manager, the applicant has to take certain corrective measures and hard and harsh steps with a sole intent to see that the production work and all other works related to the same should be made in time and should be in order as per the requirement of the company and with sole intent to yield the result as per the expectation of the higher-ups, the applicant has to give certain strict instructions to the employees working under him and in fact, the said thing happened with almost all the employees, therefore, by no stretch of imagination, it can be said that the directions/instructions issued by the applicant would fall



under the category of "atrocities". Learned Senior Counsel submitted that except the deceased, nobody has registered any complaint so far as the conduct and behavior of the applicant is concerned. Learned Senior Counsel submitted that it is the specific case of the prosecution that so-called incident occurred in the year 2016, whereas the deceased has committed suicide in the year 2017 but not a single incident took place between the applicant and the deceased and if at all, it is there, in that event, the prosecution has not produced any piece of evidence and/or material in that regard with the chargesheet, which would suggest that during interregnum period, some incident had taken place, which led to issuance of any show cause notice and/or the applicant had scolded the deceased, whereas as per the case of the prosecution itself, on 04.10.2017, the daughter of the complainant had not reached hostel as well as college and the said news reached the deceased and immediately within no time, he had committed suicide and at the time of first disclosure statement before the police officer, the complainant stated that due to the said incident, the deceased has committed suicide, therefore, except the said fact, no any particular case is mentioned in the body of the complaint, on the basis of which, the involvement of the present applicant is found out in the commission of crime. Learned Senior Counsel further submitted that as



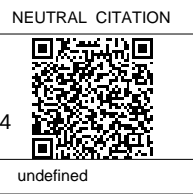
the deceased belonged to schedule tribe and he had committed suicide, at the time of registration of the FIR, the prosecuting agency has also invoked the provision of the Atrocity Act against the applicant. Learned advocate submitted that bare perusal of the contents of the FIR, nowhere in the entire body of the FIR, there is any whisper about the abusive words used against the caste of the deceased and even the writing of the deceased purported signed by the deceased have been produced along with the papers of the chargesheet, wherein also, nowhere it is stated that the deceased was harassed by the applicant solely on the ground that he belongs to a particular community, therefore, basic and essential ingredients to constitute charge under the provision of the Atrocity Act are missing. Learned Senior Counsel further submitted that it is the specific case of the complainant based on the diary found by her that the deceased was subjected to cruelty by the applicant in the factory premises but if the Hon'ble Court would make cursory glance upon the chargesheet papers, in that event, it would be found that the concerned IO has not recorded the statement of any of the employee of the factory in support the case of the prosecution and thus, allegations of harassment and atrocity are not supported by any material and in absence of any material with regard on going disputes between them, harassment meted out to the





deceased at the hands of the applicant cannot be established. Learned Senior Counsel submitted that considering the above factual aspect, it can be said that registration of the FIR against the applicant would fall under the category of sheer abuse and misuse of law and if the Hon'ble Court would go through the contents of the FIR and if considered as it is in its entirety, then also, by no stretch of imagination, it can be said that the basic and essential ingredients to constitute the alleged offences enumerated in the body of the FIR against the applicant are satisfied and in absence of any material against the applicant, the impugned FIR may be quashed and set aside.

7. Learned Senior Counsel has put reliance upon following decisions,
- (1) the judgment of the Hon'ble Supreme Court in case of **Gorige Pentaiah Vs. State of Andhra Pradesh & Ors.**, reported in (2008) 12 SCC 531;
  - (2) the judgment of the Hon'ble Supreme Court in case of **Sanju @ Sanjay Singh Sengar Vs. State of M.P.**, reported in (2002) 5 SCC 371;
  - (3) the judgment of this Hon'ble Court in case of **A.K. Chaudhary & Ors. Vs. State of Gujarat & Ors.**, reported in 2005 (3) GLH 444;
  - (4) the judgment dated 06.06.2023 delivered by this Hon'ble Court in case of **Karansinh Maganbhai Chauhan Vs. State of Gujarat & Anr.**, in Criminal Misc. Application



No.24772/2017;

8. Referring to the ratio enunciated in the aforesaid decisions of the Hon'ble Supreme Court as well as this Hon'ble Court, learned Senior Counsel submitted that this application may be allowed and the impugned FIR may be quashed and set aside.
9. Learned APP Ms. Shah has opposed the present application with a vehemence and submitted that ingredients of the alleged offences are made out against the applicant and, hence, no discretionary relief can be granted in favour of the applicant. Learned APP submitted that immediately after registration of the impugned FIR, the applicant has approached this Court by filing present application for quashing of the impugned FIR and obtained an order of no coercive action against them. Learned APP submitted that since the investigation was permitted by this Hon'ble Court, it was carried out and chargesheet has been filed, which clearly goes on to show that the applicant is involved in the commission of crime. Learned APP submitted that at the factory premises, the applicant meted out mental harassment to the deceased and the said fact was reduced into writing by the deceased in his diary, which clearly goes on to show that there was mental harassment at the hands of the applicant and the said fact is coming out from the investigation papers. It is, therefore, urged that the present application may not be entertained and it may be



rejected.

10. Learned advocate, Mr. Jani appearing for the respondent no.2 has also opposed the present application with a vehemence and submitted that *prima facie* involvement of the applicant is found out from the investigation papers. Learned advocate submitted that initially the original complainant was not aware about the reason behind commission of suicide but after getting the diary purportedly written by the deceased, the original complainant came to know about the same and immediately thereafter, the said fact was narrated before the police officer. Learned advocate submitted that the recital of the said diary clearly goes on to show that there are constant harassment upon the deceased at the hands of the applicant and because of which, the deceased was under tremendous pressure and ultimately taken such drastic steps to put an end to his life. Learned advocate submitted that 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 and the abetment may be by instigation, conspiracy or intentional aid as provided under Section 107 of the IPC. In support of this submission, learned advocate has put reliance upon the judgment of the Hon'ble Supreme Court in case of **Praveen Pradhan Vs. State of Uttaranchal**, reported in (2012) 9 SCC 734. Learned advocate submitted that considering



the ratio enunciated by the Hon'ble Supreme Court in the aforesaid decision, if the facts of the present case are examined, in that event, it is found out from the facts of the case coupled with the investigation papers that the ingredients of the alleged offence under Section 306 of the IPC are fulfilled and satisfied. It is, therefore, urged that the present application may not be entertained.

11. Having heard learned advocates for the respective parties and on perusal of the contents of the FIR, it is required to be considered as to whether the ingredients of the alleged offences under Section 306 of the IPC and under Section 3(2)(v) of the Atrocities Act are made out or not against the applicant?
12. The scope and ambit of inherent powers of the Court under Section 482 Cr.P.C. or the extraordinary power under Article 226 of the Constitution of India, now stands well defined by series of judicial pronouncements. Undoubtedly, the High Court has inherent power to act *ex debito justitiae* i.e., to do real and substantial justice or to prevent abuse of the process of the Court. The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power vested in the Court should not be exercised to



stifle a legitimate prosecution. However, the inherent power or the extra-ordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court, or the ends of justice require that the proceeding ought to be quashed.

13. At the outset, it is apt to refer the law laid down by the Hon'ble Apex Court in case of **Bhajan Lal (supra)**. The relevant para reads as under:

“In the backdrop of the interpretation of the various relevant provisions of the Code under Ch.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 u/s 482 of the Code of Criminal Procedure which we have extracted and reproduced above, the following categories of cases are given 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 formula and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First



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

- (2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;
- (3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (4) where the allegations in the 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) of the Code;
- (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 concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act,

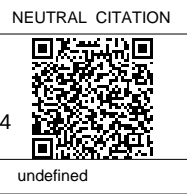
(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

14. The Hon'ble Apex Court in case of **R.P. Kapur (supra)** has summarised some categories of cases where inherent power can and should be exercised to quash the proceedings, which are as under,

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

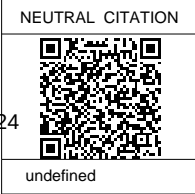
(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails



to prove the charge.

15. In view of the ratio enunciated by the Hon'ble Apex Court in the aforesaid decisions as well as other decisions, it is required to be noted that whenever the accused came before the Court invoking either the inherent powers under Section 482 of the Criminal Procedure Code for quashing and setting aside the FIR impugned essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, in that event, in such circumstances, the Court owes a duty to look into the FIR with care and a little more closely. The Court while exercising its jurisdiction under Section 482 of the CrPC need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/ registration of the case as well as the materials collected in the course of investigation.
16. Therefore taking into consideration the above factual aspects, if the facts of the case on hand are carefully examined, in that event, it is found out from the record that the applicant is arraigned as accused in the FIR being C.R. No.I-188/2017 registered with Shaherkotada Police Station for the offences under Section 306 of the IPC and under Section 3(2)(v) of the Atrocities Act alleging inter alia that at the factory premises, where the deceased was working under the





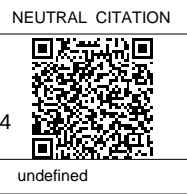
applicant, mental harassment was meted out to the deceased, which led him to commit suicide. The main facet of arguments advanced by learned Senior Counsel for the applicant is that the applicant is wrongly arraigned as accused in the impugned FIR by the complainant, who is wife of the deceased though the applicant has not at all committed any offence and in fact, there is no statement of independent witnesses, which supports the case of the prosecution and he has acted as per his duty for the betterment of the company and reasons best known to the deceased, he has committed suicide, there is no abetment for suicide at the hands of the applicant. On the other hand, the main argument advanced by learned advocate for the original complainant is that just because of the mental harassment meted out to the deceased, the deceased has committed suicide and the said fact is supported by the diary purportedly written by the deceased.

17. At this juncture, I would like to refer to provision of Section 107 of the IPC, wherein what is "Abetment of a thing" has been described in Section 107 of the IPC, which reads as under: -

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

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

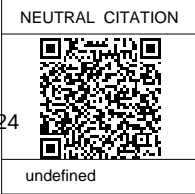
Secondly. — Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in



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.”

18. Section 107 of the 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. Therefore in the facts of the present case, clause secondly and thirdly in Section 107 will have no application. Now, the question remains is as to whether the applicant instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of



such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide. In the present case, taking the contents of the FIR and the statements of the witnesses as correct, it is impossible to conclude that the applicant instigated the deceased to commit suicide. By no stretch of the imagination, the alleged acts of the applicant can amount to instigation to commit suicide.

19. At this juncture, it would be beneficial to reproduce the relevant provision contained in Section 306 IPC pertaining to Abetment of suicide.

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

20. From the bare reading of the said provisions, it clearly transpires that in order to convict a person for the offences under Section 306 IPC, the basic and essential ingredients of the offence namely where the death was suicidal and whether there was an abetment and instigation on the part of the accused as contemplated in Section 107 IPC have to be established. It is found out from the provision of IPC that the provision of IPC does not define the word "suicide" but the ordinary dictionary meaning of suicide is self-killing. The



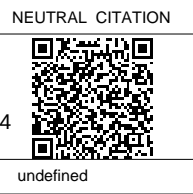
word is derived from a modern latin word suicidium, sui means oneself and cidium means killing. Thus, the word suicide implies an act of self-killing. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. Therefore considering the facts of the case, it is found out that the ingredients of Section 306 of the IPC are not made out in the present case.

21. It is required to be noted that there is absolutely no averment in the recital of the diary that the present appellant had caused any harm to him. It seems that the deceased was very much dissatisfied for whatever reasons at his work place, therefore, it cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of the deceased. It is pertinent to note at this stage that an offence under Section 306 of the IPC would stand only if there is an abetment for the commission of the crime. The parameters of "abetment" have been stated in Section 107 of the Penal Code, 1860, which is quoted hereinabove. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for



the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, or the person should have intentionally aided any act or illegal omission. The Explanation to Section 107 says that any wilful misrepresentation or wilful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment". Therefore in this regard, I would like to refer to the judgment of the Hon'ble Supreme Court in case of **Ramesh Kumar Vs.State Of Chhattisgarh**, reported in (2001) 9 SCC 618, wherein the Hon'ble Supreme Court has examined different shades of the meaning of "instigation" and observed in Paragraph No.20, which reads 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.

22. Before advertng further, at this stage, I may notice a few decisions of the Hon'ble Supreme Court as well as this Court, which are relevant for the purpose of disposal of this case.

23. In a judgment of the Hon'ble Supreme Court in case of **Madan Mohan Singh Vs. State of Gujarat**, reported in (2010) 8 SCC 628, the Hon'ble Supreme Court has dealt with similar issue, wherein the allegations of abetment for suicide were alleged against higher officer and considering the facts of the case, the Hon'ble Supreme Court has allowed the said SLP and quashed and set aside the impugned FIR therein. The Hon'ble Supreme Court has observed in Paragraph Nos.9, 10 and 11 as under,

"9. It is absurd to even think that a Superior Officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Sec. 306, IPC, much more material is required. The Courts have to be extremely



careful as the main person is not available for cross-examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant/accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in *Netai Dutta V/s. State of W.B.* [2005 (2) SCC 659], this Court had quashed the proceedings initiated against the accused.

10. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are allowed to continue on such basis, it will be difficult for every Superior Officer even to work.
11. It was tried to be contended by the learned Counsel appearing on behalf of the complainant that at this stage, we should not



go into the merits of the FIR or the said suicide note. It is trite law now that where there is some material alleged in the FIR, then : such FIR and the ensuing proceedings should not be quashed under Sec. 482 Cr.P.C. It is for this reason that we very closely examined the FIR to see whether it amounts to a proper: complaint for the offence under Secs. 306 and 294(b) IPC. Insofar as Sec. 294(b) IPC is concerned, we could not find a single word in the FIR or even in the so-called suicide; note. Insofar as Sec. 306 IPC is concerned, even at the cost of repetition, we may say that merely because a person had a grudge against his Superior Officer and committed: suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under Sec. 306 IPC. It will still fall short of a. proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant/accused to the effect that-he had intended or engineered the suicide of the concerned person by his acts, words etc. When we put the present FIR on this test, it falls short. We have already explained that the baseless and irrelevant allegations could not be used as a basis for prosecution for a serious offence under Sec. 306 IPC. Similarly, we have already considered Sec.

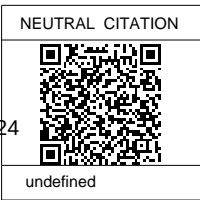




294 (b) IPC also. We have not been able to find anything. Under such circumstances, where the FIR itself does not have any material or is not capable of being viewed as having material for offence under Secs. 306 and 294(b) IPC, as per the law laid down by this Court in State of Haryana & Ors. V/s. Bhajan Lal & Ors. [1992 Suppl. 1 SCC 335], it would be only proper to quash the FIR and the further proceedings.”

24. Recently the Hon’ble Supreme Court in a judgment in case of **Prabhat Kumar Mishra @ Prabhat Mishra Vs. State Of Uttar Pradesh**, reported in **2024 (3) SCC 665** has considered the similar issue, where the FIR was registered under Section 306 of the IPC and under Section 3(2)(v) of the Atrocity Act. In the said decision also, the Hon’ble Supreme Court has considered various decisions of the Hon’ble Supreme Court on the same issue including the judgment in case of **Madan Mohan Singh (supra)** as also judgment in case of **Bhajan Lal (supra)** and quashed and set aside the FIR impugned therein. Relevant observations made by the Hon’ble Supreme Court in the said decision in Paragraph Nos.22 to 24 are as under,

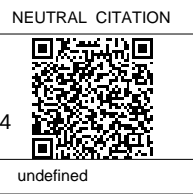
“22. It is not in dispute that the prosecution case is entirely based on the suicide note left behind by the deceased before committing suicide. On a minute perusal of the suicide note, we do not find that the contents thereof indicate any act or omission on the



part of the accused appellant which could make him responsible for abetment as defined under Section 107 IPC.

23. We have minutely perused the suicide note (reproduced supra) which clearly shows that the deceased was frustrated on account of work pressure and was apprehensive of various random factors unconnected to his official duties. He was also feeling the pressure of working in two different districts. However, such apprehensions expressed in the suicide note, by no stretch of imagination, can be considered sufficient to attribute to the appellant, an act or omission constituting the elements of abetment to commit suicide. The facts of the case at hand are almost identical to the case of Netai Dutta (supra). Thus, we have no hesitation in holding that the necessary ingredients of the offence of abetment to commit suicide are not made out from the chargesheet and hence allowing prosecution of the appellant is grossly illegal for the offences punishable under Section 306 IPC and Section 3(2)(v) of the SC/ST Act tantamounts to gross abuse of process to law.

24. It may be noted that in the first instance, the investigating agency itself proposed a closure report in the matter after conducting thorough investigation. In this background, we are of the opinion that there do not exist any justifiable ground so as to permit the



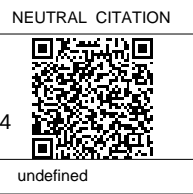
prosecution of the appellant for the offences under Section 306 IPC and Section 3(2)(v) of the SC/ST Act.”

25. At this juncture, I would like to refer to the decision of this Court in case of **A.K. Chaudhary (supra)**, upon which reliance has been placed by learned Senior Counsel for the applicant, wherein this Hon'ble Court has observed in Paragraph Nos.17 to 31, which read as under,

“17. In view of the above, it appears that the ingredients for abetment for suicide would be satisfied only if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the action Of committing suicide is "also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories, one normally where the deceased is having sentimental tie or physical relations with the accused and second category would be where the deceased is having relations with the accused in official capacity. In case of former category sometimes a normal quarrel or the utterance of hot exchange Of words may result into psychological immediate imbalance. Consequently creating situation of depression, loss of charm in the life and if the person is unable to control sentiments of



expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In case of second category the tie is on account of official relations, where the expectations would to discharge the obligation as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship and the reason being the different conduct of the parties for maintenance of the relations. The former-category leaves more expectations, whereas in the latter category, by and large, expectations and obligations are prescribed by law, rules and regulations. Of course, for meeting with the requirement for ingredients of abetment to suicide, the provisions of the IPC are the same, but for the purpose of examination on the aspects of abetment to commit suicide or incitement/encouragement to suicide, it may have some relevance. Since, in the present case this Court is not concerned with the matter of matter of abetment to suicide where the deceased or the accused had the relations covered in the first category, no further discussion may be required in this regard to that extent.

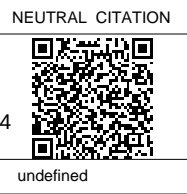


However, in case where the allegations for abetment of suicide committed by the deceased falling in second category are concerned, the strict interpretation is called for, otherwise it may result into damaging the discipline of any institution or organization or department, which may consequently result into creating a situation against national interest for which the expectation would be the strict discipline and the rule of law only and nothing else.

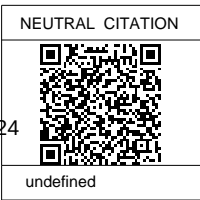
18. Further in any governmental or semi-governmental organization the administration has to be as per the provisions of law, rules and regulations made for such purpose. It is an admitted position that LIC is a statutory Corporation of Government of India. The service conditions of staff, its employees are governed by the staff regulations, including the manner and method of working by the concerned employee, may be lowest in the rank or the top most officer. If any person who is affected by functioning of any officer of L.I.C., such person can file complaint against such officer and may also pray for taking action against erring officer or against officer who allegedly has committed misconduct. As per the law, rules and regulations wherever the departmental action is required to be taken, the same must be taken keeping in view the peculiar facts and circumstances of the case and the substance



of the allegations made against the officer concerned. The departmental action from the stage of preliminary inquiry till the final outcome of departmental proceedings and also appeal therein, which are contemplated in the rules and regulations are expected to be taken if the case is made out to the satisfaction of the Specified Officer for such purpose. While taking action, the satisfaction of the officer who is authorized for such purpose is to be seen and not the satisfaction of the officer against whom the action is to be taken. It is all possible that any departmental action taken may not be liked or accepted by the delinquent officer. However, the specified officer who is authorized for such purpose has to act in the manner provided in the relevant rules and regulations and he cannot be expected to function or discharge his duty as per the liking or disliking of the delinquent officer and such Specified Officer who is authorized is to be guided by the law, rules and regulations only to the best of his ability and nothing else. If the actions are not taken against the delinquent officer it may some times result into creating a situation where the specified officer himself may be charged with the dereliction of duty but in addition that to, the important aspects which deserves to be recorded is that it may result into damaging the maintenance of the



discipline in any organization, may be statutory, governmental or semi-governmental. If the departmental action is not liked by the delinquent officer it is difficult to visualize the situation which may be conceived on account of displeasure by such delinquent officer. It is all possible that such departmental action may be opposed by the delinquent officer and consequentially he may resort to making representations for withdrawal of the departmental action against him and if such efforts are not materialized either he may face the departmental proceedings or he may challenge the departmental action against him in a Court of law or before appropriate forum, whose decision is to bind both the parties to the proceedings. Resorting to the modes provided for ventilating the grievance, including for approaching before the appropriate higher forum or Court of law are on the contrary subserving to the maintenance of the discipline. But any other method or mode which is not provided under the law, if resorted to and are entertained, may not only substantially damage the maintenance of the discipline, but it may sometimes ruin the discipline. The action of suicide itself is prohibited by law and that is the reason why its abetment is also punishable in law. If the: departmental action or the implementation of law, rules and regulations



is to only depend upon the sentimental reaction of the delinquent officer in the event such action is taken, then in that case the enforcement of law, rules and regulations would be impossible. Any delinquent officer against whom the departmental action is to be taken may create such impossibility of enforcing the law, rules and regulations by giving threat of putting end to his life or may actually put an end to his life sometimes, but if in such circumstances the Specified Officer, who has taken departmental action, is to face with serious charge of abetment to suicide, it may result into developing a mentality amongst the Specified Officers not to discharge duty or to discharge duty as per the sentiments of such delinquent officer and the consequences of both would be not only to damage and spoil the position in any institution, but may frustrate the enforcement of law, rules and regulations and all such things would be against the interest of the society as a whole which is to be ruled by law. Therefore, it is reasonable to hold that between the duty and the sentiments, only duty should be allowed to prevail, which may consequently create the maintenance of the discipline and the rule of law.

19. Even as per the Indian Penal Code (hereinafter referred to as "the Code" for short), more particularly Secs. 76, 79 and





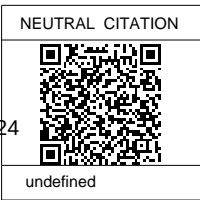
80, which are reproduced hereinafter, provide that nothing is offence if done by any person who has committed any action by mistake of fact or by mistake of law in good faith, believing that he is bound by law to do it.

76. Act done by a person bound, or by mistake of fact believing himself bound, by law - Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.]

79. Act done by a person justified, or by mistake of fact believing himself justified, by law - Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it. ]

80. Accident in doing a lawful act, -Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

20. Secs. 76 and 79 provide that nothing is an offence if an action is taken by any person, who has taken action believing that he is justified in taking action by law. Sec. 80 of the Code provides that nothing is an offence



if it is done by accident of misfortune and without any criminal intention or knowledge in doing a lawful act in a lawful manner by lawful actions and with proper care and caution. Therefore, the general exceptions provided under Chapter IV of the Code makes it clear that the intention of the legislature to keep such actions which are provided in the category of general exceptions, out of the sweep of various offences which are made as punishable under IPC.

21. The law is enacted by any legislature taking the basis of a normal prudent conduct or reaction of a human mind, more particularly for tracing the element of criminality. The aspect which may be relevant for such purpose would be the normal reaction by the person having official relations. If any complaint is filed against any employee with allegation of misconduct and/or if the order of suspension is passed against any employee, his reaction normally would not be to commit suicide. Similarly, if the grievance is against misconduct, one may file complaint and/or if complaint is received of serious misconduct against any employee, the higher officer normally can be expected to take Departmental action. The things, which are otherwise than normal, would be contrary on account of abnormal circumstances. If on account of any abnormal reaction, the

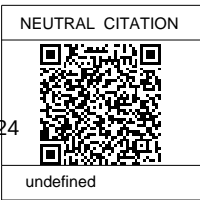


employee has committed suicide, the conduct of the complainant or of higher officer of taking departmental action by way of resorting to legal remedy or enforcement of law, cannot be termed as leaving no option to the delinquent employee but to commit suicide and, therefore, cannot be said as abetment or incitement to suicide under such circumstances. In any case any action for resorting to legal remedy for grievances or for enforcement of law in exercise of powers or purported exercise of power, cannot be said to contain any element criminality unless such action is ex facie without any competence, authority or jurisdiction. Reference may be made to the decision of the Apex Court in case of Raj Kapoor V/s. Lakshman, reported at 1980(2) SCC, 175, more particularly the observations made at paras 7 and 9 of the said decision and also the recent decision of the Apex Court in case of Jacob Mathew V/s. State of Punjab, reported at AIR 2005 SCW, p. 3685, for requirement of criminality while prosecuting the Doctor for offences under Sec. 304A of IPC.

22. The allegation is that the deceased made representations which were not responded for revocation of the suspension order. The explanation of the deceased was demanded, which was submitted by the deceased and the charge-sheet was served. The deceased thereafter demanded certain documents on



19.10.2004 and after three (3) days, i.e. on 23.10.2004 the deceased has committed suicide along his wife and two daughters. If the action of suspension is taken and thereafter if the said suspension order is not revoked, may be after recommendation by the Vigilance Commission or may be after the recommendation by the commission for Minority or may be after making representations by the deceased and if the charge-sheet is served contemplating to hold the departmental inquiry as per the Staff Regulations, may be either in discharge of the duty or in purported exercise of the duty or even if it is due to the alleged conspiracy, the normal conduct of the delinquent employee would be to approach Court of law for seeking justice, but such cannot be said as creating a situation leaving no option to the delinquent employee, but to commit suicide. As observed earlier in a matter where the relationship between the accused and the victim are in official capacity, unless there is direct action by the accused leaving victim with no option but to commit suicide, it cannot be said that there is any abetment to commit suicide. There is no overtact whatsoever even as per the complaint or the suicidal note, which resulted into the commission of suicide. When the deceased committed suicide with his family members none was present, except all deceased and the suicide is



committed by consuming poison. In absence of any direct and cogent action by any of the accused, who are petitioners herein at the time when the accused committed suicide, it cannot be said that there was any abetment on the part of any of the petitioner to commit suicide by the deceased. Therefore, the basic ingredients for making out the case for commission of offence of abetment to suicide is not made out even if the complaint and the suicidal note are taken on its face value.

23. The aforesaid is in addition to the aboveresferred provisions of IPC providing general exceptions to the extent that the action of filing complaint by the contractor against the deceased, the action of suspension, the inaction for revocation of suspension, after representation made by the deceased or recommendations by the Vigilance Commission or after the recommendations by the Commission for Minorities or the action of issuing charge-sheet for contemplating to hold departmental inquiry, cannot be said as not falling under any categories of general exceptions as provided under Secs. 76, 9 and 80. Even if the allegations of conspiracy is considered, the same is for harassment and is not for leaving the deceased with no option but to commit suicide and, therefore, the action of suicide can be said as misfortune which may, in any case, fall under the exceptions provided in Sec. 80 of the Code.



24. The aforesaid takes me to examine the scope and ambit of alleged offences under Atrocities Act, more particularly Sec. 3(1) (i), (vi), (viii) and (x) of the said Act. Sec. 3 (1)(i), (vi), (viii) and (x) reads as under:

(i) forces a member of a Scheduled Caste or a Scheduled Tribes to drink or eat any inedible or obnoxious substance;]

ii. x x x

iii. x x x

iv. x x x

v. x x x

vi. compels or entices a member of a Scheduled Castes or a Scheduled Tribes to do "beggar" or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

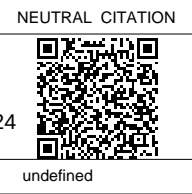
vii. x x x

viii. institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Castes or a Scheduled Tribes;]

ix. x x x

[x. intentionally insults or intimidates with intent to humiliate a member of Scheduled Castes or a Scheduled Tribes in any place within public view.]

25. The perusal of Sec. 3(i) and (iv) shows that if there is any compulsion or incitement made to a Member of Scheduled Castes or Scheduled



Tribes to do a begging or other similar forms and forced and bonded labour other than any compulsory services for public service given by the Government, the same is an offence.

26. As per Sec. 3(1) (viii), if there is institution of any false, malice or vexatious to criminal or other legal proceedings against the Member of Scheduled Castes or Scheduled Tribes, the same is an offence.

27. On true and correct interpretation of Sec. 3(i) and (viii) of the Atrocities Act, it transpires that there must be the declaration by the competent forum that the institution of suit or criminal or other legal proceedings against the Member of Scheduled Castes or Scheduled Tribes is either false or malice or vexatious. If the filing of suit or criminal or other legal proceedings against a Member of Scheduled Castes or Scheduled Tribes is treated as an offence on the ground that such Member of Scheduled Castes or Scheduled Tribes against whom the proceedings are filed considers as false or malice or vexatious, it would mean that no proceedings whatsoever can be filed by any person against the Member of Scheduled Castes or Scheduled Tribes, and such cannot be the intention of the legislature for treating the action as offence. Therefore, it would be reasonable to hold that such proceedings may be of suit or criminal or other legal proceedings should have been declared by the competent forum



before whom the proceedings are initiated as false or malice or vexatious. Only thereafter the person who has instituted such proceedings can be charged with the offence under Sec. 3(1) (viii) of Atrocities Act.

28. The reference may be made to the decision of the Division Bench of M.P. High Court in case of Abdul Rasheed Siddiqui and Anr. V/s. State of M.P. and Ors., reported in AIR 1995 (MP), 138, wherein at para 5 it was observed as under:

"5. The provisions of the Act, in particular of Sec. 3(I)(viii), are intended to protect persons belonging to Scheduled Castes or Scheduled Tribes from harassment by false, malicious or vexatious litigation. An offence can be registered only after the Court dealing with the suit or criminal or other proceedings which is alleged to be false, malicious or vexatious is disposed of. Registration of case during the pendency of such a proceedings would amount to prejudging the issue which the civil or criminal court in such proceeding may be called upon to decide. Prosecution of a plaintiff or a petitioner or a complainant would naturally have a tendency of preventing people from approaching Court of law for redressal of grievances. If a private individual tries to prevent any person





from approaching a Court of law, that may, depending on the circumstances of the case, amount to contempt of Court. We are, therefore, satisfied that the legislative intent in enacting Sec. 3(1) (viii) of the Act is not to enable registration of a crime on a mere filing of a suit or criminal or other proceeding against a member of a Scheduled Castes or Scheduled Tribes and without waiting for the disposal of the suit or such other proceedings. If the suit or the other proceeding is decided against the persons belonging to Scheduled Castes or Scheduled Tribes, certainly there is no offence committed. Even if proceeding is dismissed, it would be possible for the person who file the proceedings to contend that the proceeding was not either false or malicious or vexatious. A case cannot be registered merely on the basis of filing of a suit or criminal or other legal proceedings. Whether an offence has been committed or not can be decided only after the suit or proceeding is over." ]

29. Mr. Tulsi, learned Counsel appearing for the petitioners also attempted to submit that the disciplinary proceedings would not be included in the scope and ambit of Sec. 3(1) (viii) of the Atrocities Act, whereas Mr. Jani, learned Counsel appearing for the



original complainant submitted that the interpretation may be made by this Court keeping in view the intention of the legislature to give special protection to the member of the Scheduled Castes and Scheduled Tribes and he also submitted that such proceeding may include departmental proceedings. In my view, it is not necessary for this Court to examine the said aspect in view of the earlier observations that unless there a declaration by the competent forum in respect to the proceedings as false or malicious or vexatious, it cannot be said that any offence is committed. It appears that there would not be any intention on the part of the legislature to create a situation that no proceedings whatsoever can be initiated against a Member of Scheduled Castes and Scheduled Tribes, which as per the member of Scheduled Castes or a Scheduled Tribes may be false, or malicious or vexatious, since no citizen can be prevented from approaching the Court of law for filing suit or criminal prosecution or legal proceedings against any citizen, including against a member of Scheduled Castes or a Scheduled Tribes.

30. The perusal of Sec. 3(1)(x) provides that if there is any intentional insult or intimidation with intent to humiliate a member of Scheduled Castes or a Scheduled Tribes in any place within public view, it is



an offence. If the allegations made in the complaint and the facts and circumstances are examined in light of the observations made hereinabove, it appears that even as per the suicidal note referred in the complaint, the departmental action of suspension was taken on account of the complaint made by the contractor against the deceased for demanding illegal gratification and as per the deceased, the contractor in collusion with the petitioners who are named as "Bengali Officers" conspired for taking action. As per the LIC, in the submission made by the learned Counsel for the petitioners, the action of suspension was taken after holding preliminary inquiry, whereas the case of the original complainant is that no preliminary inquiry is held.

31. If the allegations made in the complaint are examined in light of the observations made qua alleged offence under the Atrocities Act, there is no allegations worth the name for compelling the deceased to do begging or similar form of forces or bonded labour and, therefore, no offence is made out under Sec. 3(1) (i) of the Atrocities Act. The deceased has not approached to any Court of law for ventilating the grievance against the departmental action, nor there is any declaration by any competent forum that the initiation of proceedings or departmental actions were false or malicious or vexatious



and, therefore, the basic ingredients of Sec. 3(1) (i) and (viii) are not made out for showing the commission of offence. Even as per the complaint, the allegation made is of taking departmental action against the deceased by Bengali Conspiracy. It deserves to be recorded that the petitioner contractor, who filed complaint in LIC against deceased is also a Dalit and at his instance the action is taken by the specified officers of LIC. Further, if the departmental action is taken against a member of Scheduled Castes or a Scheduled Tribes as per the Staff Regulation in a complaint, where there are serious allegations of demand of illegal gratification and such complaint is made by the contractor who himself is a Dalit, the same cannot be said as insult or intimidation with an intent to humiliate a member of Scheduled Castes or a Scheduled Tribes in any place within public view. Therefore, it cannot be said that any offence is made out as per Sec. 3(1)(x) of the Atrocities Act."

26. In the aforesaid decision, this Hon'ble Court has observed in Paragraph Nos.45, 46,, 47, 48, 50 & 51 as under,

"45. The aforesaid also takes me to examine the peculiar facts and circumstances of the present case. It is true that the deceased was the member of Scheduled Castes and Scheduled Tribes for whose upliftment various

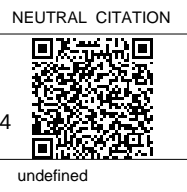


provisions are made in the Constitution of India and the laws are also enacted for extending special benefits and protection. However, subject to special provisions under the Constitution or under the relevant statutory provisions all employees working under any organization, governmental or semi-governmental body or statutory bodies are to be treated equal in the matter of maintenance of discipline or for taking departmental proceedings or for enforcement of law, rules and regulations. In other words all employees are to be treated equal and no discrimination is permissible unless it is specifically authorized by law, rules or regulations.

46. The aforesaid is with a view to not only for enforcement of the law, but with a view to maintain the standard of integrity, efficiency and/or quality of work in any establishment, may be private, governmental or semi-governmental. All such qualities can be achieved if there is strict compliance to the rule of discipline in the said establishment.
47. The death of the deceased and his family is really an unfortunate incident, which may move the sentiments of any person. The death of a person by committing suicide in police custody or jail may stand on different footing. Similarly, if the action is ex facie lacking jurisdiction by the officer against the victim, it may also stand on different

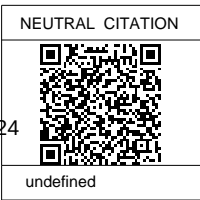


footing. But if the action is in purported exercise of the power or if not taken may result into charge of dereliction of duty, such action deserves to be protected against any criminal prosecution. The reference may be made to the recent decision of the Apex Court in case of S. K. Zutshi and Anr. V/s. Bimal Debnath and Anr., reported in 2004(8) SCC, 31 and also the recent decision of the Apex Court in case of Jacob Mathew V. State of Punjab and Anr., reported at AIR 2005 SCW, p.. 3685, more particularly the observations made at para, 30 and 31 for considering general interest of society in the matter of prosecuting the Doctor under Sec. 304A of IPC. Therefore, though sentimentally on account of death of a member belonging to Scheduled Castes and his family one may receive sentiment to punish or to prosecute those who are named by the deceased in the suicidal note, but if such prosecutions are leniently viewed, it may result into creating the situation where no officer would be tempted to discharge his duty for taking action for maintenance of discipline even if such is provided as per the regulations, on a fear or apprehension that the employee against whom the action is to be taken may put an end to his life by sentimentally reacting to such departmental action. It may equally leave room to the employee against whom the departmental action is to be taken



by the higher officer, by giving threat of putting end to the life and thereby to create a fear in the mind of the higher officer and to create an atmosphere of no disciplinary action against such employee by such higher officer, though legally such higher officer is required to take action. As such, similar position may prevail even in any other situation where law is to be enforced by exercising the power. If such prosecutions are leniently viewed it may result into creating a situation of hampering the enforcement of law, rules and regulations, which has to prevail in all circumstances above all personal sentiments, otherwise it may seriously damage the maintenance of standard of efficiency, the expected quality of the work, maintenance of discipline in all organizations, may be private, government or semi-government, and above all the general interest of the nation at large.

48. Even otherwise also, as observed earlier, it cannot be said that the ingredients of the abetment to suicide or for the offence : under Atrocities Act are satisfied. Still, however, this Court finds it proper to record the peculiar facts and circumstances and the general interest of maintenance of discipline as against the personal sentiments of any person. Therefore, even if one may have sentimental sympathy on account of the death of a member of Scheduled Castes and Scheduled



Tribes and his family members, such sympathy cannot be termed and treated as commission of offence for which the charge is made in the complaint.

50. There cannot be a dispute to the proposition that "no one is above law", but at the same time if the Court on merits finds that no case is made out for commission of offence as per law, it would be improper either to decline the relief merely on the ground that any party to the proceeding is holding high position in the organization or to grant relief merely on the ground that either party to the proceeding is lower in rank. In the system of administration of justice as per Constitution of India and law, such aspects have no legs to stand. Suffice it to say that this Court has to uphold the rule of law irrespective of the position of either of the parties to the proceedings before it. Therefore, the said attempt of Mr. Jani cannot be entertained and deserves to be rejected at the outset only.

51. The aforesaid takes me to examine the aspects as to whether in such circumstances law provides for remedy or remedial measure or not - As per the complainant the deceased has put an end to life due to the departmental action of suspension and of inaction in revocation of suspension order and of issuing the charge-sheet and contemplating to hold departmental inquiry, whereas as per the



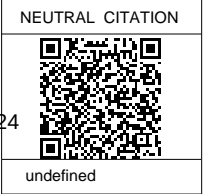


accused officers the action is taken in discharge of the official duty and had the action not taken, the officers could have been charged with the dereliction of duty. Though in view of the observations made hereinabove, it may not amount to offence but the fact remains that there is a loss of life of the deceased, who was an employee of Life Insurance Corporation of India. The remedial measures under the Civil Law and Criminal Law are different. The different yard-stick and the criteria prevails for commission of offence, prosecution and for imposing punishment upon a person when offence is committed but when even no offence is committed and in a case where the family members of the deceased are visited with the consequences to loss of life, it cannot be said that there is no remedy provided under the law. Under such circumstances, there is a remedy provided as per the Civil Law for compensating to the death of the deceased. The principles of vicarious liability may also apply if ultimately it is proved that the loss of life is due to inaction by the specified officers of LIC and not due to abnormal sentimental reaction of the deceased to the departmental proceedings. As such, even for finding the aforesaid aspects, full-fledged opportunity is required to be given to both the sides namely; the relatives of the deceased may prove that the loss of life



is due to inaction or so-called purported exercise of the power and the officers and also LIC itself may prove their defence that the so-called action for suicide and the loss of life is due to abnormal psychological reaction by the deceased to the departmental proceedings. All such aspects, if ultimately proved to the extent that the loss of life of the deceased is on account of any negligence in discharge of duty by the officers concerned of LIC, the dependent members of the deceased may get appropriate compensation. Therefore, there is a remedial measure provided under Civil Law for compensating to the loss of life to the deceased to the dependent members of the deceased. Since there is neither prayer, nor all parties to the proceedings, more particularly LIC is before the Court, I find it proper to leave the matter at that stage, leaving the parties to resort to appropriate remedy under Civil Law for compensation etc., due to loss of life to the deceased, as may be permissible in law."

27. At the outset, I may take note of the fact that the prosecution of the appellant herein for the offence under Section 3(2)(v) of the Atrocity Act is ex facie illegal and unwarranted because it is nowhere the case of the prosecution in the entire charge-sheet that the offence under the provision of the IPC was committed by the applicant upon the



deceased on the basis of his caste. In this regard, I would like to refer to the decision of the Hon'ble Supreme Court in the case of **Masumsha Hasanasha Musalman Vs. State of Maharashtra**, reported in **2000 (3) SCC 557**, wherein the Hon'ble Supreme Court has considered similarly issued and held as under:-

"9. Section 3(2)(v) of the Act, the sine qua non is that the victim should be a person who belongs to a Scheduled Caste or a Scheduled Tribe and that the offence under the Penal Code, 1860 is committed against him on the basis that such a person belongs to a Scheduled Caste or a Scheduled Tribe. In the absence of such ingredients, no offence under Section 3(2)(v) of the Act arises. In that view of the matter, we think, both the trial court and the High Court missed the essence of this aspect. In these circumstances, the conviction under the aforesaid provision by the trial court as well as by the High Court ought to be set aside."

28. Thus, from the facts as narrated hereinabove coupled with the decision noted above, the necessary ingredients of the offence under Section 3(2)(v) of the Atrocity Act are not made out so as to justify prosecution of the accused appellant for the said offence.

29. It is not in dispute that the prosecution case is entirely based on the diary purported written by the deceased left behind by the deceased before



committing suicide. I have minutely perused the said diary, which is part of chargesheet papers, which clearly goes on to show that the deceased was disturb state of mind on account of work pressure and was apprehensive of various random factors unconnected to his work. However, such apprehensions expressed in the diary, by no stretch of imagination, can be considered sufficient to attribute to the applicant, an act or omission constituting the elements of abetment to commit suicide. On a minute perusal of the said diary, which is part of chargesheet papers, I do not find that the contents thereof indicate any act or omission on the part of the applicant – accused, which could make him responsible for abetment as defined under Section 107 IPC. It is required to be noted that if the allegations leveled in the body of the FIR are believed to be true and correct, in that event, there is no proximate cause shown by respondent no.2 on the part of the accused, which led the deceased to commit suicide. As can be seen from the contents of the FIR, on the date of incident, the daughter of the responded no.2 left house for her college but did not reach college or hostel and out of said anxiety, the deceased committed suicide and the said fact is also categorically stated in the body of the FIR. 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, however, 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 deceased to commit suicide, conviction recorded under Section 306 of the IPC cannot be said to be just and legal.

30. Therefore in view of the above discussions coupled with the facts and material of the case, it cannot be said that the suicide by the deceased was the direct result of the so-called action taken upon the deceased at the factory premises, which is alleged to have stated in the diary maintained by the deceased. It is, however, required to be noted at this stage that if there was harassment at the hands of the applicant in the factory premises, in that event, the deceased would have disclosed the said fact to the complainant being his wife but that is not so in the fact of the case. Therefore I am of the opinion that the ingredients of "abetment" are totally absent in the instant case for the offence under Section 306 of the IPC. Therefore, I have no hesitation in holding that the necessary ingredients of the offence of abetment to commit suicide are not made out from the chargesheet and hence allowing prosecution is grossly illegal for the offences punishable under Section 306 of the IPC and under Section 3(2)(v) of the Atrocity Act tantamounts to gross abuse of process to law. Hence, this is a fit case, wherein



the inherent power under Section 482 of the CrPC should be exercised for the purpose of quashing and setting aside the impugned FIR. Therefore, the present application deserves to be allowed.

31. In the result, this application is allowed. The impugned FIR being C.R. No.I-188/2017 registered with Shaherkotada Police Station and all other consequential proceedings arising out of said FIR being Atrocity Case No.22/2020 pending before the court of learned 9<sup>th</sup> Additional City Civil & Sessions Judge, Ahmedabad (City) are hereby quashed and set aside. Rule is made absolute. Direct service is permitted.

32. Connected application stands disposed of accordingly.

Sd/-  
(DIVYESH A. JOSHI, J.)

Gautam