

(2026) 03 GUJ CK 0624

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Consent Quashing) No. 3002 Of 2026

Hiren Dhanjibhia Vaghamashi

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 20-03-2026

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Information Technology Act, 2000 — Section 67(e)(a)
Indian Penal Code, 1860 — Section 107, 114, 306, 506(2)
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2026) 03 GUJ CK 0624

Hon'ble Judges : Vimal K. Vyas, J

Bench : Single Bench

Advocate : Jagat V Patel, Kevin N Patel, Krina Call, Rahil Jain

Final Decision : Allowed

Judgement

Vimal K. Vyas, J

1. RULE returnable forthwith. Learned APP Ms.Krina P.Calli waives service of notice of rule for and behalf of the respondent no.1 – State and learned advocate Mr.Rahil Jain waives service of notice of rule for and on behalf of the respondent no.2 - Complainant.

2. By way of preferring the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the present applicant-accused no.3, who is the younger brother of the accused no.2 whose engagement was performed with the deceased, seeks to invoke the inherent powers of this Court, praying to quash and set-aside the First Information Report No.11191013220564 of 2022 registered with the Krishnanagar Police Station, Ahmedabad, for the offences punishable under Sections 306, 506(2), 114 of the Indian Penal Code and under Section 67(e)(a) of the Information Technology Act, 2000.

3. As per the case of the prosecution, the complainant's daughter (i.e. the

deceased) got engaged with the accused no.1 (i.e. the son of the accused no.2). However, subsequently, upon discovering his addictions and infidelity, the deceased reported the same to her father, who, in turn, broke off her engagement to the accused no.1. It is alleged that thereafter the deceased became acquainted with one Harsh Patel, who was living on the upper floor of her house, and they both took a trip, during which they created and posted videos to the deceased's Instagram account, which the accused no.1 had password access. It is further alleged that the said videos were thereafter sent by the mother of the accused no.1 (i.e. the accused no.2) on the Whatsapp account of the aunt of the deceased, which were subsequently sent to the complainant. It is further alleged that after the complainant questioned the deceased about the matter, she became deeply distressed and withdrawn. Ultimately, on 23.06.2022 in the afternoon, she took a drastic step and committed suicide by hanging herself, leaving behind a suicide note. The complainant had filed a complaint in this regard, which was first registered as Accidental Death No.32 of 2002, and subsequently, it was registered as First Information Report No.11191013220564 of 2022 with the Krishnanagar Police Station, Ahmedabad, for the offences punishable under Sections 306, 506(2), 114 of the Indian Penal Code and under Section 67(e)(a) of the Information Technology Act, 2000.

4. At the outset, learned advocate Mr.Jagat V.Patel appearing for the applicant-accused no.3 has submitted that settlement has been arrived at between the parents of the deceased and the applicant. The complainant, who is the father of the deceased, has filed an affidavit dated 30.01.2026 annexed at Annexure-B to the application, inter alia, specifically stating that the dispute has been amicably settled with the present applicant-accused and he has no objection if the impugned FIR is quashed and set-aside.

5. Learned advocate Mr.Patel has further submitted that the present applicant-accused no.3 is the real younger brother of the accused no.1, who resides in Australia and was not even present in India at the time when the alleged incident had occurred.

6. Learned advocate Mr.Patel has submitted that after the investigation, charge-sheet was filed against the accused nos.1 and 2, which came to be registered as Sessions Case No.251 of 2023; however, since the present applicant -accused no.3 was not available in India, he was not arrested and was shown as an absconding accused in the Column No.2 of the charge-sheet.

7. Learned advocate Mr.Patel has further submitted that both the parents of the deceased in their respective evidence at Exhibits-39 and 41 have specifically stated before the trial court that since her daughter was suffering from depression, she committed suicide. Furthermore, they both have denied the fact that she committed suicide as the accused no.1 had made her videos viral. Learned advocate has, therefore, submitted that considering the fact that both the parents of the deceased have not supported the case of the prosecution and

have turned hostile, the learned Additional Sessions Judge, City Sessions Court No.7, Ahmedabad, vide judgment and order dated 01.01.2026, after appreciating the entire evidence on record, acquitted both the accused nos.1 and 2 from all the charges levelled against them. Learned advocate Mr.Patel has, therefore, urged that considering the aforesaid, the present application may be allowed and the impugned FIR may be quashed and set-aside qua the present applicant.

8. Learned advocate Mr.Rahil Jain appearing for the complainant has submitted that considering the fact that the matter has been amicably settled between the parties and an affidavit to that effect has also been filed by the complainant, the present application may be allowed and the impugned FIR as well as all consequential proceedings may be quashed and set-aside.

9. Learned APP Ms.Krina P.Calla appearing for the respondent – State has vehemently opposed the present application and has submitted that having regard to the gravamen and seriousness of the offence, the application may not be entertained and the same may be rejected.

10. This Court is conscious of the fact that in such type of serious offences, the FIR cannot be quashed only on the basis of the consent and the court has to consider the merits of the case and to form an opinion, whether the ingredients of Section 107 are attracted or not ? In other words, by examining the materials on record, the court would require to form an opinion, whether, there is a prima facie case against the present applicant-accused, which requires a full-fledged trial.

11. It is settled that to attract Section 107 of the IPC, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it intended to push the deceased to such a position under which he or she would have no choice but to commit suicide. Such instigation must be in proximity to the act of committing suicide. In the present case, it appears that after the complainant questioned the deceased about the matter, she became deeply distressed and withdrawn; ultimately, she committed suicide by hanging herself. There is no evidence on record to suggest as to what had happened immediately preceding the alleged incident. Moreover, even the parents of the deceased themselves have also not supported the case of the prosecution and have stated that their daughter was suffering from depression, due to which, she committed suicide. They have even denied the fact that as the accused no.1 made her video viral, she committed suicide.

12. It is noteworthy that the trial court, after appreciating the entire evidence, more particularly, the evidence of the panch-witnesses, the Investigating Officer and the parents of the deceased along with the suicide note, arrived at the conclusion that the prosecution has failed to prove the case beyond reasonable doubt since the star witnesses have not supported the case. The trial court has also recorded that after registration of the Accidental Death entry and during the investigation of the same, all the witnesses have specifically stated in their

respective statement that since the engagement of the deceased got broken, she committed suicide. Considering all the aforesaid, the trial court acquitted the accused nos.1 and 2 from all the charges levelled against them.

13. It is an undisputed fact that the present applicant, who resides in Australia since long, was not present in India at the time of the alleged incident. Therefore, it appears that the involvement of the present applicant in the alleged offence appears to be doubtful. The court has carefully considered the entire material on record and is satisfied that there is no incriminating evidence on record to implicate the present applicant in the alleged offence.

14. The complainant – Niteshbhai Virjibhai Ahir (Baldaniya), who is the father of the deceased, has filed his affidavit dated 30.01.2026 at Annexure-B to the application, inter alia, stating thus :

"2. I state that I file an FIR vide C.R. No.11191013220564 of 2022 before Krishnagar Police Station, Ahmedabad, for the alleged offences punishable under Sections 306, 506(2), 114 of Indian Penal Code and Section 67(e)(a) of IT Act against the applicant/accused.

3. I state that as due to interference of the respected members of the society and family, mutual understanding is arrived between me and Applicants in the above said F.I.R i.e. Hiren Dhanjibhai Vaghamashi i.e. Applicant/Accused and now I don't have any grievance with them. That it is stated that the settlement has been arrived at voluntarily, consciously and with free consent, without any coercion, pressure, inducement or undue influence from either party.

4. I state that now dispute is amicably settled between me and Applicants and for the betterment of the future of both the parties it has been decided to settle the dispute and it has been agreed that from now onwards the applicant/accused or any of his associates will never try to contact me, communicate with me or disturb me or my family members through any mode that phone calls, messages, social media, emails, relatives, friends or third parties. I also state that the prime accused against whom the charge-sheet came to filed and session case no. 251 of 2023 came to be registered had faced the trial and came to be acquitted by the Ld. Trial Court vide judgment dated 01/01/2025.

5. I further state that as such now I intend that I have no objection if the said F.I.R. vide C.R. No.11191013220564 of 2022 before Krishnanagar Police Station, Ahmedabad, for the alleged offences punishable under Sections 306, 506(2), 114 of Indian Penal Code and Section 67(e)(a) of IT Act against the applicant and all prior and subsequent proceeding qua applicant i.e. Hiren Dhanjibhai Vaghamashi is quashed and set aside."

15. On bare reading of the impugned FIR, this Court finds that the essential ingredients of Section 107 of the Indian Penal Code are not attracted. Moreover, with star witnesses turning hostile and the dispute already settled, continuing the prosecution would be a futile exercise.

16. At this juncture, I may refer to the decision of the Supreme Court in case of *Shenbagavalli and others vs. Inspector of Police, Kancheepuram District and another*, reported in 2025 INSC 607, wherein the Supreme Court held as under :-

"15. Section 306 requires a person having committed suicide as a first requirement but for abetment of such commission, which is essential, the ingredients must be found in Section 107 IPC. The requirement of abetment under Section 107 IPC is instigation, secondly engagement by himself or with other person in any conspiracy for doing such thing or act or a legal omission in pursuance to that conspiracy and thirdly intentionally aids by any act or an illegal omission of doing that thing. In large number of judgments of this Court it stands established that the essential ingredients of the offense under Section 306 IPC are (i) the abetment; (ii) intention of the accused to aid and instigate or abet the deceased to commit suicide. Merely because the act of an accused is highly insulting to the deceased by using abusive language would not by itself constitute abetment of suicide. There should be evidence suggesting that the accused intended by such act to instigate the deceased to commit suicide. [M.Arjunan vs. State represented by its Inspector of Police, (2019) 3 SCC 315]

16. Similarly, in the case of *Ude Singh and Others vs. State of Haryana*, (2019) 17 SCC 301 it has been observed in para 16 as follows :-

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. If the accused plays

an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide.

The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

17. These being the essential ingredients for the offence of abetment to suicide, and the said ingredients having not been fulfilled, the further continuation of proceedings would not be sustainable. The other evidence such as statements, sought to be relied upon by the prosecution, apart from the suicide note, does not in any manner advance the case of the prosecution, particularly when the foundation of the case is the suicide note itself. With the very element of abetment conspicuously absent from the allegations made in the FIR which is primarily based upon the suicide note, the essential requirements for constituting an offence under Section 306 IPC remain unfulfilled. As such, the continuation of the criminal proceedings initiated against the Appellants would amount to an abuse of the process of law. The Court cannot permit such proceedings to degenerate into instruments of harassment or unjust prosecution.

18. The Court would not hesitate to exercise its extraordinary powers which are inherent to quash such proceedings when it comes to fore, and the court is satisfied that allowing the proceedings to continue would be an abuse of process of Court or that the ends of the justice require that the proceedings ought to be quashed. Reference in this regard may be made to the Judgment of this Court in *Geo Varghese vs. State of Rajasthan and Another*, (2021) 19 SCC 144."

17. This Court is quite conscious of the fact that the power under Section 482 of the Code of Criminal Procedure, 1973 (corresponding Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is an extraordinary power and it should be used sparingly as the exercise of such power would scuttle the FIR at the threshold. But, if the FIR fails to make out essential ingredients of the offence, the power should be exercised. Upshot of the above discussion, the present application deserves consideration.

18. In the result, the present application is allowed. The First Information Report No.11191013220564 of 2022 registered with the Krishnanagar Police Station, Ahmedabad, for the offences punishable under Sections 306, 506(2), 114 of the Indian Penal Code and under Section 67(e)(a) of the Information Technology Act,

2000, is hereby ordered to be quashed and set-aside. All consequential proceedings arising pursuant thereto are also terminated.

19. Rule made absolute. Direct service is permitted.