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MCRC-24824-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJESH KUMAR GUPTA

ON THE 27th OF OCTOBER, 2025MISC. CRIMINAL CASE No. 24824 of 2023*SHALABH JADHAV**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Mr. Amit Lahoti - Advocate for the petitioner.

Mr. Vikram Pippal - Panel Lawyer for respondent/State.

Mr. Sunil Kumar Jain and Mr. Akshat Kumar Jain - Advocates for the
respondent [R-2].
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ORDER

The present petition under Section 482 of Cr.P.C. has been filed by the petitioner seeking quashment of FIR registered at Police Station Dehat, District Vidisha, vide Crime No.157/2023 for the offence punishable under Section 306 of IPC and other consequential proceedings arising therefrom pending before the trial Court.

2. The brief facts of the case are that due to an illicit relationship between the petitioner's wife and one Dharmpal Upadhyay, the wife committed suicide on 25.02.2023. Initially, an inquest under Section 174 of Cr.P.C. was initiated, and during the course of the enquiry and after recording statements, the present FIR for the offence under Section 306 of IPC was registered.



3. Counsel for the petitioner submits that even when all the allegations in the FIR and the statements recorded during the investigation are taken at face value, no offence is made out against the petitioner for the abetment of suicide under Section 306 IPC. Counsel has drawn the Court's attention to the screenshots (Annexure P/2), which clearly depict an extramarital affair between the deceased and the Dharmpal. This suggests the presence of an independent cause for the deceased's mental distress, wholly unconnected to any conduct attributed to the petitioner. The nature of these screenshots, being unedited and contemporaneous, strongly supports the petitioner's contention that the deceased's emotional turmoil arising from societal pressure, fear of exposure, and the potential public consequences of her actions was the true and proximate cause of her suicide.

4. Further attention is drawn to the photographs and other images depicting a cordial and affectionate relationship between the accused and the deceased, showing that they were living harmoniously as happy couple and had even gone on a family trip shortly before the incident. Therefore, there is no material on record to show that there was any kind of cruelty or harassment on the part of the matrimonial family of the deceased especially by the present petitioner/accused.

5. From the statements of the deceased and her daughter, it is evident that one Dharmpal and his wife Aayna were the frequent visitors of the house of the deceased. On the date of incident also, there was an altercation between Aayna and the deceased over the aforesaid extramarital affair of the deceased and husband of Aayna. Therefore, *prima facie*, no ingredients of



offence under Section 306 of IPC are made out against the petitioner. Even if all the ingredients of the FIR and the statements recorded during the course of investigation are taken to be true at its face value then also no offence is made out against the present petitioner because there is no proximate link between the alleged act of the petitioner and the act of deceased of committing suicide.

6. It is further submitted that the petitioner and the deceased were having very cordial and loving relationship with each other and out of the wedlock they have two children also. The illicit extramarital affair of the deceased with one Dharmpal had come to the knowledge of the petitioner/husband and other persons, that may be only one of the reasons that due to fear of loosing social status, the deceased committed suicide. There was neither any injury on the body of the deceased nor there was any evidence of instigation on the part of the present petitioner and from the photographs also it is evident that the family members/parents' side of the deceased were also present at the time of funeral which shows that no fact was hidden or uninformed by the present petitioner. The petitioner only requested the deceased to stop such illicit extramarital affair with Dharmpal, but on the contrary she committed suicide.

7. No complaint was ever registered from the side of deceased and her parents regarding any kind of cruelty, harassment or physical assault. Just before the incident, the deceased with her husband and in-laws had gone to attend the marriage. All these facts show that the deceased and present petitioner were in cordial and loving relationship and they were living



happily with each.

8. It was further submitted that the very provisions of Sections 107 and 306 of the IPC, which relate to abetment of a thing and abetment of suicide, respectively, are not attracted in this case. Therefore, the registration of crime under these sections is *per se* illegal.

9. Regarding the abetment of a thing (Section 107), it is contended that the ingredients are not fulfilled. Abetment requires one of the following:

(i) Instigation of any person to do that thing; or

(ii) Engagement of one or more persons in a conspiracy for the doing of that thing, where an act or illegal omission takes place in pursuance of the conspiracy and in order to the doing of that thing; or

(iii) The said person intentionally aided the doing of that thing by any act or illegal omission.

10. Only if the ingredients of Section 107 of the IPC are fulfilled can a person be said to have abetted a thing. Consequently, if the ingredients of Section 107 are not fulfilled, the provisions of Section 306 of the IPC, which speaks of abetment of commission of suicide, cannot be said to be attracted.

11. It was further submitted that as there is no instigation on the part of the present petitioner to commit suicide, therefore, no case is made out under Section 306 of IPC. Neither there is any iota of evidence about instigation against the present petitioner nor there is any ingredient of Section 107 of IPC. In support of his contention, he has placed reliance on the judgment dated 01/10/2020 passed by the Hon'ble Supreme Court in case of **Gurcharan Singh vs. State of Punjab**: [Criminal Appeal No.40 of 2011].



12. To bolster his submissions, reliance was also placed in the matter of **Lata Vs. State of Maharashtra** passed by High Court of Judicature at Bombay, Bench at Nagpur in Criminal Writ Petition No.866/2021 dated 22.09.2022, wherein after discussing the aforesaid aspect, the FIR and the charge-sheet were quashed. In the matter of **Sanju alias Sanjay Singh Sengar Vs. State of M.P.** reported in (2002) 5 SCC 371, the liability of an accused to face investigation and prosecution under Section 306 of IPC in the context of Section 107 thereof was considered and it was held that the word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite, further holding that presence of *mens rea*, therefore, was a necessary concomitant of instigation. Further, in the matter of **Madan Mohan Singh Vs. State of Gujarat and another**, reported in (2010) 8 SCC 628, which was referred to regarding the existence of proximity between the alleged acts of the accused and the deceased's extreme step of committing suicide, it was held that the allegations made and the material collected ought to be of a definite nature, not merely imaginary or inferential.

13. Learned counsel for petitioner also placed reliance on the judgements passed by the Hon'ble Supreme Court in the case of **Pinakin Mahipatray Rawal Vs. State of Gujrat [(2013 10 SCC 48]** and in the case of **K.V. Prakash Babu Vs. State of Karnataka [(2017) 11 SCC 176]**, and the judgement passed by this Court in the case of **Samarjeet Yadav vs. State of M.P. and another [2023 (1) M.P.L.J. (Cri.) 680]**.

14. In such circumstances, no case under Section 306 of the IPC is made out. Hence, learned counsel for petitioner prayed that the petition may



be allowed and the FIR registered at Crime No.157/2023 at Police Station Vidisha Dehat, District Vidisha be quashed.

15. Per contra, learned counsel for respondent/State opposed the prayer and prayed for its rejection.

16. Learned counsel for respondent No.2/complainant submitted that marriage of daughter of respondent No 2 took place on 26-11-2014, thereafter for not being able to give birth to son, accused petitioner and his Mother Jyoti Jadhav used to harass the deceased and also behave badly with two daughters aged 6 and 2 years respectively. Piqued by this, petitioner and his mother started taunting and also talked in abusive language with deceased as well as daughter of petitioner. Mother of accused wanted to get second marriage of accused-petitioner any how and for that purpose, she wanted to kill respondent No 2's daughter and whenever got the opportunity, used to get harass her extremely. Deceased was subjected to abortion more than 4 times in order to get son by petitioner and his family members. Respondent No 2/mother used to console her daughter that every-thing will be alright after some time and also used to beg to petitioner and his mother for mercy and not to harass deceased daughter and to keep her well.

17. On 25-02-2023, respondent No 2 received one phone call from number 8989148102 at about 9.51 AM, which was of petitioner and he threaten to kill daughter of respondent No. 2 and also brutally assaulted the deceased, the same was audible on phone. Deceased was begging for her life and not to be killed. Mother of petitioner was also present and supported petitioner in crime by abetting to kill the deceased. In support of his



contention he has submitted a pen drive and transcribed the phone call. It is further submitted that the alleged harassment falls under the category of abetment of suicide, section 306 of IPC is made out against the present petitioner. In such circumstances, he prayed for dismissal of the present petition.

18. It is further submitted that the accused/petitioner holds a position in the ruling political party of the State and is an active member. Therefore, the complainant apprehends that the petitioner/accused, in collusion with the police authorities, is tampering with the evidence. It is pertinent to note that more than two years have passed, yet the police have neither arrested the accused nor taken any action under Section 82 of the Cr.P.C i.e. the proclamation of an absconding person. For these reasons, the case diary should be called for. The diary shall clearly establish that ample opportunities have been provided to the accused for tampering with the evidence. It has been further argued that a heinous offence has been committed by the petitioner and his mother. Since the beginning, respondent No. 2/complainant has made various complaints and provided phone conversations in Pen Drives, CDs, and DVDs. However, nothing has been done by the police except the formal registration of a crime number. The entire investigation has been held up by the Police. A copy of the audio recording, along with an affidavit under Section 63 of the Bharatiya Sakshya Adhiniyam (i.e., Section 65B of the Indian Evidence Act), is being filed and is marked as Annexure R/2-1. In support of his contention, he has relied upon the judgment passed by Hon'ble Supreme Court in the case of Chitresh



Kumar Chopra versus State (Govt. of NCT of Delhi) (2009) 16 SCC 605,

wherein, Apex Court has held that to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by goading or 'urging forward. This Court held as follows:.

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 "goading" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action; provoke to action or reaction" (see Concise Oxford English Dictionary): "to keep irritating or annoying somebody until he reacts" (see Oxford Advanced Learner's Dictionary, 7th Edn.).

18. Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter."

19. Counsel for the respondent No. 2 has further relied upon the judgment passed in the cases of Kumar @Shiva Kumar vs. State of Karnataka (2024 INSC 156), Amalendu Pal alias Jhantu versus State of West Bengal (2010) 1 SCC 707, Rajesh versus State of Haryana (2020) 15 SCC 359, and M. Mohan Vs. State (2011) 3 SCC 626 and Ude Singh Vs. State of Haryana (2019) 17 SCC 301.

20. Heard counsel for the rival parties and perused the documents available on record.



21. To resolve the controversy, it appears necessary first of all to have a look on the provisions of Sections 306 and 107 of IPC.

Section 306 of IPC reads as under:-

“Section 306. 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.

22. The 'abatement' has been defined in Section 107 of the IPC, which reads as under:-

"Section 107. A person abets the doing of a thing, who - First- Instigates any person to do that thing; or Secondly- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly- Intentionally aids, by any act or illegal omission, the doing of that thing. 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."

23. From a perusal of the Case Diary, it is an admitted fact that the deceased had an extramarital affair with the accused, Dharmpal which is evident from the WhatsApp chats on the deceased's mobile phone. Knowledge of this fact by the deceased's husband led to quarrels between the couple. However, such quarrels did not instigate the wife to commit suicide. Therefore, *prima facie*, Section 306 of the IPC has not been made out against the present petitioner.

24. It is further seen from the statement of the deceased's daughter, which corroborated the illicit relationship between the deceased and



Dharmpal, the relevant portion of which reads as under:

"प्रश्न-4:- आपके घर कौन-कौन आते थे।

उत्तर:- मेरे घर अधिक समय से धर्मपाल उपाध्याय एवं आंटी आईना उपाध्याय आते जाते थे।

प्रश्न-5:- आपके घर में जब धर्मपाल अंकल आते थे तब आप कहां रहती थीं।

उत्तर:- मैं अपने स्टडी रूम में रहती थी।

प्रश्न-6:- आपके घर में जब धर्मपाल अंकल एवं आंटी आते थे तब अंकल एवं आंटी कहां बैठते थे।

उत्तर:- हल में बैठते थे, फिर अंकल मेरी मम्मी के रूम में चले जाते थे।

प्रश्न-7:- घटना वाले दिन आप कहां थे।

उत्तर:- मैं मम्मी के रूम में थी उसी समय आईना आंटी (पिप्पी) आई थी जो मम्मी से झगड़ा कर रही थीं वो कह रही थीं तुम मर जाओ मेरा घर खराब कर रही हो।

प्रश्न-8:- मम्मी कौन-कौन से बात करती थीं।

उत्तर:- मेरी मम्मी हमेशा पापा के घर न होने पर धर्मपाल अंकल से बात हंसकर करती थीं।

प्रश्न-10:- आपके पापा मम्मी के साथ मारपीट करते थे।

उत्तर:- कभी नहीं करते थे।"

25. The aforesaid fact is also corroborated by the transcript of the mobile phone conversation, filed by the complainant, which records the petitioner calling the deceased's mother and confirming the illicit relationship between the deceased and Dharmpal. The relevant portion reads as follows:

"00:11 शलभ : धरमपाल से बाते कर रही है चुपचाप से, मैसेज कर रही, पप्पी दे रही, सब कर रही और मैंने पकड़ लिया, अफेयर कर रही उससे".

26. In **Prakash and others Vs. State of Maharashtra and Another**, passed in SLP (Crl) No. 1073 of 2023, the Apex Court observed that mere allegations of harassment, cruelty, or marital discord, which are common in domestic life, are not sufficient to constitute abetment of suicide. The act of the accused must be such that it compels or leaves the deceased with no other option but to commit suicide.

27. In **Ayub Vs. State of U.P.**, reported in 2025 SC 174, the Apex Court observed that the intention of the accused to aid, instigate, or abet the deceased to commit suicide is a must for attracting Section 306 IPC. The



mere use of casual words uttered in a moment of emotional distress, or simple allegations of harassment, is not enough.

28. In another case, **Mahendra Awase Vs. The State of Madhya Pradesh**, reported in 2025 SC 80, the Apex Court observed that mere harassment or trivial disputes, without any element of incitement or intent to provoke suicide, do not constitute abetment. The Court highlighted that the act of instigation must be of such intensity that it pushes the deceased to commit suicide.

29. This Court, as already observed herein, that the allegation made in the FIR, even if they are taken at their face value and accepted at their entirety, it cannot be said that the suicide the deceased was the direct result of the quarrel that had taken place on 25.02.2023. Viewed from the aforesaid circumstances independently, this Court clearly of the view that the ingredients of "abetment" are totally absent in the instant case for an offence under Section 306 of IPC. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to the irresistible conclusion that it is the deceased and she alone, and none else, is responsible for her death.

30. In view of the above facts and circumstances of this case I am of considered view that the prosecution has failed to prima facie establish that the petitioner had any intention to instigate or aid or abet the deceased to commit suicide. No doubt that a young woman has lost her life in an unfortunate incident. However, in the absence of sufficient material to show that the appellants had intended by their words to push the deceased into



such a position that she was left with no other option but to commit suicide, continuation of criminal proceedings against the petitioner would result in an abuse of process of law and as such, this Court inclined to allow the petition.

31. Consequently, present petition is hereby allowed and the entire criminal proceedings in connection with crime No.157/2023 registered at Police Station Dehat, District Vidisha (M.P.) for the offence punishable u/s- 306 of IPC and other consequential proceedings arising therefrom pending before the trial Court are hereby quashed.

(RAJESH KUMAR GUPTA)
JUDGE

(LJ*)