

**Reserved on : 20.08.2024**  
**Pronounced on : 31.08.2024**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>ST</sup> DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.4406 OF 2023

**BETWEEN:**

SRI. MURULIDHARA R. @ KENCHHA  
S/O LATE RAJAKUMAR T.,  
AGED ABOUT 33 YEARS,  
SHANTHINAGARA,  
DODDABALLAPURA TOWN  
BENGALURU DISTRICT,  
KARNATAKA – 561 203.

ADDRESS SHOWN IN THE AADHAR CARD

SRI MURULIDHARA R.,  
S/O LATE RAJAKUMAR T.,  
RESIDING AT NO.1043,  
7<sup>TH</sup> CROSS, MUTHYALAMMA,  
SHANTHINAGARA  
DODDABALLAPURA  
BENGALURU RURAL DISTRICT – 561 203.

... PETITIONER

(BY SRI T.PRAKASH, ADVOCATE)

**AND:**

- 1 . STATE OF KARNATAKA  
BY DODDABALLAPURA  
TOWN POLICE STATION,  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
BENGALURU – 560 001.
- 2 . SMT.SHAMIN TAJ  
W/O MAHAMMED AHAMMED,  
AGED ABOUT 67 YEARS,  
RESIDING AT NO.15, 6<sup>TH</sup> CROSS,  
KONGADIYAPPA COLLEGE ROAD  
ISLAMPURA, DODDABALLAPURA TOWN  
BENGALURU – 560 061.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1;  
SRI MOHAMMED TAHIR, ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE CHARGE SHEET VIDE ANNEXURE-C REGISTERED IN PURSUANCE OF THE COMPLAINT IN CR.NO.98/2021 OF DODDABALLAPUR TOWN P.S., FOR THE ALLEGED OFFENCES P/U/S 306 AND 34 OF IPC, PENDING ON THE FILE OF THE COURT OF ADDITIONAL CIVIL JUDGE AND JMFC AT DODDABALLAPURA, SO FAR AS THIS PETITIONER IS CONCERNED (ACCUSED NO.1).

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 20.08.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

**CAV ORDER**

The petitioner/accused No.1 is before this Court calling in question proceedings in C.C.No.1368 of 2022 pending before the Additional Civil Judge and JMFC, Doddaballapura arising out of a crime in Crime No.98 of 2021 registered for offences punishable under Section 306 r/w 34 of the IPC.

2. Heard Sri T.Prakash, learned counsel appearing for the petitioner, Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 and Sri Mohammed Tahir, learned counsel appearing for respondent No.2.

3. Facts in brief adumbrated, are as follows:-

It is the case of the prosecution that on 19-06-2021 the 2<sup>nd</sup> respondent registers a complaint that her son one Dadapeer was working as a driver and had married a girl by name Shahaji and has a child from the wedlock. On 18-06-2021 at about 1.30 p.m. the petitioner has informed the complainant that her son keeps talking

to a girl. During that time the son of the complainant comes to the house and goes out to buy some eggs but did not return. The complainant was informed that her son had consumed poison and had begun to vomit. He was taken to the hospital where he succumbed to the consumption of poison at about 9.25 p.m. on the same night. It is further averred that the complainant comes to know that it is due to the harassment of the petitioner and accused No.2 that her son committed suicide. This becomes a crime in Crime No.98 of 2021. The police conduct investigation and file a charge sheet against the two accused. Filing of the charge sheet drove the petitioner/accused No.1 to this Court in the subject petition.

4. The learned counsel appearing for the petitioner submits that consumption of poison by the son of the complainant has nothing to do with the instigation or abetment by the petitioner. The learned counsel would submit that the son of the complainant was in love with CW-11 for several years and CW-11 is said to have rejected the proposal of the son of the complainant to get married on the score that their religions were totally different. Thereafter,

CW-11 gets married to another person. The learned counsel would submit that the son of the complainant did not stop but went on harassing CW-11 by making repeated calls to her. The frustration grew. When the petitioner informed the family members about the affair of CW-11 and the son of the complainant, it is that which is said to have triggered to the consumption of poison by the son of the complainant. He would submit that no where this can meet the ingredients of offence punishable under Section 306 of the IPC. He would seek quashment of proceedings.

5. Per contra, learned counsel Sri. Mohammed Tahir representing the complainant/2<sup>nd</sup> respondent though refutes the submissions of the learned counsel for the petitioner, would admit the facts that led to commission of suicide by the son of the complainant since the affair did not fructify into any relationship legally on the score that CW-11 and the son of the complainant belong to different religion. Therefore, the collective frustration led to the son of the complainant consuming poison and killing himself. He would submit that it is for the petitioner to come out clean in a full blown trial since the Police have filed the charge sheet.

6. The learned Additional State Public Prosecutor would also toe the lines of the learned counsel for the 2<sup>nd</sup> respondent/ complainant in contending that the Police have filed a charge sheet. In the light of the charge sheet being filed, the subject petition should not be entertained at this juncture and it is for the petitioner to come out clean in a full blown trial.

7. The afore-narrated facts are not in dispute. A crime comes to be registered in Crime No.98 of 2021 on the complaint so made by the 2<sup>nd</sup> respondent. The complaint reads as follows:

“ಮಹನಿಯರೇ,

ಈ ಮೂಲಕ ತಮ್ಮಲ್ಲಿ ಕೋರುವುದೇನೆಂದರೆ ನಾನು ಮೇಲೆ ಹೇಳಿದ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿರುತ್ತೇನೆ. ನನ್ನ ಗಂಡ ಈಗ್ಗೆ ಸುಮಾರು 9 ವರ್ಷಗಳ ಹಿಂದೆ ಮೃತಪಟ್ಟಿರುತ್ತಾರೆ. ನಮಗೆ ಒಟ್ಟು 4 ಜನ ಮಕ್ಕಳಿದ್ದು 1ನೇ ಕೌಸರ್‌ತಾಜ್, 2ನೇ ಅಪ್ಪರುನ್ನಿಸಾ, 3ನೇ ನಾಜೀಮುನ್ನಿಸಾ ಹಾಗೂ 4ನೇಯ ಮಗ ದಾದಾಫೀರ್ ಎಂಬುವವರಾಗಿರುತ್ತಾರೆ. ಎಲ್ಲರಿಗೂ ಮದುವೆಯಾಗಿದ್ದು, ನಾನು ನನ್ನ ಮಗನೊಂದಿಗೆ ವಾಸವಾಗಿದ್ದು, ನನ್ನ ಮಗ ದಾದಾಫೀರ್ ಕಾರ್ ಡ್ರೈವರ್ ಆಗಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿದ್ದು 1 1/2 ವರ್ಷದಿಂದ ಷಾಹಜಿಯಾ ಎಂಬುವವರನ್ನು ಮದುವೆಮಾಡಿಕೊಂಡಿದ್ದು 1 ವರ್ಷದ ಮಗು ಇರುತ್ತದೆ. ನಿನ್ನೆ ದಿನಾಂಕ 18/06/2021 ರಂದು ಮದ್ಯಾಹ್ನ ಸುಮಾರು 1 ಗಂಟೆಯಲ್ಲಿ ನನ್ನ ಮಗನ ಸ್ನೇಹಿತರಾದ ದೊಡ್ಡಬಳ್ಳಾಪುರ ಶಾಂತಿನಗರ ವಾಸಿ ಮುರುಳೀಧರ @ ಕೆಂಚ ಎಂಬುವವನು ನನಗೆ ನನ್ನ ಮಗ ಯಾವುದೋ ಒಂದು ಹುಡುಗಿಯೊಂದಿಗೆ ಮಾತನಾಡುತ್ತಿರುತ್ತಾನೆ ಎಂದು ನನಗೆ ಹೇಳುತ್ತಿದ್ದನು. ಆಗ ನನ್ನ ಮಗ ದಾದಾಫೀರ್ ಮನೆ ಹತ್ತಿರ ಬಂದು ಮೊಟ್ಟೆಯನ್ನು ತರುತ್ತೇನೆಂದು ಹೇಳಿ ಮನೆಯಿಂದ ಹೊರಗೆ ಹೋಗಿದ್ದು ಮದ್ಯಾಹ್ನ ಸುಮಾರು 2 ಗಂಟೆಯಲ್ಲಿ ನನ್ನ ಮಗ ದರ್ಗಾಜೋಗಿಹಳ್ಳಿಗೆ ಹೋಗುವ ರಸ್ತೆಯಲ್ಲಿ ವಾಂತಿಮಾಡಿಕೊಳ್ಳುತ್ತಿದ್ದಾನೆ ಎಂದು ಯಾರೋ ಬಂದು ಹೇಳಿದರು ತಕ್ಷಣ ನಾನು & ಇನ್ನು ಕೆಲವರು ನನ್ನ ಮಗನ ಹತ್ತಿರ ಹೋಗಿ ನನ್ನ ಮಗನನ್ನು ಕರೆದುಕೊಂಡು ದೊಡ್ಡಬಳ್ಳಾಪುರ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಬಂದು ಚಿಕಿತ್ಸೆ ಕೊಡಿಸಿ ನಂತರ ಹೆಚ್ಚಿನ ಚಿಕಿತ್ಸೆಗಾಗಿ K.C.ಜನರಲ್ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಚಿಕಿತ್ಸೆ ಕೊಡಿಸಿದ್ದು ನನ್ನ ಮಗ ಯಾವುದೋ ವಿಷ ಸೇವನೆ ಮಾಡಿರುವುದು ತಿಳಿಯಿತು. ಚಿಕಿತ್ಸೆ ಫಲಿಸದೇ ನಿನ್ನೆ ರಾತ್ರಿ 9-25 ಗಂಟೆಯಲ್ಲಿ ನನ್ನ ಮಗ

K.C.ಜನರಲ್ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ಮೃತಪಟ್ಟಿರುತ್ತಾನೆ. ಆ ನಂತರ ವಿಚಾರ ತಿಳಿಯಲಾಗಿ ನನ್ನ ಮಗನಿಗೆ ಶಾಂತಿನಗರ ವಾಸಿ ಮುರುಳೇಧರ @ ಕೆಂಚ ಮತ್ತು ಹೆಸರುಘಟ್ಟ ಬಳಿ ಇರುವ ಕೊಡುಗೆತಿರುಮಲಾಪುರ ಗ್ರಾಮದ ರಾಮಣ್ಣ @ ರಾಮು ಎಂಬುವವರು ಕಿರುಕುಳ ಕೊಟ್ಟಿದ್ದರಿಂದ ನನ್ನ ಮಗ ಸಾಯುತ್ತಿರುವುದಾಗಿ ಮೊಬೈಲ್ ಫೋನ್‌ನಲ್ಲಿ ವಿಡಿಯೋ ಮಾಡಿ ಆತನ ಸ್ನೇಹಿತರಿಗೆ ಕಳುಹಿಸಿರುತ್ತಾನೆ ಎಂದು ತಿಳಿಯಿತು. ನನ್ನ ಮಗನ ಸಾವಿಗೆ ಕಾರಣರಾದ ಮುರುಳೇಧರ @ ಕೆಂಚ & ರಾಮಣ್ಣ @ ರಾಮು ರವರ ವಿರುದ್ಧ ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ. ನನ್ನ ಮಗನ ಸಾವಿನ ವಿಚಾರವನ್ನು ನನ್ನ ಸೊಸೆ ಹಾಗೂ ಸಂಬಂಧಿಕರಿಗೆ ತಿಳಿಸಿ ತಡವಾಗಿ ಬಂದು ದೂರು ನೀಡಿರುತ್ತೇನೆ.”

The police conduct investigation and file a charge sheet. The summary of the charge sheet as obtaining in Column No.17 reads as follows:

“17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ  
ದೋಷಾರೋಪಣೆ ಪಟ್ಟಿ.  
ಕಲಂ 306 ಜೊತೆ 34 ಐಪಿಸಿ

ದಿನಾಂಕ: 18/06/2021 ರಂದು ಮಧ್ಯಾಹ್ನ 2-00 ಗಂಟೆಯಲ್ಲಿ ಘನ ನ್ಯಾಯಾಲಯದ ವ್ಯಾಪ್ತಿಗೆ ಸೇರಿದ, ದೊಡ್ಡಬಳ್ಳಾಪುರ ನಗರ ಪೊಲೀಸ್ ಠಾಣೆ ವ್ಯಾಪ್ತಿಯ ಇಸ್ಲಾಂಪುರ 7ನೇ ಕ್ರಾಸ್‌ನಲ್ಲಿನ ಮಾರುತಿ ಪ್ರಾವಿಷನ್ ಸ್ಟೋರ್ ಮುಂಭಾಗದಲ್ಲಿ ಸಾಕ್ಷಿ 1 ರವರ ಮಗ ಈ ಪ್ರಕರಣದ ಮೃತ ದಾದಾಪೀರ್ ರವರು ವಿಷಸೇವನೆ ಮಾಡಿ ಅಸ್ವಸ್ಥನಾಗಿದ್ದು, ಚಿಕಿತ್ಸೆಗಾಗಿ ದಾದಾಪೀರ್ ರವರನ್ನು ದೊಡ್ಡಬಳ್ಳಾಪುರ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ದಾಖಲಿಸಿ, ನಂತರ ವೈದ್ಯರ ಸಲಹೆ ಮೇರೆಗೆ ಬೆಂಗಳೂರಿನ ಕೆ.ಸಿ.ಜನರಲ್ ಆಸ್ಪತ್ರೆಗೆ ದಾಖಲಿಸಿದ್ದು, ಚಿಕಿತ್ಸೆಗೆ ಸ್ಪಂದಿಸದೆ ದಿನಾಂಕ 18/06/2021 ರಂದು ರಾತ್ರಿ 9-25 ಗಂಟೆಯಲ್ಲಿ ಮೃತಪಟ್ಟಿರುತ್ತಾರೆ. ಮೃತನು ಈ ಹಿಂದೆ ಶಿಲ್ಪ ಎಂಬುವವರನ್ನು ಪ್ರೀತಿ ಮಾಡುತ್ತಿದ್ದು, ಈ ದೋಷಾರೋಪಣೆ ಪಟ್ಟಿಯ ಕಾಲಂ 12ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಎ1 ಮತ್ತು ಎ2 ಆರೋಪಿಗಳು ಮೃತ ದಾದಾಪೀರ್ ಮತ್ತು ಶಿಲ್ಪ ರವರ ಪ್ರೀತಿಯ ವಿಚಾರವನ್ನು ಮೃತ ದಾದಾಪೀರ್ ರವರ ಮನೆಯವರಿಗೆ ತಿಳಿಸುವುದಾಗಿ ಬೆದರಿಕೆ ಹಾಕಿ ಕಿರುಕುಳ ನೀಡಿದ್ದರಿಂದ ಹಾಗೂ ದಾದಾಪೀರ್ ಪ್ರೀತಿ ಮಾಡುತ್ತಿದ್ದ ಶಿಲ್ಪಾ ರವರಿಗೆ ದಾದಾಪೀರ್ ವಿರುದ್ಧ ಚಾಡಿ ಹೇಳಿ ದಾದಾಪೀರ್ ರವರಿಂದ ಬೇರೆ ಮಾಡಿದ್ದರಿಂದ ಮೃತ ದಾದಾಪೀರ್ ಬೇಸರಗೊಂಡು ವಿಷಸೇವನೆ ಮಾಡಿ ಮೃತಪಟ್ಟಿರುತ್ತಾನೆಂದು ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಎ1 ಮತ್ತು ಎ2 ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಮೇಲ್ಕಂಡ ಕಲಂಗಳ ರೀತ್ಯ ಹೊರಿಸಲ್ಪಟ್ಟ ಈ ದೋಷಾರೋಪಣೆ ಪಟ್ಟಿ.”

The contents of the complaint and summary of the charge sheet, if seen on the statements recorded during the investigation, would reveal the fact of an affair between CW-11 and the son of the complainant which has led to consumption of poison on overloaded frustration by the son of the complainant. This is what is discernible from the complaint, the statement or the summary of the charge sheet. If these are the facts, it is ununderstandable how instigation or goading as is necessary for an offence to become punishable under Section 306 of the IPC, is present in the case at hand.

8. For an act to become an offence under Section 306 of the IPC, the ingredients as found in Section 107 of the IPC should necessarily be present. Sections 107 and 306 of the IPC read as follows:

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

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

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



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

*Explanation 1.—A person who, by 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.*

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

**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."*

The interpretation of Sections 107 and 306 of the IPC need not detain this Court for long or delve deep into the matter. The Apex Court in the case of **KANCHAN SHARMA v. STATE OF UTTAR PRADESH**<sup>1</sup> has held as follows:-

".... ....

**8.** *Having heard the learned counsel on both sides, we have perused the impugned order [Kanchan Sharma v. State of U.P., 2019 SCC OnLine All 6917] and other material placed on record. Except the self-serving statements of the complainant and other witnesses stating that the deceased was in love with the appellant, there is no other material to show that the appellant was maintaining any relation with the deceased. From the material placed on record it is clear that on the date of*

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<sup>1</sup> (2021) 13 SCC 806

*incident on 4-5-2018 the deceased went to the house of the appellant and consumed poison by taking out from a small bottle which he had carried in his pocket. Merely because he consumed poison in front of the house of the appellant, that itself will not indicate any relation of the appellant with the deceased.*

**9.** *"Abetment" involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306IPC. To proceed against any person for the offence under Section 306IPC it requires an active act or direct act which led the deceased to commit suicide, seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.*

**10.** *There is nothing on record to show that the appellant was maintaining relation with the deceased and further there is absolutely no material to allege that the appellant abetted for suicide of the deceased within the meaning of Section 306IPC.*

**11.** *Even with regard to offence alleged under Section 3(2)(v) of the Act it is to be noticed that except vague and bald statement that the appellant and other family members abused the deceased by uttering casteist words but there is nothing on record to show to attract any of the ingredients for the alleged offence also.*

**12.** *This Court in Chitresh Kumar Chopra v. State (NCT of Delhi) [Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with the aspect of abetment. In the said case this Court has opined that there should be an intention to provoke, incite or encourage the doing of an act by the accused. Besides, the judgment also observed that each person's suicidability pattern is different from the other and each person has his own idea of self-esteem and self-respect. In the said judgment it is held that it is impossible to lay down any straitjacket formula dealing with the cases of suicide and each case has to be decided on the basis of its own facts and circumstances.*

**13.** In *Amalendu Pal v. State of W.B.* [Amalendu Pal v. State of W.B., (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] in order to bring a case within the purview of Section 306IPC this Court has held as under : (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 306IPC, 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 306IPC is not sustainable.

13. In order to bring a case within the purview of Section 306IPC 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 306IPC."

**14.** In the judgment in *S.S. Chheena v. Vijay Kumar Mahajan* [S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190 : (2011) 2 SCC (Cri) 465] this Court reiterated the ingredients of offence of Section 306IPC. Para 25 of the judgment reads as under : (SCC p. 197)

"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 306IPC 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."*

**15.** *In the judgment in Rajiv Thapar v. Madan Lal Kapoor [Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330 : (2013) 3 SCC (Cri) 158] this Court has considered the scope of the provision under Section 482CrPC and has laid down the steps which should be followed by the High Court to determine the veracity of a prayer for quashing of proceedings in exercise of power under Section 482CrPC. Para 30 containing the four steps read as under : (SCC pp. 348-49)*

*"30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482CrPC:*

*30.1. Step one : whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?*

*30.2. Step two : whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*

*30.3. Step three : whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?*

*30.4. Step four : whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

**16. By applying the aforesaid ratio decided by this Court, we have carefully scrutinised the material on record and examined the facts of the case on hand. Except the statement that the deceased was in relation with the appellant, there is no material at all to show that the appellant was maintaining any relation with the deceased. In fact, at earlier point of time when the deceased was stalking the appellant, the appellant along with her father went to the police station complained about the calls which were being made by the deceased to the appellant. Same is evident from the statement of SI Manoj Kumar recorded on 5-7-2018. In his statement recorded he has clearly deposed that the father along with the appellant went to the police post and complained against the deceased who was continuously calling the appellant and proposing that she should marry him with a threat that he will die otherwise. Having regard to such material placed on record and in absence of any material within the meaning of Section 107IPC, there is absolutely no basis to proceed against the appellant for the alleged offence under Section 306IPC and Section 3(2)(v) of the Act. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever.**

**17. In view of the same, we are of the view that the High Court has committed error in rejecting the application filed by the appellant by merely recording a finding that in view of the factual disputes same cannot be decided in a petition under Section 482 CrPC."**

*(Emphasis supplied)*

This is again reiterated by the Apex Court in the case of **PRABHU v. STATE**<sup>2</sup>, wherein it is held as follows:

**"Offence under Section 306 IPC**

**13. Section 306 of the Penal Code, 1860 talks about abetment of suicide and states that whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine.**

**14. Abetment is defined in Section 107 IPC and it reads as follows:**

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

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

*or*

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

*or*

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

*Explanation 1.—A person who, by 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.*

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

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<sup>2</sup> 2024 SCC OnLine SC 137

**15.** In a recent judgment of this Court in *Kamalakhar v. State of Karnataka* in **Criminal Appeal No. 1485 of 2011 [decided on 12.10.2023]**, one of us (Vikram Nath J.) explained the ingredients of Section 306 IPC. The Court has held as follows:

"8.2. Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.

8.3. In *Ramesh Kumar v. State of Chhattisgarh*<sup>1</sup>, this Court has analysed different meanings of "instigation". The relevant para of the said judgment is reproduced herein:

"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."

8.4. The essentials of Section 306 IPC were elucidated by this Court in *M. Mohan v. State*<sup>2</sup>, as under:

"43. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goad". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his

*own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.*

*44. 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.*

*45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide."*

*8.5. The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in Amalendu Pal alias Jhantu v. State of West Bengal<sup>3</sup> in the following paragraphs:*

*"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."*

*8.6. On a careful reading of the factual matrix of the instant case and the law regarding Section 306 IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not committed any positive or direct act to instigate or aid in the commission of suicide by the deceased."*

**16. On a perusal of the above, and relying upon this Court's previous judgments discussing the elements of Section 306 IPC, the following principles emerge:**

**17. Where the words uttered are casual in nature and which are often employed in the heat of the moment between quarrelling people, and nothing serious is expected to follow from the same, the same would not amount to abetment of suicide. [Swami Prahaladdas v. State of M.P., 1995 Supp (3) SCC 438, Paragraph 3; Sanju v. State of M.P., (2002) 5 SCC 371, Paragraph 12]**

**18. In order to constitute 'instigation', it must be shown that 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. The words uttered by the accused must be suggestive of the consequence [Ramesh Kumar v. State of Chhatisgarh, (2001) 9 SCC 618, Paragraph 20]**

**19. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. [Chitresh Kumar Chopra v. State (Government of NCT of Delhi), (2009) 16 SCC 605, Paragraph 20]**

**20. There must be direct or indirect acts of incitement to the commission of suicide. The accused must be shown to have played an active role by an act of**

***instigation or by doing certain act to facilitate the commission of suicide [Amalendu Pal v. State of West Bengal, (2010) 1 SCC 707, Paragraph 12-14]***

***21. The accused must have intended or known that the deceased would commit suicide because of his actions or omissions [Madan Mohan Singh v. State of Gujarat, (2010) 8 SCC 628]***

***22. Applying the above yardstick to the facts of the present case in question, even if we take the case as a whole and test the prosecution case on a demurrer, it could not be said that the actions of the accused instigated Kousalya to take her life or that he conspired with others to ensure that the person committed suicide or any act of the appellant or omission instigated the deceased resulting in the suicide.***

***23. Broken relationships and heart breaks are part of everyday life. It could not be said that the appellant by breaking up the relationship with Kousalya and by advising her to marry in accordance with the advice of her parents, as he himself was doing, had intended to abet the suicide of Kousalya. Hence the offence under Section 306 is not made out.***

***24. In the teeth of the statement of the deceased which led to the FIR, statement [dated 25.06.2019] and revised statement [dated 04.07.2019] of her mother to whom the deceased narrated the events leading to her consuming the poison, the version of the father and the three paternal uncles of the deceased do not inspire confidence. While the father, in his statement dated 25.06.2019, had given a version identical to the deceased and her mother, in his revised statement, dated 04.07.2019, he states that the deceased purportedly told her mother that the Appellant had told the deceased that he would be happy only if she were to die. This is then repeated by the three paternal uncles in their statements dated 04.07.2019. This version of the father and the paternal uncles is far-fetched since neither the deceased, nor the mother of the deceased to whom the statement***

***was made, or the maternal uncle and aunt, who admitted the deceased at the hospital, have made out such case."***

*(Emphasis supplied)*

If the law as laid down by the Apex Court in the aforesaid judgments is pitted to the facts obtaining in the case at hand, it becomes a case where this Court should exercise its jurisdiction and obliterate the crime against the petitioner, as there is neither instigation nor goading by the petitioner as is necessary in law for it to become an offence under Section 306 of the IPC. Permitting further proceedings would run foul of the judgments of the Apex Court and become an abuse of the process of law resulting in miscarriage of justice.

9. For the aforesaid reasons, the following:

### **ORDER**

- (i) Criminal Petition is allowed.
- (ii) Charge sheet dated 02-12-2021 filed before the Additional Civil Judge and JMFC, Doddaballapura in

Crime No.98 of 2021 stands quashed *qua* the  
petitioner/accused No.1.

**Sd/-**  
**(M. NAGAPRASANNA)**  
**JUDGE**

Bkp/CT:MJ