

(2026) 08 KAR CK 2138

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL PETITION No.3533 OF 2025 C/W CRIMINAL PETITION
No.1199 OF 2025, CRIMINAL PETITION No.2880 OF 2025, CRIMINAL
PETITION No.4149 OF 2025

Abdul Sathar

APPELLANT

Vs

The State Of Karnataka & Anr.

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

B.N.S.S. — Section 528, 193

BNS — Sections 308(2), 308(5), 352, 351(2), 50, 54, 61(2), 140(2), 108, 190, 61,
142, 45

Code of Criminal Procedure, 1973 — Section 482, 161, 156(1), 155(2)

Indian Penal Code — Section 306, 364A, 107, 506, 34

Constitution of India — Article 226

Citation : (2026) 08 KAR CK 2138

Hon'ble Judges : M. Nagaprasanna, J

Bench : Single Bench

Advocate : Sri Sandesh J. Couta, Sri Lethif B., Sri S. Balakrishnan, Sri Abhishek
Marla M.J.

Final Decision : Dismissed

Judgement

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

These petitions are preferred by the petitioners in different criminal petitions, who are accused Nos.1 to 6 in crime No.150 of 2024, which is now pending in C.C.No.67/2025, before the learned JMFC III Court, Mangaluru, for the offences punishable under Sections 308(2), 308(5), 352, 351(2), 50, 54, 61(2), 140(2), 108 r/w. 190 of the BNS.

2. Facts, in brief averred in one of the petitions viz.Crl.P.No.3533 of 2025, which are common in other petitions, are as follows: -

The 2ndrespondent, one Hyder Ali is the informant. It is alleged that he had suspected that his brother – Mamtaaz has committed suicide at Kooluru on

06-10-2024, by jumping to the river from a bridge by parking his car near the bridge and that the body was not traced. It is the further allegation that his brother had received blackmailing calls from the accused – Smt.Rehamath, Abdul Sattar, Shafi, Mustafa, Sohaib and Siraj from July, 2024 and they have extorted huge amount of cash from the deceased. Respondent No.2 – complainant has drawn all of them as accused and sought to take action against those persons. The complaint further narrates that the deceased Mamtaz, a social activist, had gained name and fame in the locality. The deceased was the head of the religious institution and in order to tarnish his image, the accused are alleged to have conspired together and due to political rivalry made allegations that the deceased was having illicit relationship with a lady by name Rehamath and the said rumor was circulating in the locality, apart from the fact that the accused had demanded money of upto ₹ 50/- lakhs from the deceased. The said transaction is also narrated in the complaint that the accused who had demanded the amount of ₹ 50/- lakhs had received a cheque for ₹ 25/- lakhs, which was encashed by one of the accused. Before commission of the suicide, the brother of the complainant is said to have sent a voice message to all the accused making them responsible for his death and the voice message further recorded that the accused must be punished for spreading false rumors of him having illicit relationship with the lady and on that pretext demanding money, which led to commission of suicide. Based on the aforesaid fulcrum of the complaint, a crime in Crime No.150 of 2024 comes to be registered for the offences punishable as afore-quoted against these accused. Investigation ensues. The police complete the investigation by recording the statement of the complainant/brother of the deceased and sending the voice message for forensic examination. Then they have filed different charge sheets in these cases. Filing of the charge sheets have driven these petitioners to this Court calling in question filing of the charge sheets and drawing them as accused.

3. Heard Sri Sandesh J. Chouta, learned senior counsel appearing for the petitioner in Criminal Petition No.3533 of 2025; Sri Abhishek Marla M.J, learned counsel appearing for the petitioner in Criminal Petition No.1199 of 2025; Sri Nishit Kumar Shetty, learned counsel appearing for the petitioner in Criminal Petition No.2880 of 2025; Sri Imtiaz B, learned counsel appearing for the petitioner in Criminal Petition No.4149 of 2025 and Sri S.Balakrishnan, learned Special Public Prosecutor appearing for respondent No.1/State in all the cases. Complainant though served, remains unrepresented in all the petitions.

4. The learned senior counsel Sri Sandesh J. Chouta spearheading the submissions would vehemently contend that the facts narrated in the complaint nor the findings in the summaries of the respective charge sheets would indicate any act of these petitioners, which would become the ingredients of abetment to suicide. He would contend that the accused for whom he is appearing *i.e.*, accused No.3 is alleged to have committed the offences punishable under Sections 50, 61, 108, 142 r/w 190 of the BNS. Cognizance is taken for the aforesaid offences. It is his submission that if the role of the petitioner/accused

No.3 is seen, it is that accused No.3/Abdul Sathar had lost in the election to the deceased for the post of President of a mosque who was also the President of an educational institution. Therefore, the rivalry between the brother of the complainant and the petitioner was continuously brewing. Accused Nos.2 to 4 had decided to place illicit relationship of accused No.1 with the deceased before prominent leaders of the Society and such conspiracy is said to have generated these problems. The learned senior counsel submits that let alone accused No.3, none of the accused can be alleged of any wrong doing for it to become an offence under Section 108 of the BNS or any other offence alleged against these petitioners.

5. The learned counsel appearing for other petitions in the respective petitions would toe the lines of the learned senior counsel in submitting that if the role of each of the accused is noticed, it would not make out ingredients of any of the offences alleged against these petitioners. Though the charge sheet so filed is voluminous, there is no warrant to permit trial on such allegations, which do not constitute the ingredients of abetment to suicide or any of the offences alleged.

6. The learned senior counsel would also take this Court through the statements of CWs-1, 11, 37 and 38 all to indicate that there is no act of abetment to suicide or extortion as the case would be. The learned counsel appearing for the respective petitioners in unison would seek quashment of the proceedings.

7. *Per contra*, the learned Special Public Prosecutor Sri S. Balakrishnan would refute the submissions in contending that if this does not make out a case for abetment to suicide no other can. All the accused together have indulged in separate acts which have resulted in the commission of suicide of the brother of the complainant. It is therefore, the learned counsel would submit that it is a matter of trial for the petitioners to come out clean. He would take this Court through the complaint and particular references in the charge sheets of each of the accused to contend that the case at hand is shrouded with seriously disputed questions of fact, all of which need to be thrashed out in a full-blown trial. He would submit that there is no warrant of interference at the hands of this Court in exercise of its jurisdiction under Section 482/528 of the Cr.P.C./BNSS in the case of this nature. He would submit that the Apex Court in plethora of cases has held that when an issue is shrouded with seriously disputed questions of fact, this Court must not lend its protective hand to such accused.

8. The learned counsel appearing for the petitioners again in unison would join issue to contend that there are no ingredients of the offences so alleged even if this Court would take a microscopic view of the allegations and would seek to place reliance upon several judgments rendered by the Apex Court or this Court as the case would be. They would seek to place reliance upon the following judgments.

(i) **DAVID D'SOUZA v. STATE OF KARNATAKA** – 2024 SCC OnLine Kar 47.

(ii) **KUMAR @ SHIVA KUMAR v. STATE OF KARNATAKA** - (2024)19 SCC 308

ಮತುC 9036602555 2) ಅಬುA\$ ಸಸಾC? 2?ಶೈ\$ ನಂಬ?: 9845026398 3) ಫ್ರ (ಮರಳ8 ?ಾ;\ಾ?) 4) ಮುಸC?ಾ
2?ಶೈ\$ ನಂಬ?: 9482516661 5) ಫಿಠು 2?ಶೈ\$ ನಂಬ?: 7483321172 6) Nಫ (ಅಬುA\$ ಸಸಾCರ ಗಾರು ರುಕ)

ರಂದುರಂದುರಂದುರಂದು ?ಳಿಳತಿH?ಳಿಳತಿH?ಳಿಳತಿH?ಳಿಳತಿH 03-30 ಗಂIತಿಗಂIತಿಗಂIತಿಗಂIತಿ ?ಾರ(?ಾರ(?ಾರ(?ಾರ
R(=ೞD=ೞD=ೞD=ೞD)ಳಿ಼ಡಾ||ಾTದ)ಳಿ಼ಡಾ||ಾTದ)ಳಿ಼ಡಾ||ಾTದ)ಳಿ಼ಡಾ||ಾTದ ?ೇGಯನುB?ೇGಯನುB?ೇGಯ
ನನBನನBನನBನನB 2?ೞೈ2?ೞೈ2?ೞೈ2?ೞೈ\$ ನನನನ ?ಾಟ%}?ಾಟ%}?ಾಟ%}?ಾಟ%} ತಿತತೆ
ಕಳ8#NದುAಕಳ8#NದುAಕಳ8#NದುAಕಳ8#NದುA, ಇದನುBಇದನುBಇದನುBಇದನುB <ಾನು<ಾನು<ಾನು<ಾನು
ಕೂಳ/?ನಕೂಳ/?ನಕೂಳ/?ನಕೂಳ/?ನ ????ನನBನನBನನBನನB ಅಣುನಅಣುನಅಣುನಅಣುನ
ಗಾರುಗಾರುಗಾರುಗಾರು MMMM NದNದ??NದNದ?? ಸ್ರಳದಸ್ರಳದಸ್ರಳದಸ್ರಳದ ?????
ಅಣುನನುBಅಣುನನುBಅಣುನನುBಅಣುನನುB ಹುಡುಗಾಡುVCರು?ಾಗಹುಡುಗಾಡುVCರು?ಾಗಹುಡುಗಾಡುVCರು?ಾಗ
ಗಹುಡುಗಾಡುVCರು?ಾಗ ನನBನನBನನBನನB 22?ೞೈ22?ೞೈ?ೞೈ\$?ೞೈ\$ ನನನನ ?????GತಿH?GತಿH?GತಿH?GತಿH
ನು!ಾರುನು!ಾರುನು!ಾರುನು!ಾರು 11-00 ಗಂIತಿಗಂIತಿಗಂIತಿಗಂIತಿ
<ಪೋTರುSೆCೇ<ಪೆ<ಪೋTರುSೆCೇ<ಪೆ<ಪೋTರುSೆCೇ<ಪೆ<ಪೋTರುSೆCೇ<ಪೆ .

ಆದುದು?ಂದಆದುದು?ಂದಆದುದು?ಂದ ನನBನನBನನBನB ಅಣುಅಣುಅಣುಅಣು ಮು!ಾCDಮು!ಾ
CDಮು!Dಮು!D MತಿMತಿMತಿMತಿ ಅಕ?ಮಅಕ?ಮಅಕ?ಮಅಕ?ಮ ಸಂಬಂಧದಸಂಬಂಧದಸಂಬಂಧದಸಂಬಂಧದ
ಬತಿHಬತಿHಬತಿHಬತಿH ಅಪಪಪಪಪಪಪ ಪ?Qಾರಪ?Qಾರಪ?Qಾರಪ?Qಾರ !ಾಡುವW ಾ@!ಾಡುವW ಾ@!ಾಡುವW
ಾ@!ಾಡುವW ಾ@ ?ೆದ?N?ೆದ?N?ೆದ?N?ೆದ?N EನEನEನEನ Mತ;Mತ;Mತ;Mತ;
ಹಣ7ಾb@ಹಣ7ಾb@ಹಣ7ಾb@ಹಣ7ಾb@ ?ಾ??Z?ಾ??Z?ಾ??Z?ಾ??Z =e\$=e\$=e\$=e\$!ಾT!ಾT!ಾT!ಾT
MರಂತರMರಂತರMರಂತರMರಂತರ ^ರುಕುಳ^ರುಕುಳ^ರುಕುಳ^ರುಕುಳ MಠMಠMಠMಠ
ಹಣವನುBಹಣವನುBಹಣವನುBಹಣವನುB MಷEdAೞಿMಷEdAೞಿMಷEdAೞಿMಷEdAೞಿ ಗೊ&ಗೊ&ಗೊ&ಗೊ&!ಾ
ಡುವW ಾ@!ಾಡುವW ಾ@!ಾಡುವW ಾ@!ಾಡುವW ಾ@
ಭಯವನುBಂಟುಭಯವನುBಂಟುಭಯವನುBಂಟುಭಯವನುBಂಟು !ಾT!ಾT!ಾT!ಾT ಬಲವಂತ?ಾ@ಬಲವಂತ?ಾ
@ಬಲವಂತ?ಾ@ಬಲವಂತ?ಾ@ ಹಹಣವನುBಹಹಣವನುBಣವನುBಣವನುB
ಪzದುಗೊಂಡುಪzದುಗೊಂಡುಪzದುಗೊಂಡುಪzದುಗೊಂಡು ನೆ!ಾಜದನೆ!ಾಜದನೆ!ಾಜದನೆ!ಾಜದ ????
ಆತನುಆತನುಆತನುಆತನು ಗಬನೆಗಬನೆಗಬನೆಗಬನೆ !ಾಡದಂತಹ!ಾಡದಂತಹ!ಾಡದಂತಹ!ಾಡದಂತಹ ?ಾ
Sವರಣವನು?ಕವರಣವನು?ಕವರಣವನು?ಕವರಣವನು?ಕವರಣವನು ಸೃ?aNಸೃ?aNsೃ?aNsೃ?aNs ಆತ?ಹSೆ;ಆತ?ಹSೆ;ಆತ?
ಹSೆ;ಆತ?ಹSೆ; !ಾTಗೊಳ8xವಂSೆ!ಾTಗೊಳ8xವಂSೆ!ಾTಗೊಳ8xವಂSೆ!ಾTಗೊಳ8xವಂSೆ ಪ?Qಗೋದ<ೆಪ?Qಗೋದ<ೆಪ?Qಗೋದ<ೆಪ?Qಗೋದ<ೆ
MಠದMಠದMಠದMಠದ ಅ)ಗೋOತರುಗಳಅ)ಗೋOತರುಗಳಅ)ಗೋOತರುಗಳಅ)ಗೋOತರುಗಳ >ರುದ?>ರು
>ರುದ? ಸೂಕCಸೂಕCಸೂಕCಸೂಕC ಗಾನೂನುಗಾನೂನುಗಾನೂನುಗಾನೂನು ಕ?ಮಕ?ಮಕ?ಮಕ?ಮ
ೈಗೊಳ8xವಂSೆೈಗೊಳ8xವಂSೆೈಗೊಳ8xವಂSೆೈಗೊಳ8xವಂSೆ ಈಈಈಈ ಮೂಲಕಮೂಲಕಮೂಲಕಮೂಲಕ ತಮ?
ತಮ?ತಮ?ತಮ?>>>> >ನಂVಸುSೆೀ<ೆ>ನಂVಸುSೆೀ<ೆ>ನಂVಸುSೆೀ<ೆ>ನಂVಸುSೆೀ<ೆ>ನಂVಸುSೆೀ<ೆ .
ಇದ)ಗೊಂEತಿಇದ)ಗೊಂEತಿಇದ)ಗೊಂEತಿಇದ)ಗೊಂEತಿ ?ಾಟ%}?ಾಟ%}?ಾಟ%}?ಾಟ%} ನನನನ ????
ಕಳ8#Nದಕಳ8#Nದಕಳ8#Nದಕಳ8#Nದ ?ಾರ(?ಾರ(?ಾರ(?ಾರ(=eKೆD=eKೆD=eKೆD=eKೆD
ಗಳನುBಗಳನುBಗಳನುBಗಳನುB | "|| "|| "|| ???? ???? ???? ???? ???? ???? ???? ???? ????
ಜರುಪTNರುSೆೀ<ೆ?ಾಜರುಪTNರುSೆೀ<ೆ?ಾಜರುಪTNರುSೆೀ<ೆ?ಾಜರುಪTNರುSೆೀ<ೆ?ಾಜರುಪTNರುSೆೀ<ೆ ."

The allegations in the complaint are already narrated. The

“ಮಂಗಳ/ರುಮಂಗಳ/ರುಮಂಗಳ/ರುಮಂಗಳ/ರು ನಗರನಗರನಗರನಗರ ಗಾವ9ರುಗಾವ9ರುಗಾವ9ರುಗಾವ9ರು
 ೇ(ೇ(ೇ(ೇ(4545454545454545 ಅಲಿಅಲಿ.ಕೆ?ಕೆ?ಕೆ? **150/2024.**

ಕಲಂಕಲಂಕಲಂಕಲಂ: 308(2), 308(5), 352, 351(2), 61(2), 50, 54, 140(2), 108 ?ಸಿಎಸ್‌ಸಿ?ಸಿಎಸ್‌ಸಿ?ಸಿ
ಕೆಸಿ?ಸಿ 190 ಎ"ಎ"ಎ"ಎ".ಎ(ಎ(ಎ(ಎ(ಲೋಕ)ಲೋಪಕಾ ಲೋಕ)ಲೋಪಕಾಲೋಪಕಾ ಲೋಕ)ಲೋಪಕಾ ಸಿ
ಪತ?ದಪತ?ದಪತ?ದಪತ?ದ ಗಾಲಂಗಾಲಂಗಾಲಂಗಾಲಂ: 17 ರರರರ ಮುಂದುವ?ಮುಂದುವ?ಮುಂದುವ?ಮುಂದುವ?
ಈ ಲೋಕ)ಲೋಪಕಾ ಪತ?ದ ಗಾಲಂ 12 ರ ?ಯ ದ.ಕ mಡಿ?ಯ ಮಂಗಳ/ರು ಕೂಡನ ಕ್ಷ?ಕಾಪWರ ತಾ?ಮದ Kಹ;

ಪ಼ಱಿಢುಗೊಂಡುಪ಼ಱಿಢುಗೊಂಡುಪ಼ಱಿಢುಗೊಂಡುಪ಼ಱಿಢುಗೊಂಡು

#_o?_o#_o?_o#_o?_o ಸುVCದುAಸುVCದುAಸುVCದುAಸುVCದುA ದೂರದೂರದೂರದೂರ ?ಬೋಗದಂSಿ?ಬೋಗದಂSಿ?ಬೋಗದಂSಿ?ಬೋಗದಂSಿ ಮು!ಾCDಮು!ಾCDಮು!ಾCDಮು!ಾCD ಅಅಅಅ =ೇ&ಷಿ=ೇ&ಷಿ=ೇ&ಷಿ=ೇ&ಷಿ M3ಾ? N7ಿಡದAಳ8M3ಾ?N7ಿಡದAಳ8M3ಾ?N7ಿಡದAಳ8M3ಾ?N7ಿಡದAಳ8 EಾಕEಾಕEಾಕEಾಕ: 02-12-2023

ರಂದುರಂದುರಂದುರಂದು ಮು!ಾCDಮು!ಾCDಮು!ಾCDಮು!ಾCD ಆಆಆಆ ಯವರಯವರಯವರಯವರ
ವVRಂದವVRಂದವVRಂದವVRಂದ 1003 <ೇೀ<ೇೀ<ೇೀ<ೇೀ

ಸಂ?ಶಿ;ಯಸಂ?ಶಿ;ಯಸಂ?ಶಿ;ಯಸಂ?ಶಿ;ಯ ?ಾ???ಾ???ಾ???ಾ?? 3ಕೆ3ಕೆ ?ಾಸCವ;?ಾಸCವ;ವನುB?ಾಸCವ;?ಾ
ಸCವ;ವನುBವನುBವನುB ಬದ&ಾRNದುAಬದ&ಾRNದುAಬದ&ಾRNದುAಬದ&ಾRNದುA, 5ಮ್‌ಮ್‌ಮ್‌ಮ್‌
ತನBತನBತನBತನB ಕ್ಕಾಕ್ಕಾಕ್ಕಾಕ್ಕಾಕ್ಕಾ ಸಂ?ಸಂ?ಸಂ?ಸಂ? 2?ಶ್ವಿ\$2?ಶ್ವಿ\$2?ಶ್ವಿ\$2?ಶ್ವಿ\$ ನನನನ ರುವರುವ?ರುವರುವ??

ಆತ್?ೇಆತ್?ೇಆತ್?ೇಆತ್?ೇ >T?ಫಳನು>T?ಫಳನು>T?ಫಳನು>T?ಫಳನು TTTT ಂ?ೇ?ೇ?ೇ?ೇ! ಾ
ಡುವW ಾ@!ಾಡುವW ಾ@!ಾಡುವW ಾ@!ಾಡುವW ಾ@ VGNVGNVGNVGN ತನಕೆತನಕೆತನಕೆತನಕೆ ?ುುಸ?ುು
ಸ?ುುಸ?ುುಸ **IPHONE** 2?ುುೈ\$2?ುುೈ\$2?ುುೈ\$2?ುುೈ\$?ುು?ುು?ುು?ುು?ುು?ುು

ಗೊತಸುವಂತ್ರಿಗೊತಸುವಂತ್ರಿಗೊತಸುವಂತ್ರಿಗೊತಸುವಂತ್ರಿ ?ೇT7?ೇT7?ೇT7?ೇT7 ಇಟಇಟಇಟಇಟಇಟಇಟ
=ೇ)ಿಿತಿ=ೇ)ಿಿತಿ=ೇ)ಿಿತಿ=ೇ)ಿಿತಿ E<ಂಕE<ಂಕE<ಂಕE<ಂಕ 16-02-2024 ರಂದುರಂದುರಂದುರಂದು 1

<ೇ<ೇ<ೇ<ೇ ಆ\ೞESಿಯಆ\ೞESಿಯಆ\ೞESಿಯಆ\ೞESಿಯ |ೞ??|ೞ??|ೞ??|ೞ?? ಕೆಕೆಕೆಕೆ ?ಹೊಸ?ಹೊ
ನ?ಹೊನ?ಹೊನ 2?ಸ್ವೈ2?ಸ್ವೈ2?ಸ್ವೈ2?ಸ್ವೈ\$?ೇ"?ೇ"?ೇ"?ೇ" ಖ?ೇಉ?ೇಉಖ?ೇಉ?ೇಉ!ೞTಗಂಡು!ೞTಗಂಡು!ೞTಗಂಡು!ೞ

ಮು!ಾCDಮು!ಾCDಮು!ಾCDಮು!ಾCD ಅಅಅಅ ಯವರುಯವರುಯವರುಯವರು ?ಶೋ ಾಗ?ಶೋ ಾಗ?ಶೋ ಾಗ?ಶೋ
 ಾಗ 1 <ಶೇ<ಶೇ<ಶೇ<ಶೇ ಆ\ಾESಶಿಯುಆ\ಾESಶಿಯುಆ\ಾESಶಿಯುಆ\ಾESಶಿಯು ತನBತನBತನBತನB ಕ್ಕಾಕ್ಕಾಕ್ಕಾಕ್ಕಾಕ್ಕಾ

K? K?K?K?K? 2?2?2?2?2?2?2? ?"?"?"?"?" ???? TTK??T??K??K?
 ಯನುBಯನುBಯನುBಯನುB 5ಕೆ5ಕೆ5ಕೆ5ಕೆಜುಖಂ3ೊGNಜುಖಂ3ೊGNಜುಖಂ3ೊGNಜುಖಂ3ೊGN 2?2?2?2?2?

\$2?ಶೈ\$?ಾ?ಾ@ರುವW ಾ@?ಾ?ಾ@ರುವW ಾ@?ಾ?ಾ@ರುವW ಾ@?ಾ?ಾ@ರುವW ಾ@
VGNVGNVGNVGN ?ೊಸ?ೊಸ?ೊಸ?ೊಸ **IPHONE**

ಪ್ರಪಂಚದಾದ್ಯಂತವಿರುವ ಸಂಸ್ಕೃತಿಗಳನ್ನು ಅರಿಯುವುದು ಮತ್ತು ಅವುಗಳನ್ನು ಸಂಸ್ಕರಿಸುವುದು ಎಂಬುದು ಇವುಗಳ ಮುಖ್ಯ ಉದ್ದೇಶ. ಇವುಗಳ ಮೂಲಕವೇ ಮನುಷ್ಯನು ಸಂಸ್ಕೃತಿಯನ್ನು ಅರಿಯುವುದು ಮತ್ತು ಅವುಗಳನ್ನು ಸಂಸ್ಕರಿಸುವುದು ಎಂಬುದು ಇವುಗಳ ಮುಖ್ಯ ಉದ್ದೇಶ. ಇವುಗಳ ಮೂಲಕವೇ ಮನುಷ್ಯನು ಸಂಸ್ಕೃತಿಯನ್ನು ಅರಿಯುವುದು ಮತ್ತು ಅವುಗಳನ್ನು ಸಂಸ್ಕರಿಸುವುದು ಎಂಬುದು ಇವುಗಳ ಮುಖ್ಯ ಉದ್ದೇಶ.

&ೞಿಂ@ಕ?ಾ@&ೞಿಂ@ಕ?ಾ@&ೞಿಂ@ಕ?ಾ@&ೞಿಂ@ಕ?ಾ@ ್ರಕ ್ರಿ#ಕೃ#ಕ ್ರಿ#ಕ ್ರಿ

ಸಂಪಕವನುBಸಂಪಕವನುBಸಂಪಕವನುBಸಂಪಕವನುB ಾTNದುA!ಾTNದುA!ಾTNದುA!ಾTNದುA ಸMB?ೇ

ಶಗಳನುBಸMB?ಶಗಳನುBಸMB?ಶಗಳನುBಸMB?ಶಗಳನುB ?ೊಸ?ೊಸ?ೊಸ?ೊಸ **IPHONE**

ನನನನ ????ಮು!ಾCDಮು!ಾCDಮು!ಾCDಮು!ಾCD ಅಅಅಅ ಯವಯವರಯವಯವರರರ
ಗಮನೌಗಮನೌಗಮನೌಗಮನೌಗಮನೌ ?ಾರದಂೌ?ಾರದಂೌ?ಾರದಂೌ?ಾರದಂೌ **1003** <ೇ<ೇ<ೇ<ೇ \ಾ??

|ಾ??|ಾ??|ಾ?? ನನನನ ?ಶಿ,?ಶಿ,?ಶಿ,?ಶಿ, ರೂ?ರೂ?ರೂ?ರೂ? ನನನನ ?????>T?ೞT?ೞT?ೞ
>T?ೞ)ಶಿಗಾTಂಲ?ಶಿಗಾTಂಲ?ಶಿಗಾTಂಲ?)ಶಿಗಾTಂಲ? !ಾTಶಿಂTದುA!ಾTಶಿಂTದುA!ಾTಶಿಂTದುA!ಾTಶಿಂTದುA ಸE

ವನುB>T?ೇವನುB>T?ೇವನುB>T?ೇವನುB ಮು!ಾCDಮು!ಾCDಮು!ಾCDಮು!ಾCD ಅಅಅಅ ಕೆಕೆಕೆಕೆ ?ಾ?Z?ಾ?Z?ಾ?Z?ಾ?Z
=ೇ\$=ೇ\$=ೇ\$=ೇ\$!ಾಡುವ!ಾಡುವ!ಾಡುವ!ಾಡುವ ಉ ಿ A ಂಶEಂದಲು ಿ A ಂಶEಂದಲು ಿ A ಂಶEಂದಲು

ಕೆ A ಲೇಖಕನಿಂದ ಅವರಅವರಅವರಅವರ ಅ?>ತಿಳಿ?>ತಿಳಿ?>ತಿಳಿ?>ತಿ ?ಾರದಂSತಿ?ಾರದಂSತಿ?ಾರದಂSತಿ?ಾರದಂSತಿ
ಐಐಐಐಒೌ?, ಒೌ?,ಒೌ?,ಒೌ?, ನನನನ????ಸಂಗ?#NದA೪8ಸಂಗ?#NದA೪8ಸಂಗ?#NದA೪8ಸಂಗ?#NದA೪8

ನಂತರದನಂತರದನಂತರದನಂತರದ ???ಮು!೨CDಮು!೨CDಮು!೨CDಮು!೨CD ಅಅಅಅ ಯವ?ಕಿಯವ?ಕಿಯವ?ಕಿಯವ?ಕಿ
 1 <ೇ<ೇ<ೇ<ೇ ಆ!೨E5ಿಯುಆ!೨E5ಿಯುಆ!೨E5ಿಯುಆ!೨E5ಿಯು ತನBತನBತನBತನB

KB#ತೆKB#ತೆKB#ತೆKB#ತೆ ಲ^ಬಲ^ಬಲ^ಬಲ^ಬ Ka?Ka?Ka?Ka?

<ಐN್ಞರವುಗೊಂFತಿ<ಐN್ಞರವುಗೊಂFತಿ<ಐN್ಞರವುಗೊಂFತಿ<ಐN್ಞರವುಗೊಂFತಿ

ಸಂಪಕದಸಂಪಕದಸಂಪಕದಸಂಪಕದ ರುವರುವ??ರುವರುವ?? >೦೫>೦೫>೦೫>೦೫

ಗಮನಗಮನಗಮನಗಮನಗಮನ ಬಂದುಬಂದುಬಂದುಬಂದು ಅವ?ಬ??ಗೂಅವ?ಬ??ಗೂಅವ?ಬ??ಗೂಅವ?ಬ??
ಗೂ ?ಮನಸು%೦I೩೩?ಮನಸು%೦I೩೩?ಮನಸು%೦I೩೩?ಮನಸು%೦I೩೩ E<ಒಕE<ಒಕE<ಒಕE<ಒಕ.

09-10-2023 ಮತುಮತುಮತುಮತುಮತು **10-10-2023** ರಂದುರಂದುರಂದುರಂದು ?ಾIಾ%}?ಾIಾ%}?ಾIಾ%}?ಾIಾ%}
ನನನನ ?????ಾತಾದ?ಾತಾದ?ಾತಾದ?ಾತಾದ ನಞ್EದುAನಞ್EದುAನಞ್EದುAನಞ್EದುA ಆಆಆಆ

ಸಂದಭದಸಂದಭದಸಂದಭದಸಂದಭದ ????ಮು!ಾCDಮು!ಾCDಮು!ಾCDಮು!ಾCD,ಅಬಲಾಬಲಾಬಲಾಬಲಾ Ka?
Ka?Ka?Ka? <ಾನ್ೇ<ಾನ್ೇ<ಾನ್ೇ<ಾನ್ೇ ?ಾಗೂ?ಾಗೂ?ಾಗೂ?ಾಗೂ 1 <ೇ<ೇ<ೇ<ೇ

Page 13 of 34

Page 14 of 34

..

(2) Whoever is a party to a criminal conspiracy,—

(a) to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Sanhita for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence;

(b) other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

... ..

108. 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.

... ..

140. Kidnapping or abducting in order to murder or for ransom, etc.—(1)

(2) Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organisation or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.

... ..

190. Every member of unlawful assembly guilty of

offence committed in prosecution of common object.—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

... ..

308. Extortion.—(1)

(2) Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

... ..

(5) Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

... ..

351. Criminal intimidation.—(1)

(2) Whoever commits the offence of criminal intimidation shall be punished with

imprisonment of either description for a term which may extend to two years, or with fine, or with both.

... ..

352. Intentional insult with intent to provoke

breach of peace.—Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

Section 54 of the BNS punishes an abettor who is present when the offence is committed. Section 61(2) deals with punishment for criminal conspiracy. Section 140(2) deals with kidnapping for a ransom as was obtaining under Section 364A of the IPC, the earlier regime. Section 308(2) deals with extortion. Section 308(5) deals with extortion by putting a person in a fear of death or grievous hurt. Section 190 deals with unlawful assembly in execution of a common object. Above all, the alleged offence under Section 108 of the BNS punishes a person who abets commission of suicide.

12. If the complaint and the summary of charge sheet as extracted hereinabove are noticed, what would unmistakably emerge is, that the case is shrouded with seriously disputed questions of fact. The complainant registers the complaint on 06-10-2024, hands over the mobile phone of the deceased on 13-10-2024 and speaks about harassment of accused No.1 to the deceased and their relationship and the voice message from the deceased, which also indicates a cheque being handed over to accused No.1 for a sum of ₹ 25/- lakhs on demand of ₹ 50/- lakhs. The wife of the deceased one Rehana speaks about relationship of the deceased with accused No.1 and she comes to know of their relationship on 13-04-2024. The squabble arose between them early on 04-04-2024. Accused No.1 later on demanded compensation and had also asked the deceased to resign from the post of President and threatened to file a complaint before the Masjid. This is noticed in the WhatsApp voice recording of the deceased. There are several witnesses, who spoke about the enmity between the deceased and accused No.3 with regard to masjid administration and other acts of threatening with regard to administration in the masjid as also the relationship between accused No.1 and the deceased. Accused No.1 one Smt. Rehamath is not said to have had a relationship with the deceased. When all these allegations are so shrouded in the realm of seriously disputed questions of fact, it is ununderstandable as to how this Court can interfere in exercise of its jurisdiction under Section 482 of the Cr.P.C., at this stage. It is undoubtedly a case for trial. A life is lost, not on ordinary terms but on serious allegations which are recorded by the deceased at the time of commission of suicide. This cannot be brushed aside and the crime cannot be obliterated at this juncture.

13. Jurisprudence is replete with the judgments of the Apex Court as to the interference in a case of commission of suicide as obtaining under Section 108 of

the BNS or Section 306 of the IPC, the earlier regime. The Apex Court holds that if ingredients of Section 107 of the IPC are not met in an allegation of an offence under Section 306 of the IPC, the Court has to interfere and obliterate the proceedings. In the event it does make out an offence of abetment, the Court must hold its hands in terminating the proceedings at the nascent stage. It therefore, becomes necessary to notice what is abetment. For an offence to become punishable under Section 108 of the BNS, the abetment must have happened as obtaining under Section 45 of the BNS, which is Section 107 of the earlier regime, IPC. Section 45 of the BNS reads as follows:

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

- (a) instigates any person to do that thing; or**
- (b) 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**
- (c) 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

A, a public officer, is authorised by a warrant from a court 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 terms of Section 45 of the BNS, a person is said to have abetted doing of a thing, if a person would instigate any person to do a particular thing or engages with one or more person in a conspiracy for doing that thing or intentionally aid by an act or illegal omission for doing that thing. If the complaint so registered, the statements recorded and the charge sheet drawn against the accused are noticed, they *prima facie* meet the ingredients of abetment as obtaining under Section 45 of the BNS *supra*.

14. It is now germane to notice the judicial canvass of whether *prima facie* ingredients of the offence under Section 45 of the BNS/107 of the IPC are met.

JUDICIAL CANVASS:

15. The Apex Court in the case of **RAJEEV KOURAV v. BAISAHAB1**, has held as follows:

"....

6. The High Court summoned the record of investigation and perused the statements

recorded by the appellant and his family members under Section 161 CrPC. The High Court held that statements recorded under Section 161 CrPC would show that Respondent 1 is a quarrelsome lady who has threatened the appellant's family of false implication in a criminal case. The High Court observed that none of the persons whose statements under Section 161 CrPC were recorded have mentioned about the complaint of the deceased and that she was thinking of committing suicide due to the harassment of Respondents 1 to 3. The High Court recorded a finding that RamsharanKourav, the uncle of the deceased, has stated in his statement under Section 161 that the deceased informed him that she is unable to bear the torture of Respondents 1 to 3 and was thinking of putting an end to her life.

7. The High Court observed that the allegations made against Respondents 1 to 3 at the most constitute an offence under Section 506 IPC for criminal intimidation. Read as a whole, the allegations made against Respondents 1 to 3 did not make out an offence under Sections 306/34 IPC. The High Court further held that ingredients of Section 107 IPC are also not satisfied. In that view, the petition filed by Respondents 1 to 3 for quashing the criminal proceeding was allowed.

8. It is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge-sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.

9. Mr Shoeb Alam, learned counsel appearing for Respondents 1 to 3, relied upon several judgments of this Court to submit that allegations only disclose a case of harassment meted out to the deceased. The ingredients of Sections 306 and 107 IPC have not been made out. It is submitted that there is nothing on record to show that the respondents have abetted the commission of suicide by the deceased. **He further argued that abetment as defined under Section 107 IPC is instigation which is missing in the complaint made by the appellant. He further argued that if the allegations against Respondents 1 to 3 are not prima facie made out, there is no reason why they should face a criminal trial.**

10. We do not agree with the submissions made on behalf of Respondents 1 to 3. **The conclusion of the High Court to quash the criminal proceedings is on the basis of its assessment of the statements recorded under Section 161 CrPC. Statements of witnesses recorded under Section 161 CrPC being wholly inadmissible in evidence cannot be taken into consideration by the Court, while adjudicating a petition filed under Section 482 CrPC [Rajendra Singh v. State of U.P., (2007) 7 SCC 378 : (2007) 3 SCC (Cri) 375] .**

11. Moreover, the High Court was aware that one of the witnesses mentioned that the deceased informed him about the harassment meted out by Respondents 1 to 3 which she was not able to bear and hence wanted to commit suicide. **The High Court committed an error in quashing criminal proceedings by assessing the**

statements under Section 161 CrPC.”

15.1. The Apex Court in the case of MAHENDRA K.C. v. STATE OF KARNATAKA², has held as follows:

“....

16. On reading the judgment [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] of the Single Judge, it would appear that the Single Judge has failed to notice the distinction between a petition for quashing under Section 482 (which was being considered) and a criminal trial or an appeal against a conviction on a charge under Section 306. The Single Judge has transgressed the limits of the jurisdiction under Section 482 CrPC. The judgment is replete with hypotheses and surmises on the basis of which the Single Judge has reached an inference on facts. The Single Judge has tested the veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. **At the stage when the High Court considers a petition for quashing under Section 482 CrPC, the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, prima facie establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a Judge conducting a trial would, on the basis of the evidence collected during the course of trial.** The High Court in the present case has virtually proceeded to hold a trial, substituting its own perception for what it believed should or should not have been the normal course of human behaviour. This is clearly impermissible.

17. The complaint in the present case on the basis of which the FIR was registered contains a detailed account of:

- (i) The knowledge of the deceased in regard to the illegal activities of the accused;
- (ii) The accused having used the deceased's bank
account for transfer of funds to his relatives;
- (iii) The deceased having been threatened by the accused and by his “house car driver” with death; and
- (iv) The recovery of the suicide note which was also uploaded on the Facebook account of the deceased.

The suicide note in turn provides a detailed account of—

- (a) The wealth amassed by the second respondent-accused who was an SLAO, worth over Rs 100 crores;
- (b) The second respondent-accused having converted approximately Rs 100 crores into currency notes of various denominations;
- (c) The knowledge of the deceased with respect the illegal activities of the accused;
- (d) The accused having used the deceased for the conversion of currency notes amounting to over Rs 75 crores;
- (e) The payment of the salary of the deceased, who was a driver having been stopped for three months;

(f) A threat of murder being administered to the deceased following a shortage in the currency; and

(g) The deceased having decided to end his life by consuming poison, having suffered at the hands of the accused.

18. In this backdrop, it is impossible on a judicious purview of the contents of the complaint and the suicide note for a judicial mind to arrive at a conclusion that a case for quashing the FIR had been established. In arriving at that conclusion, the Single Judge has transgressed the well-settled limitations on the exercise of the powers under Section 482 CrPC and has encroached into a territory which is reserved for a criminal trial.

19. The High Court has the power under Section 482 to issue such orders as are necessary to prevent the abuse of legal process or otherwise, to secure the ends of justice. The law on the exercise of power under Section 482 to quash an FIR is well-settled. In *State of Orissa v. Saroj Kumar Sahoo* [*State of Orissa v. Saroj Kumar Sahoo*, (2005) 13 SCC 540 : (2006) 2 SCC (Cri) 272] , a two-Judge Bench of this Court, observed that : (SCC pp. 547-48, para 8)

"8. ... While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. **In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto."**

20. These principles emanate from the decisions of this Court in *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and *State of M.P. v. Surendra Kori* [*State of M.P. v. Surendra Kori* , (2012) 10 SCC 155 : (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247 : (2012) 2 SCC (L&S) 940] . In *Surendra Kori* [*State of M.P. v. Surendra Kori*, (2012) 10 SCC 155 : (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247 : (2012) 2 SCC (L&S) 940] , this Court observed : (*Surendra Kori case* [*State of M.P. v. Surendra Kori*, (2012) 10 SCC 155 : (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247 : (2012) 2 SCC (L&S) 940] , SCC p. 163, para 14)

"14. The High Court in exercise of its powers under Section 482 CrPC does not function as a court of appeal or revision. This Court has, in several judgments,

held that the inherent jurisdiction under Section 482 CrPC, though wide, has to be used sparingly, carefully and with caution. The High Court, under Section 482 CrPC, should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of wide magnitude and cannot be seen in their true perspective without sufficient material."

21. In *Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]*, this Court laid down the principles for the exercise of the jurisdiction by the High Court in exercise of its powers under Section 482 CrPC to quash an FIR. Ratnavel Pandian, J. laid down the limits on the exercise of the power under Section 482 CrPC for quashing the FIR and observed : (SCC pp. 378-79, para 102)

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 CrPC which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) CrPC except under an order of a Magistrate within the purview of Section 155(2) CrPC.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) CrPC.

Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

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

The judgment in *Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] has been recently relied on by this Court in *State of Telangana v. Managipet* [*State of Telangana v. Managipet*, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] .

22. Based on the above precedent, the High Court while exercising its power under Section 482 CrPC to quash the FIR instituted against the second respondent-accused should have applied the following two tests : (i) whether the allegations made in the complaint, prima facie constitute an offence; and (ii) whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint. Before proceeding further, it is imperative to briefly discuss the law on the abetment of suicide to determine if a prima facie case under Section 306 IPC has been made out against the respondent-accused.

23. Section 306 IPC provides for punishment of the abetment of suicide:

“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.”

Section 107 IPC defines the expression “abetment”:

“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.”

24. The essence of abetment lies in instigating a person to do a thing or the intentional doing of that thing by an act or illegal omission. In *Ramesh Kumar v. State of Chhattisgarh* [*Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , a three-Judge Bench of this Court, speaking through R.C. Lahoti, J. (as the learned Chief Justice then was), observed : (SCC p. 629, para 20)

“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."

25. A two-Judge Bench of 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] , speaking through D.K. Jain, J., observed : (SCC pp. 611-12, paras 19-20)

"19. As observed in *Ramesh Kumar* [*Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

20. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. 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. Each individual's suicidality pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, *which may either be an attempt for self-protection or an escapism from intolerable self.*"

(emphasis in original)

26. This has been reiterated in the decision in *Amalendu Pal v. State of W.B.* [*Amalendu Pal v. State of W.B.*, (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] , where it has been observed : (SCC p. 712, para 12)

... 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."

(See also in this context the judgments in *Praveen Pradhan v. State of Uttaranchal* [*Praveen Pradhan v. State of Uttaranchal*, (2012) 9 SCC 734 : (2013) 1 SCC (Cri) 146] , *Vaijnath Kondiba Khandke v. State of Maharashtra* [

VajinathKondibaKhandke v. State of Maharashtra, (2018) 7 SCC 781 : (2018) 3 SCC (Cri) 362] , *M. Arjunan v. State* [*M. Arjunan v. State*, (2019) 3 SCC 315 : (2019) 2 SCC (Cri) 219] , *Ude Singh v. State of Haryana* [*Ude Singh v. State of Haryana*, (2019) 17 SCC 301 : (2020) 3 SCC (Cri) 306] , *Rajesh v. State of Haryana* [*Rajesh v. State of Haryana*, (2020) 15 SCC 359 : (2020) 4 SCC (Cri) 75] and *Gurcharan Singh v. State of Punjab* [*Gurcharan Singh v. State of Punjab*, (2020) 10 SCC 200 : (2021) 1 SCC (Cri) 417] . These decisions have been recently referred to in the judgment of this Court in *Arnab Manoranjan Goswami v. State of Maharashtra* [*Arnab Manoranjan Goswami v. State of Maharashtra*, (2021) 2 SCC 427 : (2021) 1 SCC (Cri) 834]).

27. While adjudicating on an application under Section 482 CrPC, the High Court in the present case travelled far away from the parameters for the exercise of the jurisdiction. **Essentially, the task before the High Court was to determine whether the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety did or did not prima facie constitute an offence or make out a case against the accused.**

28. **Instead of applying this settled principle, the High Court has proceeded to analyse from its own perspective the veracity of the allegations. It must be emphasised that this is not a case where the High Court has arrived at a conclusion that the allegations in the FIR or the complaint are so absurd and inherently improbable on the basis of which no prudent person could ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Nor is this a case where the criminal proceeding is manifestly mala fide or has been instituted with an ulterior motive of taking vengeance on the accused. On the contrary, the specific allegations in the FIR and in the complaint find due reflection in the suicide note and establish a prima facie case for abetment of suicide within the meaning of Sections 306 and 107 IPC. The entire judgment [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] of the High Court consists of a litany of surmises and conjectures and such an exercise is beyond the domain of proceeding under Section 482 CrPC. The High Court has proceeded to scrutinise what has been disclosed during the investigation, ignoring that the investigation had been stayed by an interim order of the High Court, during the pendency of the proceedings under Section 482.**

29. **The High Court observed that a prima facie case for the commission of offence under Section 306 IPC is not made out since : (i) the suicide note does not describe the specific threats; (ii) details of the alleged demand of Rs 8 lakhs from the deceased by the respondent-accused are not set out in the suicide note; and (iii) no material to corroborate the allegations detailed in the suicide note has been unearthed by the investigating agency. The High Court observed that since the deceased**

took considerable time to write a twelve page suicide note, "it would have been but natural for the author to set out the details". The High Court has evidently travelled far beyond the limits of its inherent power under Section 482 CrPC since instead of determining whether on a perusal of the complaint, a prima facie case is made out, it has analysed the sufficiency of the evidence with reference to the suicide note and has commented upon and made strong observations on the suicide note itself.

30. Paras 32, 33, 34 and 39 of the order [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] of the High Court are extracted below : (*L. Bheema Naik case* [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] , SCC OnLine Kar)

"32. In Para 21 [of the suicide/death note] [**Ed.** :

As per para 31 of the impugned judgment of the High Court in *L. Bheema Naik case*, it is recorded as follows:"... The deceased has written a detailed death note consisting of 21 numbered and one unnumbered paragraphs. Out of 22 paragraphs, 20 paragraphs pertain to alleged dealings and the only probable portion of the death note, which could be relied upon to establish the culpability of the petitioner are Para 21...."]

, a bald statement is made stating that because he is aware of all the above transaction, he was given a death threat. In the next sentence, he states that he has been psychologically/emotionally in trouble and hence, he is consuming poison and that the petitioner and his driver alone are responsible. For a person, who has detailed 20 transactions, it can be prudently expected of such a person to give details of the threat.

33. In the next unnumbered paragraph, a totally different story/note is set out as a reason for the petitioner threatening the deceased. In the unnumbered paragraph, he states that there was shortage in the cash to the tune of Rs 8 lakhs and that the petitioner suspected him as being responsible for the same and hence, threatened him that if the deceased did not repay said Rs 8 lakhs, he would have the deceased killed at the hands of rowdies. Thereafter, in the next sentence he states that in view of the same, he has decided to consume poison and that the petitioner and his driver are responsible for the same.

34. In Para 20 [of the suicide/death note], the deceased holds the petitioner responsible for withholding the salary for the last three months. The other paragraphs including Para 20 [of the suicide/death note] detail the properties said to have been amassed by the petitioner and other illegal transactions. After having perused and scrutinised the death note, a query was put to the learned High Court Government Pleader and the counsel appearing on behalf of 2nd respondent as to whether the investigation has thrown up any material that corroborates any of the allegations set out in the death note. The learned High Court Government Pleader would fairly submit that they have not been able unearth any material to corroborate any of the allegations.

39. As discussed above, the death note contains no incriminating statement or material except for a bald and vague statement but that the accused had threatened him. Even the complaint does not disclose any details of the alleged threat nor does the complaint state that the deceased had on multiple occasions complained of having received threats from accused. Even the allegation of the demand for repayment of Rs 8 lakhs rings hollow as neither the prosecution nor the de facto complainant have been able to place an iota of material that the deceased was or had in fact been in possession of huge sum

of money.”

Further, the observation of the High Court that there is no material to corroborate the allegations made in the suicide note is erroneous since it is not a consideration for the High Court while exercising its power under Section 482 CrPC, particularly in view of the fact that the trial has not begun and the Single Judge had stayed the investigation in the criminal complaint.

31. The Single Judge, other than deciding on the merits of the case while exercising the power under Section 482 CrPC, has also made observations diminishing the importance of mental health. The mental health of a person cannot be compressed into a one-size-fits-all approach. In para 37 of the impugned judgment [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] , the Single Judge observed : (*L. Bheema Naik case* [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] , SCC OnLine Kar)

It is not the case of the deceased that the accused had deprived him of his wealth or have committed acts that have shattered his hopes in life or separated him from his family and friends.”

The Single Judge then makes the following observation in paras 41 and 43 : (*L. Bheema Naik case* [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] , SCC OnLine Kar)

... It is not the case of the prosecution that the deceased was running away from or escaping the petitioner or his henchmen, but as is his habit, to visit his parents and to spend time with his friends. If the deceased had really felt threatened, he would have definitely approached the police. It is not that he was naive or not worldly-wise. If his employment with the petitioner was true, then the Police Commissionerate was only a stone's throw away. It is not that the deceased was a weakling. The deceased by profession, is a driver. A profession where, accidents causing loss of life and limb are a daily occurrence and every driver is aware that he could be involved in an accident at any time.

His act of attending relatives marriage in a different town and his interacting with friends and relatives are all actions of a normal person and not of a person under severe duress. The contention that this criminal case would jeopardise his career progression also cannot be brushed aside. It is also not forthcoming as to how he sourced the poison.”

32. The Single Judge has termed a person who decided to commit suicide a “weakling” and has also made observations on how the behaviour of the deceased before he committed suicide was not that of a person who is depressed and suffering from mental health issues. Behavioural scientists have initiated the discourse on the heterogeneity of every individual and have challenged the traditional notion of “all humans behave alike”. Individual personality differences manifest as a variation in the behaviour of people. Therefore, how an individual copes up with a threat—both physical and emotional, expressing (or refraining to express) love, loss, sorrow and happiness, varies greatly in view of the multi-faceted nature of the human mind and emotions. Thus, the observations describing the manner in which a depressed person ought to have behaved deeply diminishes the gravity of mental health issues.

33. The High Court by its order [*L. Bheema Naik v. State of Karnataka*, 2020 SCC OnLine Kar 3395] has prevented the completion of the investigation in the

complaint registered as Crime No. 565 of 2016 pending on the file of the IInd Additional Civil Judge (Junior Division) and JMFC Court, Maddur, Mandya District. The alleged suicide is of a person who was working as a driver of a Special Land Acquisition Officer, who is a public servant and against whom serious and grave allegations of amassing wealth disproportionate to the known sources of income were made by the deceased. The suicide note contains a detailed account of the role of the accused in the events which led to the deceased committing suicide. These are matters of investigation and possibly trial. The High Court stalled the investigation by granting an interim order of stay. If the investigation had been allowed to proceed, there would have been a revelation of material facts which would aid in the trial, for the alleged offence against the second respondent."

15.2. The Apex Court in the case of **SHAKUNTALA DEVI v. STATE OF UTTAR PRADESH**³, has held as follows:

"... ..

8. The most relevant statement for consideration is that of PW-3, Sandeep Kumar, younger brother of the deceased who was aged around 17 years at the time of incident and was with the deceased in the days leading up to the incident. He has stated that on 01.05.1998, he had accompanied his deceased sister to her matrimonial home and stayed with her for the following days. It has been stated by him that on the day of the incident, in the forenoon of 04.05.1998, his deceased sister had cooked rice and the appellant abused the deceased about the way the rice was cooked, then threw the food cooked by the deceased. Thereafter, on the same day again at about 4.30/5.00 p.m., the appellant-accused abused the deceased. At the time, there was no one else in the house except PW-3, the deceased and the accused. Thereafter, PW-3 was sent by the accused to call Raju. When PW-3 came back to her sister's house, he saw that the accused was shouting that her daughter-in-law, i.e. the deceased, had consumed something. Then, the appellant along with three other persons carried the deceased to the hospital while PW-3 was asked to stay back at the house and was not allowed to accompany his sister. PW-3 further deposed that when his brother-in-law and other persons came back from the hospital, they told him that his sister has died.

9. It has been noted by the Trial Court that this young witness of 17 years has narrated the entire facts in a very natural way. This fact has not gone unnoticed by us as well as that PW-3 has given an account of events in a very natural manner that does not seem exaggerated or untruthful in any manner. In fact, the said witness has also been very honest about his lack of knowledge regarding the administration of poison to his sister and has clearly stated that he was not an eyewitness to the exact act and, thus, has made no statement unnecessarily alleging that the accused herself had administered such poison to the deceased which caused her death. There is an element of honesty and fairness in PW-3's statement throughout which lends it much credibility.

10. Additionally, it must be noted that on a conjoint reading of the statements of PW-1 and PW-2 as well as the FIR wherein PW-1 was the complainant, it becomes apparent that the family members of the deceased have been very precise in their allegations against the appellant. Beginning from the point of registration of the FIR and throughout the course of trial, it has been stated across that it was solely the mother-in-law of the accused, i.e. the appellant herein, who used to physically and verbally abuse the deceased with regard to demand for dowry. The specific demand that was made by the accused time and again has also remained the same throughout all the statements. It is

one of the rare cases where the complainant has displayed honesty while making the allegations and has not unnecessarily implicated other family members of the husband of the deceased by making omnibus allegations against all of them, which is usually the adopted tactic in cases of similar nature. Even the husband of the deceased has not been roped in as a co-accused. This reflects on the overall conduct of the prosecution, which has been unusually fair and honest and, in the facts and circumstances of the case, there is no reason to disbelieve the prosecution story.

11. The jurisprudence regarding the offence of abetment to suicide under Section 306 of the IPC is settled that the offence requires an active act or omission which led the deceased to commit suicide, and this act or omission must have been intended to push the deceased into committing suicide. The facts of the case make it abundantly clear that the deceased was repeatedly tortured and abused by the accused on account of dowry demand to the extent that the deceased had to return to her parental home seeking refuge. It was only on the assurance of her parents that the deceased went back to her matrimonial home hoping that the events would take an upturn once her parents have returned from the wedding and settle the matter of dowry with the appellant-accused. However, the abuses hurled at the deceased by the appellant on the day of the incident, i.e. 04.05.1998, unfortunately acted as a straw that broke the camel's back and led her to committing suicide. Therefore, given the factual matrix, the guilt of the appellant under Section 306 of the IPC has been proved beyond reasonable doubt."

(Emphasis supplied at each instance)

The Apex Court in the afore-quoted judgments right from **RAJEEV KOURAV** to **SHAKUNTALA DEVI** has clearly delineated what would amount to ingredients of abetment for it to draw the offence under Section 306 of the IPC, which would be abetment to suicide. The Apex Court holds that the offence requires an active act or omission which led the deceased to commit suicide. The narration hereinabove would clearly indicate that the acts of all the accused put together led to a decision by the brother of the complainant to end his life. If this would not amount to abetment, goading or being proximate to the commission of suicide, this Court fails to consider what can become a classic illustration *albeit, prima facie*.

16. Insofar as the judgments relied on by the learned counsel for the petitioners, all of those are rendered *qua* the facts obtaining in those cases. It is trite law that judgments are not Euclid's theorem to be blindly followed. They are rendered on the facts obtaining in each of those cases. Therefore, the law that is laid down should be seen in the light of the facts obtaining therein and if the facts obtaining in the case at hand are noticed, they *prima facie* make out the ingredients of abetment to suicide. In that light there is no warrant of interference in any of these cases. It is for the accused in these cases to come out clean in a full-blown trial.

17. The petitions lacking in merit, stand **rejected**.

FOOTNOTES

1. **1(2020) 3 SCC 317**
2. **2(2022) 2 SCC 129**
3. **32025 SCC OnLine SC 952**