

**THE HIGH COURT OF MADHYA PRADESH**  
**M.Cr.C. No.593/2018**

**Goutam Singh Karoliya and another Vs. State of M.P. and another**

**Gwalior, Dated :31/10/2018**

Shri L.S. Chauhan, Advocate for applicants.

Shri Yogesh Chaturvedi, Public Prosecutor for respondent no.1/State.

Shri R.D. Agrawal, Advocate for complainant.

This application under Section 482 of Cr.P.C. has been filed for quashing the criminal proceedings in S.T. No.123/2017 pending in the Court of Additional Sessions Judge, Ambah, District Morena as well as for quashing the order dated 19/5/2017, by which the trial court has framed charge under Section 306 of IPC.

The necessary facts for disposal of the present application in short are that the deceased was the husband of the co-accused Smt. Saroj and the applicant no.2 was the mother-in-law of the deceased, whereas the applicant no.1 is the husband of sister-in-law of the deceased. The allegations against the applicants are that the deceased was married to the co-accused Smt. Saroj on 1/6/2013 as per Hindu rites and rituals. It was alleged that the co-accused Smt. Saroj had initially resided in her matrimonial house properly, but thereafter she stopped doing household works. She used to quarrel with the deceased and she used to give threat that she will commit suicide and after quarreling with the deceased, she used to call the applicants and the co-accused persons, who used to beat the deceased and his family members. On 22/10/2014 the co-accused Smt. Saroj had quarreled with the deceased and she called Kamal Kishore and Pintu, who had beaten the deceased and a report was also lodged in Police Station Dehat, Bhind. Thereafter, the brother of the co-accused

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Smt. Saroj took her alongwith him. A false report under Section 498-A of IPC was lodged in Police Station Dehat, Bhind. At that time, the deceased was the student of B.Sc. First Year and because of registration of the criminal case, his studies were disturbed. Similarly, the co-accused Smt. Saroj had instituted a case under the Protection of Women from Domestic Violence Act, as a result of which, the deceased was under tension. About 10 months back the criminal case under Section 498-A of IPC was compromised after giving an amount of Rs. Two Lacs to the co-accused Smt. Saroj and thereafter, she started visiting her matrimonial house. After few days, the co-accused Smt. Saroj again started quarreling with the deceased. It is also alleged that the co-accused Goutam used to talk to the co-accused Smt. Saroj, which was being objected by the deceased and on this issue also the co-accused Smt. Saroj used to quarrel with him. On 9/2/2017 the co-accused Smt. Saroj forcibly took the deceased to her parents' home where he was abused by the applicants and the co-accused persons and they also said that he should die and thereafter, it was alleged that the deceased committed suicide by hanging himself.

Thus, the allegations in short are that the co-accused Smt. Saroj was married to the deceased Brajesh and their relations were not cordial and an offence under Section 498-A of IPC was registered against the deceased as well as the proceedings under the Protection of Women from Domestic Violence Act were registered. On 9/2/2017 the co-accused Smt. Saroj took the deceased to her parents' home where he was beaten and it was said that he should die.

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The moot question for consideration is that:-

“Even assuming that the entire allegations, which have been made against the applicants, are correct, whether it can be said that the applicants had abetted the deceased to commit suicide?”

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

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

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

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

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

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

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

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

Illustration

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

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

In the present case, one of the allegation is that the applicants had asked the deceased to *“go and die and donot show your face, as you are acting in accordance with the dictations of your family members”*. The question is that merely by uttering the words *“go and die”*, whether the accused persons can said to have abetted the deceased to commit suicide or not? In the present case, admittedly there is no allegation that after uttering the words *“go and die”*, the accused persons had done something positive to indicate that the real intention of the accused persons was to abet the deceased to commit suicide.

The Supreme Court in the case of **S.S. Chheena Vs. Vijay Kumar Mahajan and another** reported in **2010 AIR SCW 4938**, has held as under :-

“26. In *State of West Bengal v. Orilal Jaiswal* (1994) 1 SCC 73 : (AIR 1994 SC 1418 : 1994 AIR SCW 844), this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life

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by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

27. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* (2009) 16 SCC 605 : (AIR 2010 SC 1446) had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". 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 other. 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.

28. 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.

29. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance,

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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.”

The Supreme Court in the case of **Gurcharan Singh Vs. State of Punjab** reported in **(2017) 1 SCC 433**, has held as under:

“29. That the intention of the legislature is that in order to convict a person under Section 306 IPC, there has to be a clear mens rea to commit an offence and that there ought to be an active or direct act leading the deceased to commit suicide, being left with no option, had been propounded by this Court in *S.S. Chheena v. Vijay Kumar Mahajan*.”

The Supreme Court in the case of **Satvir Singh and others V. State of Punjab and another** reported in **AIR 2001 SC 2828**, has held as under: :-

“7. At the outset we may point out that on the aforesaid facts no offence linked with Section 306, IPC can be found against any of the appellants. The said Section 306 penalises abetment of suicide. It is worded thus : "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." It is a unique legal phenomenon in the Indian Penal Code that the only act, the attempt of which alone will become an offence. The person who attempts to commit suicide is guilty of the offence under Section 309, IPC whereas the person who committed suicide cannot be reached at all. Section 306 renders the person who abets the commission of suicide punishable for which the condition precedent is that suicide should necessarily have been committed. It is possible to abet the commission of suicide. But nobody would abet a mere attempt

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to commit suicide. It would be preposterous if law could afford to penalise an abetment to the offence of mere attempt to commit suicide.

8. Learned Sessions Judge went wrong in convicting the appellants under Section 116 linked with Section 306, IPC. The former is "abetment of offence punishable with imprisonment - if offence be not committed". But the crux of the offence under Section 306 itself is abetment. In other words, if there is no abetment there is no question of the offence under Section 306 coming into play. It is inconceivable to have abetment of an abetment. Hence there cannot be an offence under Section 116 read with Section 306, IPC. Therefore, the High Court was correct in altering the conviction from the penalising provisions fastened with the appellants by Sessions Court."

The Supreme Court in the case of **Madan Mohan Singh Vs. State of Gujarat and another** reported in **2010 AIR SCW 5101**, has held as under: :-

"7. We have gone through the suicide note though it is not yet on record. Shri Tulsi pointed out that even if this suicide note is accepted as it is, along with the FIR, no ingredients of Sections 306 and 294 (b), IPC could be spelt out from the same. We have gone through the whole FIR as well as the so-called suicide note which seems to have been signed on 4.2.2008 wherein he had complained about the stale incidents dated 15.10.2007 to 19.10.2007. It seems that it is 17 days after that, that he was found dead on 23.2.2008. It is claimed by his wife Harshida Ben that she got a call from the Gujarat High Court informing her that a suicide note was found and that she should search for such note in her house subsequent to which she claimed to have found the suicide note bearing the signature of the deceased, thus bringing the origin of alleged suicide note under the cloud of suspicion.

8. It is on this that Shri Tulsi contended

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that all this is absolutely absurd. If a person writes a suicide note on 4.2.2008, he had no business to send the suicide note to High Court and keep a copy thereof in the house. Learned Senior Counsel said that even if all this is accepted as it is, there is nothing to suggest that the appellant has committed any offence or that any offence could be spelt out from the said suicide note or the FIR much less offence under Sections 306 and 294, IPC. We are convinced that there is absolutely nothing in this suicide note or the FIR which would even distantly be viewed as an offence much less under Section 306, IPC. We could not find anything in the FIR or in the so-called suicide note which could be suggested as abetment to commit suicide. In such matters there must be an allegation that the accused had instigated the deceased to commit suicide or secondly, had engaged with some other person in a conspiracy and lastly, that the accused had in any way aided any act or illegal omission to bring about the suicide. In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide note, it cannot be said that the accused ever intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this. In order to bring out an offence under Section 306, IPC specific abetment as contemplated by Section 107, IPC on the part of the accused with an intention to bring out the suicide of the concerned person as a result of that abetment is required. The intention of the



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accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306, IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306, IPC either in the FIR or in the so-called suicide note.

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 Section 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. State of W.B.* [2005 (2) SCC 659] : (AIR 2005 SC 1775 : 2005 AIR SCW 1326), 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

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officer even to work.”

Further, there has to be instigation by the accused persons.

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

“**16.** ... instigation is to goad, urge forward, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of ‘instigation’, though it is not necessary that actual words must be used to that effect or what constitutes ‘instigation’ must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an ‘instigation’ may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

**17.** Thus, to constitute ‘instigation’, a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by ‘goad’ or ‘urging forward’. The dictionary meaning of the word ‘goad’ is ‘a thing that stimulates someone into action; provoke to action or reaction’ ... to keep irritating or annoying somebody until he reacts....”

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

“**17.** The offence of abetment by instigation

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

**18.** In fact, from the above discussion it is apparent that instigation has to be gathered from the circumstances of a particular case. No straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Therefore, in such a case, an inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed suicide. More so, while dealing with an application for quashing of the proceedings, a court cannot form a firm opinion, rather a tentative view that would evoke the presumption referred to under Section 228 CrPC.”

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

“6. Section 107 IPC defines abetment to mean that a person abets the doing of a thing if he firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any

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conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing.”

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

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

The Supreme Court in the case of **Gangula Mohan Reddy Vs. State of A.P.** reported in **(2010) I SCC 750** has held that:

“abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing – Without a positive act on part of accused to instigate or aid in committing suicide, conviction cannot be sustained – In order to convict a person under section 306 IPC, there has to be a clear mens rea to commit offence – It also requires an active act or direct act which leads deceased to commit suicide seeing no option and this act must have been intended to push deceased into such a position that he commits suicide – Also, reiterated, if it appears to Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to society to which victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstances individual in a given society to commit suicide, conscience of Court should not be satisfied for basing a finding that accused charged of abetting

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suicide should be found guilty– Herein, deceased was undoubtedly hypersensitive to ordinary petulance, discord circumstances of case, none of the ingredients of offence under Section 306 made out – Hence, appellant's conviction, held unsustainable”.

In the case of **State of W.B. Vs. Orilal Jaiswal**, reported in **1994 (1) SCC 73**, the Supreme Court has held as under:-

“This Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that that accused charged of abetting the offence of suicide should be found guilty”

The Supreme Court in the case of **M. Mohan Vs. State represented by the Deputy Superintendent of Police** reported in **AIR 2011 SC 1238** has held as under :-

“Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the Legislature is clear that in order to convict a person under Section 306, IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led

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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.”

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

“6. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. “Abetted” in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.”

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

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

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

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

**14.** The expression 'abetment' has been defined under Section 107 IPC which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause firstly or to do anything as stated in clauses secondly or thirdly of Section 107 IPC. Section 109 IPC provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence. Learned counsel for the respondent State, however, clearly stated before us that it would

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be a case where clause 'thirdly' of Section 107 IPC only would be attracted. According to him, a case of abetment of suicide is made out as provided for under Section 107 IPC.

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

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

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

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

**"35.** The learned counsel appearing for the appellant has relied upon the judgment of this Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* ((2009) 16 SCC 605 to contend that the offence under Section 306 read with Section 107 IPC is completely made out against the accused. It is not the stage for us to consider or evaluate or marshal the records for the purposes of



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determining whether the offence under these provisions has been committed or not. It is a tentative view that the Court forms on the basis of record and documents annexed therewith. No doubt that the word "instigate" used in Section 107 IPC has been explained by this Court in *Ramesh Kumar v. State of Chhattisgarh* ((2001) 9 SCC 618) to say that where the accused had, by his acts or omissions or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, an instigation may have to be inferred. In other words, instigation has to be gathered from the circumstances of the case. All cases may not be of direct evidence in regard to instigation having a direct nexus to the suicide. There could be cases where the circumstances created by the accused are such that a person feels totally frustrated and finds it difficult to continue existence."

The Supreme Court in the case of **Swamy Prahaddas Vs. State of M.P.** reported in **(1995) Supp 3 SCC 438** has held as under :-

"3. At the time of framing of charge, the trial court thought it appropriate to associate the appellant herein as an accused because of the words he uttered to the deceased. We think that just on the basis of that utterance the Court of Session was in error in summoning the appellant to face trial. In the first place it is difficult, in the facts and circumstances, to come to even a prima facie view that what was uttered by the appellant was enough to instigate the deceased to commit suicide. Those words are casual in nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act

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does not reflect the requisite mens rea on the assumption that these words would be carried out in all events. Besides the deceased had plenty of time to weigh the pros and cons of the act by which he ultimately ended his life. It cannot be said that the suicide by the deceased was the direct result of the words uttered by the appellant. For these reasons, the error is apparent requiring rectification. The appeal is accordingly allowed. The orders of the High Court and that of the Court of Session are thus upset. The appellant need not face the charge.”

Therefore, it is clear that a person can be said to have instigated another person, when he actively suggests or stimulates him by means of language, direct or indirect. Instigate means to goad or urge forward or to provoke, incite, urge or encourage to do an act.

Thus, if the allegations made against the applicants are considered in the light of the well settled principle of law, then it can be said that merely by saying the deceased that he should go and die, would not amount to abetment of suicide, because the said words were not followed by any positive action on the part of the applicants to indicate that the applicants had any intention behind saying that the deceased should go and die. Thus, if those words were uttered in the fit of anger, it would not amount to abetment of suicide.

The another allegation is that the applicant and the co-accused persons had assaulted the deceased. Mere beating would not amount to abetment of suicide. Undisputedly, one criminal case for offence under Section 498-A of IPC was registered against the deceased and the proceedings under

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the Protection of Women from Domestic Violence Act were also instituted against the deceased. Thus, it is clear that the family relations between the deceased and his wife (co-accused Smt. Saroj) were not cordial.

Under these facts and circumstances, this Court is of the considered opinion that the prosecution has failed to *prima facie* make out an offence warranting trial of the applicants for offence under Section 306 of IPC.

Accordingly, the order dated 9/5/2017 passed by the Additional Sessions Judge, Ambah, District Morena in S.T. No.123/2017 as well as further proceedings against the applicants are hereby quashed.

The application succeeds and is hereby allowed.

**Arun\***

**(G.S. Ahluwalia)**  
**Judge**