

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Criminal Misc. Application No. 1382 of 2016**

Joginder Sehgal ..... Petitioner

Vs.

Central Bureau of  
Investigation and Another ..... Respondents

With

**Criminal Misc. Application No. 1455 of 2016**

Satendra Singh ..... Petitioner

Vs.

Central Bureau of  
Investigation and Another ..... Respondents

With

**Criminal Misc. Application No. 1628 of 2016**

Manish Tiwari @ Raju ..... Petitioner

Vs.

Central Bureau of  
Investigation and Another ..... Respondents

With

**Criminal Misc. Application No. 1629 of 2016**

Narendra Kumar Mishra ..... Petitioner

Vs.

Central Bureau of  
Investigation and Another

..... Respondents

Present:-

Ms. Manisha Bhandari, Mr. Karan Anand and Mr. Pramod Bailwal, Advocates for the petitioners.  
Mr. Lalit Miglani, A.G.A. for the State of Uttarakhand.  
Mr. Rakesh Thapliyal, Senior Advocate assisted by Mr. Xitiz Kaushik, Advocate for the C.B.I.

### **JUDGMENT**

#### **Hon'ble Ravindra Maithani, J. (Oral)**

Since, common question of facts and law are involved in these petitions, they are being decided by this common judgment.

2. In these petitions, the challenge is made to the summoning order dated 27.09.2016, passed in CBI Case No. 01 of 2016, C.B.I. vs. Satyendra Singh & others, under Sections 120-B, 306, 465, 468, 469 and 471 IPC, pending in the court of Special Judicial Magistrate, C.B.I./Additional Chief Judicial Magistrate II Ind Dehradun. (for short "the case") and entire proceedings of the case.

3. Facts necessary to appreciate the controversy, briefly stated, are as follows:-

An employee of Railway Department committed suicide. According to the prosecution case, it is the petitioners, who conspired together, forged documents

and made a false complaint against the deceased Sunil Kumar Baluni. Sunil Kumar Baluni, at the relevant time was working as a Senior Travelling Inspector, Accounts. Consequent to it, Sunil Kumar Baluni had to face Departmental proceedings. He was summoned in the proceedings, where he was harassed and humiliated. He telephoned the petitioners Satendra Singh and Narendra Kumar Mishra. He pleaded for his innocence. But finally, he committed suicide.

4. Facts in little detail may be helpful to appreciate the controversy. Railways invites tender for parcel space in passenger trains. For this purpose, advertisements are issued in the daily newspapers and after proper procedure the tenders are allotted. The lease of Train No. 12017 was allotted to the petitioner Narendra Kumar Mishra, who according to the prosecution, further gave this lease to the petitioner Satendra Singh. The petitioners Satendra Singh and Narendra Kumar Mishra were handing the lease of the train in New Delhi. Whereas, the petitioners Joginder Sehgal and Manish Tiwari @ Raju were working in Dehradun to attend the work relating to the lease. It so happened that on 13.11.2014, the deceased Sunil Kumar Baluni, weighed

all the parcels in the presence of Mr. Jogender Sehgal. He found that the parcels were excess in weight. A penalty of Rs. 26,2,31/- was imposed, which was deposited. According to the prosecution, thereafter, all the petitioners conspired. A false complaint in the name of one Anand Kumar was given to the vigilance of railway department on 17.11.2014, which was signed by the petitioner Satendra Singh and written by the petitioner Manish Tewari @ Raju. Again, another authorization letter was forged by the petitioner Satendra Singh on 20.11.2014. Pursuant to which, deceased Sunil Kumar Baluni was placed under suspension. He was called for the inquiry. He attended the inquiry on various dates, where according to the prosecution, he was simply harassed. The Inquiry Officer, according to the case, was in collusion with the petitioner Satendra Singh. In fact, on one day, after recording of the statement, the Inquiry Officer, handed over the file to the petitioner Satendra Singh, which was noticed by the deceased. Thereafter, on 02.12.2014, by jumping in front of a train, Sunil Kumar Baluni ended his life leaving behind the suicide note.

5. On 04.12.2014, an FIR was lodged in the matter, in which, after investigation charge sheet under

Sections 120-B, 306, 465, 468, 469, 471 IPC was submitted. The charge sheet was challenged in these proceedings under Sections 482 of the Code of Criminal Procedure, 1973 (for short, “the Code”). On 17.11.2016, this Court observed that no *prima facie* case is made out against the petitioners under Section 306 IPC. Accordingly directed the trial court to proceed with the trial except offence under Section 306 IPC. This order dated 28.03.2022 of this Court was challenged by the CBI, in Criminal Appeal No. 637 of 2021 before the Hon’ble Supreme Court. The criminal appeal was decided on 19.07.2021. The Hon’ble Supreme Court observed “ **we are satisfied that the High Court ought not to have recorded any finding at the stage of issuance of notice for closing the discussion on any particular section till the appearance of the respondents. On that ground alone, we set aside the impugned orders and remand the matters back to the High Court to decide the quashing application on its own merits.**”

6. In this matter, initially, police conducted the investigation, but subsequently, the investigation was handed over to the CBI. CBI has filed the counter affidavit.

7. Heard learned counsel for the parties and perused the record.

8. Learned counsel appearing for the petitioners Jogender Sehgal and Satendra Singh would submit that no offence under Section 306 IPC is made out against the petitioners. They did not instigate the deceased in committing suicide. While referring to various paragraphs of the charge sheet, learned counsel raised following points in her arguments:-

- (i) In order to attract the provision of section 306 IPC it has to be shown that the person accused of the offence had to goad, urge to commit suicide. It is argued that the petitioners did not goad or urge the deceased to commit suicide.
- (ii) The petitioners did not aid the deceased to commit suicide. The petitioner Joginder Sehgal was not at all present at Dehradun. A complaint was filed against the deceased. He could not face the situation. He was a weak person. No offence under Section 306 IPC is made out.

(iii) The deceased could not face inquiry in which he had participated for four days. The deceased appears to be hypersensitive. It also does not make out offence under section 306 IPC.

(iv) The petitioners did not instigate the deceased to commit suicide. The deceased had made telephone call to the petitioner Satendra Singh. The conversation reveals that in fact, the petitioner Satendra Singh wanted to help the deceased. The conversation in no manner reflects that the petitioner Satendra Singh instigated the deceased to commit suicide.

9. Learned counsel for the petitioners Joginder Sehgal and Satendra Singh would submit that, in fact, the act should be continuous and persistence, which may leave no other option to the deceased except to commit suicide; there should be *mens rea*; the intention of the offender should be to see that the deceased does not survive; there should be proximity between the act complained of and the death of the deceased; what is important is the intention of the offender, not the act alone. It is argued that in the instant case, in view of the settled legal position, *prima facie* offence under Section

306 IPC is not made out. On behalf of the petitioners, it is also argued that in rest of the offences, the petitioners have already sought bail, this matter pertains to the application of Section 306 IPC alone.

10. In support of her contention. Learned counsel has placed reliance on the principles of law, as laid down in the cases of Gurcharan Singh vs. State of Punjab (2020) 10 SCC 200, Ude Singh and others vs. State of Haryana (2019) 17 SCC 301, Chitresh Kumar Chopra vs. State (Government of NCT of Delhi) (2009) 16 SCC 605, M. Mohan vs. State (2011) 3 SCC 626, Atul Kumar vs. State of NCT of Delhi and Another (2021) SCC OnLine Del 4107, S.S. Chheena vs. Vijay kumar Mahajan and Another (2010) 12 SCC 190, Praveen Pradhan vs. State of Uttaranchal and Another (2012) 9 SCC 734.

11. In the case of Gurcharan Singh (*supra*), the Hon'ble Supreme Court discussed the law on this point, in view of the various pronouncements and observed as hereunder: -

**“15.** As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Section 107 IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to



be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous. However, what transpires in the present matter is that both the trial court as well as the High Court never examined whether the appellant had the mens rea for the crime he is held to have committed. The conviction of the appellant by the trial court as well as the High Court on the theory that the woman with two young kids might have committed suicide possibly because of the harassment faced by her in the matrimonial house is not at all borne out by the evidence in the case. Testimonies of the PWs do not show that the wife was unhappy because of the appellant and she was forced to take such a step on his account.

16. The necessary ingredients for the offence under Section 306 IPC were considered in *S.S. Chheena v. Vijay Kumar Mahajan* [*S.S. Chheena v. Vijay Kumar Mahajan*, (2010) 12 SCC 190 : (2011) 2 SCC (Cri) 465] where explaining the concept of abetment, Dalveer Bhandari, J. wrote as under : (SCC p. 197, para 25)

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

17. While dealing with a case of abetment of suicide in *Amalendu Pal v. State of W.B.* [*Amalendu Pal v. State of W.B.*, (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896], Dr M.K. Sharma, J. writing for the Division Bench explained the parameters of Section 306 IPC in the following terms : (SCC p. 712, paras 12-13)

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously

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

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

18. In *Mangat Ram v. State of Haryana* [*Mangat Ram v. State of Haryana*, (2014) 12 SCC 595 : (2014) 5 SCC (Cri) 127] , which again was a case of wife's unnatural death, speaking for the Division Bench, K.S.P. Radhakrishnan, J. rightly observed as under : (SCC p. 606, para 24)

“24. We find it difficult to comprehend the reasoning of the High Court [*Mangat Ram v. State of Haryana*, Criminal Appeal No. 592-SB of 1997, decided on 27-5-2008 (P&H)] that “no prudent man is to commit suicide unless abetted to do so”. A woman may attempt to commit suicide due to various reasons, such as, depression, financial difficulties, disappointment in love, tired of domestic worries, acute or chronic ailments and so on and need not be due to abetment. The reasoning of the High Court that no prudent man will commit suicide unless abetted to do so by someone else, is a perverse reasoning.”

12. In the case of *Ude Singh (supra)*, the Hon’ble Supreme further agitated as to what includes instigation.

In para 16.1 of the judgment, the Hon'ble Supreme Court observed as hereunder: -

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

13. In the case of Chitresh Kumar Chopra (*supra*) the Hon'ble Court has observed as hereunder:-

“16. Speaking for the three-Judge Bench in *Ramesh Kumar case* [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , R.C. Lahoti, J. (as His Lordship then was) said that instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of “instigation”, though it is not necessary that actual words must be used to that effect or what constitutes “instigation” must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an “instigation” may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.”

14. In the case of M. Mohan (*supra*), there was a suicide note. The allegations that the deceased was harassed, tortured and humiliated on 14.01.2005. Suicide was committed on 18.01.2005. The Hon'ble Supreme Court, under those circumstances, discussed the proximity aspect of the act as well as the sensitivity level of an individual. The Hon'ble Supreme Court has observed as hereunder:-

“48. In the instant case, what to talk of instances of instigation, there are even no allegations against the appellants. There is also no proximate link between the incident of 14-1-2005

when the deceased was denied permission to use the Qualis car with the factum of suicide which had taken place on 18-1-2005. Undoubtedly, the deceased had died because of hanging. The deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. In a joint family, instances of this kind are not very uncommon. Human sensitivity of each individual differs from person to person. Each individual has his own idea of self-esteem and self-respect. Different people behave differently in the same situation. It is unfortunate that such an episode of suicide had taken place in the family. But the question that remains to be answered is whether the appellants can be connected with that unfortunate incident in any manner?"

15. In the case of Atul Kumar (*supra*), with regard to the dealings in vintage motorcycle, there was a dispute. One of the parties had filed a complaint. The person, against whom, the complaint was filed committed suicide, leaving behind the suicide note, claiming his innocence. The Hon'ble Delhi High Court referring to various judgments on the subject observed that **"the filing of a criminal complaint by the petitioner was his legal recourse, as advised to him. As noted above, it cannot be said that by filing a criminal complaint against the deceased, the petitioner had the *mens rea* to investigate her goad the deceased to commit suicide; and further, that the deceased was left with no other option but to commit suicide."**

16. In the case of S.S. Chheena (*supra*) also, a student had committed suicide claiming his innocence in a theft case. Paragraph 25 of this judgment has already been quoted, while referring to the principles of law as laid down in the case of Gurcharan Singh (*supra*). In para-26 of the judgment in the case of S.S. Chheena(*supra*), the Hon'ble Supreme Court discussed the aspect of hypersensitivity and reaction of it, to a given situation as hereunder:-

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

17. In the case of Praveen Pradhan(*supra*), the Hon'ble Supreme Court, on this aspect, observed **“the offence of abetment by instigation depends upon the intention of the person who abetes and not upon the act as is done by the person who has abeted.”**

18. While citing this law, the learned counsel for the petitioners would submit that the intention of the offender is important.

19. Learned counsel appearing for the petitioners Narendra Kumar Mishra and Manish Tewari @ Raju, in addition to what is argued on behalf of the other petitioners, has submitted that, in fact, the role of petitioner Narendra Kumar Mishra is far less than other petitioners. Learned counsel would add the following points in his submission:-

- (i) The petitioner Narendra Kumar Mishra is not named in the FIR.
- (ii) The petitioner Narendra Kumar Mishra is not named in the charge sheet.
- (iii) There is nothing against the petitioner Narendra Kumar Mishra in the charge sheet. Merely, because his telephone number has been written on some false document does not make him an accused in the case.
- (iv) The petitioner Narendra Kumar Mishra has been implicated only because he was in business with the petitioner Satendra Singh.

20. On the other hand, learned counsel for the CBI would submit that this case cannot be seen in isolation as an offence under Section 306 IPC. Learned Senior Counsel would submit that there are various offences committed by the petitioners under a conspiracy. The charge sheet has been filed under Sections 120-B, 465, 468, 469 and 471 IPC also against the petitioners. All the circumstances have to be seen in totality. He would submit the following points in his arguments:-

- (i) The telephonic conversation between deceased and Satendra Singh reveals that in fact, it is the petitioner Satendra Singh who wanted to extract a confession from the deceased. The conversation cannot be read in piecemeal. The conversation is not the sole basis for filing the charge sheet against the petitioners. The petitioners were unhappy because on 13.11.2014, the deceased had got re-weighment of a parcel of Train No. 12017. The petitioner Jogendra Sehgal had then threatened the deceased to face the consequences. Thereafter, they hatched the conspiracy and forged a complaint on 17.11.2014,



which was written by petitioner Manish Tewari @ Raju and signed by Satendra Singh.

- (ii) An authorization dated 20.11.2014 was also forged by the petitioners under a conspiracy. It was signed by Satendra Singh. It was in the name of Anand Singh, who had nothing to do with the petitioners. Anand Singh in his statement given to the Investigating Officer has disclosed all these facts. In this authorization letter dated 20.11.2014, the telephone number of Narendra Kumar Mishra is given.
- (iii) The lease was in the name of Narendra Kumar Mishra. He was acting through other Petitioners i.e. Joginder Sehgal, Satendra Singh and Manish Tewari @ Raju. Out of these four, two were stationed in Delhi and two at Dehradun.
- (iv) On 20.11.2014, the petitioners Satendra Singh and Manish Tewari @ Raju planted Rs. 6,000/- in the cabin of the

deceased and falsely implicated him in a case of bribery.

21. Learned Senior Counsel would submit that all the chain of events, forgery, conspiracy are to be examined. At this stage, it cannot be said that offence under Section 306 IPC is not made out.

22. It is a petition under Section 482 of Code. The jurisdiction is much wide, but much guided by the principles of law as laid down in a catena of the decisions by the Hon'ble Supreme Court. In the case of Indian Oil Corporation vs. NEPC India Limited and others (2006) 6 SCC 736 the Hon'ble Supreme Court discussed the jurisdiction and in para 12 observed as hereunder:-

**“12.** The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—*Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre* [(1988) 1 SCC 692 : 1988 SCC (Cri) 234], *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059], *Central Bureau of Investigation v. Duncans Agro Industries Ltd.* [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045], *State of Bihar v. Rajendra Agrawalla* [(1996) 8 SCC 164 : 1996 SCC

(Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with *mala fides*/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual

dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.”

23. During the course of arguments, learned counsel for the parties have, in fact, extensively argued on the law as well as the factual aspects. On behalf of the petitioners, arguments have been advanced only to the extent of application of offence under Section 306 IPC. It deals with abetment of suicide. Section 306 IPC as follows:-

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

24. Instigation as such has been defined under Section 107 IPC, which is as hereunder:-

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

(First) — Instigates any person to do that thing;

or

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

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

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

25. A bare perusal of the Section 107 IPC makes it abundantly clear that instigation may be in any of three manners as given under Section 107 IPC, namely, (i) Instigation (ii) conspiracy and (iii) intentional aid.

26. In fact, this is the situation of reading the mind of the deceased as to why he committed suicide and to further read as to whether the offender(s) has contributed in his committing suicide. The Hon’ble Supreme Court in the case of Ude Singh (*supra*) has also observed about the reaction of a human being. Para-16.2 of the judgment is as hereunder.

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

teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.”

27. At the cost of repetition it may be noted that in the case of Ude Singh (*supra*) the Hon’ble Supreme Court while dealing with the act of an offender has observed **“If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of *mens rea* on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide.”**

28. The Hon'ble Supreme Court further observed about delicacy of reading human behaviour in such cases. The Hon'ble Court observed that **“such being the matter of delicate analysis of human behaviour, each cases require to be examined on facts, while taking note of all surrounding factors having bearing on the actions and sights of the accused analysis.”**

29. Proximity of the act and the death definitely have bearing and significance. A few utterances made in a fit of anger without any intention or suggestive consequences may also not attract the provisions of under Section 306 IPC. It requires something more.

30. In the instant case, a few facts are not in dispute. They are as follows:-

- (i) Deceased Sunil Kumar Baluni was working as a Senior Travelling Inspector, Accounts at railway station Dehradun.
- (ii) The petitioners have been dealing with the parcels of railways.
- (iii) According to the prosecution the lease of Train No. 12017 was allotted to the

petitioner Narendra Kumar Mishra.

Who has further shared it with petitioner Narendra Singh. They were working with the other petitioners namely Jogindra Sehgal and Manish Tewari @ Raju.

31. The petitioners Narendra Kumar Mishra and Satendra Singh were dealing with the parcels at Delhi railway station and the petitioners Jogindra Sehgal and Manish Tewari @ Raju were dealing with the parcels at Dehradun railway station.

32. On 13.11.2014, the deceased got re-weighment of the parcels pertaining to the petitioner Joginder Sehgal. The parcel was found overweight. A penalty of Rs. 26,230/- was imposed, which was paid. The consequences of such mistakes, according to the prosecution, would have led to the cancellation of the lease. It has serious consequences.

33. According to the prosecution, at that time the petitioner Jogendra Sehgal offered a bribe of Rs. 10,000/- to the deceased Sunil Kumar Baluni, which he did not



accept. Consequent to it, according to the prosecution the petitioner Jogendra Sehgal threatened the deceased to face consequences.

34. According to the prosecution, thereafter:- (i) On 17.11.2014, the petitioner Satendra Singh filed a false complaint with regard to the Train No. 12205 against the deceased alleging that he has been demanding bribe; (ii) The complaint dated 17.11.2014 was forged because Satendra Singh was never given lease of Train No. 12205; (iii) The petitioner Satendra Singh further forged an authority on 20.11.2014 in the name of Anand Kumar. (iv) Anand Kumar has accepted that the document was forged. This document had telephone number of Narendra Kumar Mishra. The text of complaint dated 17.11.2014 was in the hand writing of Manish Tewari @ Raju; (v) On 20.11.2014, the petitioners Satender Singh and Manish Tewari @ Raju visited the chamber of the office of deceased, requested for a cup of tea. The deceased came outside of his cabin and asked Ram Awadh, a Parcel Porter to bring two cup of tea to his office. Ram Avadh brought two cup of tea to the office room of the deceased where he saw the petitioner Manish Tewari @ Raju and another person.

35. It is the case that thereafter vigilance team was called by the petitioner Satendra Singh claiming that the deceased had accepted Rs. 6000/- as bribe. But, according to the prosecution through out the deceased had denied having accepted any bribe. He claimed that finger prints on the currency notes may be taken. In para-16.28 of the charge sheet, it has categorically been written by the Investigating Officer. It also records “**Late Sunil Kumar Baluni also contended that his finger prints may checked on the G.C. notes.**” The Investigating Officer also records that when the petitioner Satendra Singh had called the Vigilance team in the office of the deceased, he claimed that when he went out for ordering tea for the petitioners, Satendra Singh and Manish Tewari @ Raju in his absence, the money was kept in his table drawer and he was not aware of the same. The Investigating Officer has named a Parcel Porter, Ram Awadh, who brought tea in the room of the deceased. He was ask to do so by the deceased.

36. In para-16.40 of the charge sheet, the Investigating Officer has also recorded “**one common fact came to light out of their examination that during the**

**decoy check proceedings, late Sunil Kumar Baluni was pleading that neither he had demanded any bribe nor accepted any bribe and that he went out of his office room for ordering tea for Satendra Singh (A-1) and Manish Tewari @ Raju (A-2) and in his absence the money was kept by them (Satendra Singh, A-1 and Manish Tewari @ Raju, A-2) In his table drawer.”**

37. This Court is not making any scrutiny of the evidence. This Court is just referring to the material based on which, the charge sheet has been filed. Deeper scrutiny of material at this stage is to be avoided. The conversation between the petitioner Satendra Singh and deceased has been referred extensively. Transcript of it has been filed at Annexure-4 to the C-482 No. 1455 of 2016. It is true that at one stage the petitioner Satendra Singh had offered help to the deceased, but a reading of this conversation also indicates that repeatedly the deceased was asked as to whether he accepted the bribe? But, the deceased have denied of accepting any bribe.

38. According to the prosecution, the deceased felt harassed, humiliated and targeted by the accused persons due to checking and penalty imposed on the

lease of Train No. 12017 on 13.11.2014, which led to the vigilance case against him. The deceased ended his life.

39. The chain of events *prima facie*, makes it appear that the petitioners were not happy with the penalty, which was imposed on 13.11.2014. A false complaint was filed. The deceased was targeted. He had to undergo a departmental proceedings. The act of the petitioners did not end at one point of time. He was targeted in a definite direction. The deceased in his suicide note records that, in fact, the Vigilance Officer was hand in gloves with the petitioner Satendra Singh. The statement of the deceased recorded during the inquiry, according to the prosecution, was also shown to the petitioner Satendra Singh. What did the deceased think of it? Did he think that he has been continuously harassed, targeted and irritated by the petitioners? Have the petitioners played an active role in tarnishing the self-esteem and self-respect of the deceased, which eventually compelled the deceased to commit suicide? Can the action of the petitioners be termed as continuously irritating and annoying the deceased until the deceased reacted or provoked? Perhaps, all these and many more other questions would require deeper scrutiny of the

evidence. This Court cannot conduct a mini-trial at this stage.

40. Having considered all the facts, this Court is of the view that, *prima facie*, offence under section 306 IPC is also made out against all the petitioners. There is no reason to make any interference. Accordingly, the petitions deserve to be dismissed.

41. The petitions are dismissed.

(Ravindra Maithani, J.)  
31.03.2022