

(2025) 06 BOM CK 0111

In the Bombay High Court

Case No : Criminal Writ Petition No.3388 Of 2024

Nishit Patel

APPELLANT

Vs

State Of Maharashtra And Anr

RESPONDENT

Date of Decision : 18-06-2025

Acts Referred:

Constitution of India, 1950 — Article 226

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

Indian Penal Code, 1860 — Section 34, 107, 306, 506(2)

Citation : (2025) 06 BOM CK 0111

Hon'ble Judges : Revati Mohite Dere, J;Dr. Neela Gokhale, J

Bench : Division Bench

Advocate : Rahul Moghe, Kalyani Rathod, S. S. Kaushik, Rakesh Kumar Singh, Sachin Rane

Final Decision : Allowed

Judgement

Revati Mohite Dere, J

1. In view of the administrative order passed by the Hon'ble the Chief Justice dated 20th September 2024, the aforesaid petition has been placed before us and is accordingly taken up for hearing.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Mr. Rakesh Kumar Singh, waives notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR bearing C.R. No.515 of 2017, registered with the Khar Police Station, Mumbai, qua him, for the alleged offences punishable under Sections 306, 506(2), 34 of the Indian Penal Code (IPC).

4. Facts in brief are as under:-

The petitioner is a businessman manufacturing electrical control panels in the name of 'Elec Mac Corporation' since 20 years. It appears that Navroz Tejani (deceased) was running a business of household articles under the name and style, 'Tejani Stores' at Bandra for more than 50 years. It appears that the petitioner and his family had good relations with Tejani family i.e. the deceased's family, till the registration of the FIR. It appears that the petitioner had advanced loans to the deceased-Navroz Tejani and his son-Arshad Tejani and had also executed loan agreements with respect to the same. It further appears that on 27th October 2015, the petitioner's wife advanced a sum of Rs.25 lakhs to Navroz Tejani/Arshad Tejani, by way of loan; and that this loan was advanced without a written agreement, but, later was made part of the Agreement dated 17th March 2017.

5. Mr. Moghe, learned counsel for the petitioner submitted that even if the prosecution case is taken as it stands, no offence as alleged, is made out qua the petitioner. He submitted that the only evidence against the petitioner i.e. the suicide note and the statement of Ranchod Himaram Parmar, does not even remotely make out a case under any of the provisions, as alleged against the petitioner. Learned Counsel submitted that the case in hand squarely falls within the parameters laid down by the Apex Court in the case of State of Haryana and Others Vs. Bhajan Lal and Others 1992 Supp (1) Supreme Court Cases 335. Mr. Moghe also placed reliance on the judgments of this Court in the case of Subhash Ramgopal Bharuka Vs State of Maharashtra, Through Police Inspector and Others 2020 SCC OnLine Bom 2211:(2020) 4 Bom CR (Cri) 410; Imran s/o. Masood Khan and Another Vs. The State of Maharashtra and Another 2019 ALL MR(Cri) 2838; Amit s/o. Ashok Naharkar Vs State of Maharashtra and Another 2018 ALL MR (Cri) 4768; Suhas @ Pappu s/o. Sarjerao Kakade and Another Vs The State of Maharashtra and Another 2017 ALL MR (Cri) 1684; and Ramesh Someshwarrao Tayde and Another Vs State of Maharashtra and Another 2016 ALL MR(Cri) 5049, in support of his submission for quashing the FIR/charge-sheet, qua the petitioner.

6. Learned AP.P. submitted that the suicide note and the statement of Ranchod Himaram Parmar clearly reveals the petitioner's complicity in the crime.

7. Learned counsel for the respondent No.2 also supported the learned AP.P. He submitted that the suicide note as well as the statement of Ranchod Parmar, is sufficient to prima facie show that the petitioner is liable for the offences, for which charge-sheet has been filed against him.

8. Navroz Tejani committed suicide on 24th July 2017. It appears that the statement of the deceased's son-Arshad was recorded on the very same day i.e. 24th July 2017, when the deceased committed suicide. At that time of recording of the statement, no suspicion was disclosed by the deceased's son-Arshad on anyone to the police. It appears that the deceased's family changed their residence on 1st September 2017, from Kishan Abode, 11th Floor, 14th Road, Khar (West), Mumbai to 705, B-Wing, Widz End, St. Peter's Church, Hill Road,

Bandra (West), Mumbai, post the deceased's suicide. It also appears that on 10th December 2017, the deceased's wife found a suicide note written by her husband, whilst unpacking at their new residence in Bandra (West) i.e. after more than 4 months of the incident. On reading the suicide note, the respondent No.2-Nazeem Navroz Tejani (wife of the deceased) lodged an FIR on 22nd December 2017, as against the persons mentioned in the suicide note by the deceased. The said FIR was registered vide C.R. No.515 of 2017, with the Khar Police Station, Mumbai, as against the petitioner and others for the alleged offences punishable under Sections 306, 506(2), 34 of the IPC. As far as the petitioner is concerned, the prosecution places reliance on the suicide note written by the deceased and the statement of Ranchod Parmar. Post the registration of the FIR, investigation commenced and charge-sheet was filed against the persons named in the suicide note, including the petitioner. We have perused the documents/evidence relied upon by the prosecution i.e. the suicide note and the statement of Ranchod Parmar. From a perusal of the suicide note, it appears that the deceased started writing the suicide note on 20th July 2017 which continued till 23rd July 2017. In the said suicide note, the deceased had made allegations against 9 persons, including the petitioner. As far as the petitioner is concerned, the allegation against the petitioner in the suicide note, reads thus:-

" 20/7/17

The main culprit for my suicide is-

P. K. Gupta -- cheater No. 1,

-- Rakesh

Ravi Chakara,] v.v. expert

Sunil Thadani] in extortion)

Pawan Darolia

Propwiz India

Liliram

All this above people took away lots of money from me and cheated me and also threatened me.

If I donot pay them. Any how for the life of my son and me I settled with them.

They have cheated many other people.

One

No one from my family is responsible for the step

I am taking.

All my family member

Pl. forgive me.

One Mr. Jani at Solapur also did not co.operate.

Shanawaz also did not return the money which I was suppose to give to so many people in bandra.

Nishit Patel was also very harsh in collecting his interest money, did not cooperate at all.

All my staff at tejani stores have worked very sincerely for me but with G.S.T. now and building redevelopment it was difficult for them to do the business.

I was not able to take the pressure though I had some propriety decession was not taken by me.

V. V. Sorry to end my life this way.”

sign

23/7/17

9. Apart from the aforesaid, the prosecution relies on the statement of Ranchod Parmar, which was recorded on 28th January 2018, The said statement is on page 348 of the petition. In the said statement, Ranchod Parmar, has disclosed, as under:-

("Similarly, my boss had borrowed a huge sum of money on interest from Nishit Patel, however, every time Patel visited the store, my boss repeatedly requested him to reduce the interest rate, still he did not reduce the interest rate...)"

("...P. K. Gupta, Rakesh Trivedi, Sunil Thadani, Ravi Chakara, Shanawaz Karmali, Nishit Patel and Manohar Jani mentally tortured my boss, time and again for money....)"]

Apart from the said evidence relied upon by the prosecution, no other material was pointed out by the learned APP and the learned counsel for the respondent No.2.

10. Before considering the aforesaid evidence qua the petitioner, it would be apposite to consider the parements to be borne in mind, whilst considering the plea for quashing of an FIR/charge-sheet. It is pertinent to mention the parameters laid down by the Apex Court in the case of Bhajan Lal (supra). The relevant paragraph is para 102 of the said judgment. The said paragraph reads thus:-

"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 of the Code 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) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(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.

(4) 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) of the Code.

(5) 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.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (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.

(7) Where a criminal proceeding is manifestly attended with malafide 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.”

11. Thus, keeping in mind the aforesaid parameters, the question that arises for consideration is whether an offence under Sections 306 and 506(2), is made out, qua the petitioner, keeping in mind the evidence sought to be relied upon by the prosecution.

12. At this juncture, it will be necessary to reproduce Sections 306 and 107 of the Indian Penal Code, which read thus:-

‘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.

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.’

13. Having perused the charge-sheet in particular, the suicide note and the statement of Ranchod Parmar relied upon by the prosecution, to show the petitioner’s complicity and the law in this regard, we are of the opinion that taking the prosecution case as it stands, no offence as alleged is disclosed qua the petitioner. We do not find that the petitioner who had given loan to the deceased by executing a loan agreement had, in any way the requisite mens rea to instigate the deceased to commit suicide. It is pertinent to note that the act of instigation, in order to constitute an offence under Section 306 of the IPC, is required to be of such an intensity, so as to push the deceased to such perplexity under which he has no choice, but, to commit suicide. Such instigation must also be in close proximity to the act and time of suicide. Thus, in order to satisfy the ingredients of Section 306 of the IPC, the accused ought to place the deceased in such a quandary that the deceased is left with no other option than to commit suicide. All of this is absent in the facts of this case.

14. The Apex Court in para 16 of Mahendra Awase Vs. State of Madhya Pradesh AIR 2025 SC 568, observed as under;-

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

(emphasis supplied).

Thus the Court observed that a mere allegation or accusation of harrassment made by the deceased prior to his death, cannot be held as the fulcrum of an offence under Section 306 of IPC.

15. In Swamy Prahaladdas Vs. State of M.P. 1995 Supp (3) SCC 438 : 1995 SCC (Cri) 943), the appellant was charged for an offence under Section 306 IPC on the ground that the appellant during the quarrel is said to have remarked to the deceased “to go and die”. The Apex Court having regard to the facts, was of the

view that the mere words, "to go and die" uttered by the accused to the deceased were not prima facie enough to instigate the deceased therein to commit suicide.

16. Similarly, the Apex Court in paras 13 and 14 of *Prakash and Others Vs. State of Maharashtra and Another* 2024 SCC OnLine SC 3835, has observed as under;

"13. Section 306 of the IPC has two basic ingredients-first, an act of suicide by one person and second, the abetment to the said act by another person(s). In order to sustain a charge under Section 306 of the IPC, it must necessarily be proved that the accused person has contributed to the suicide by the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three conditions outlined in Section 107 of the IPC has to be satisfied.

14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well-established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide." (emphasis supplied).

17. In *Nipun Aneja and Others Vs. State of Uttar Pradesh* 2024 SCC OnLine SC 4091, the Apex Court in para 21, has observed as under;

"21. The ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category

leaves more expectations, whereas in the latter category, by and large, the expectations and obligations are prescribed by law, rules, policies and regulations.”

(emphasis supplied).

18. The Apex Court in the case of Naresh Kumar Vs. State of Haryana (2024) 3 SCC 573 : 2024 INSC 149, observed as follows;

“20. This Court in Mariano Anto Bruno v. State [Mariano Anto Bruno v. State, (2023) 15 SCC 560 : 2022 SCC OnLine SC 1387], after referring to the abovereferred decisions rendered in context of culpability under Section 306 IPC observed as under : (SCC para 45)

“45. ... 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.”

(emphasis supplied).

19. The Apex Court in Ude Singh and Others Vs State of Haryana (2019) 17 SCC 301 : 2019 INSC 810, observed 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.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set-ups, education, etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances."

(emphasis supplied).

20. In Ramrao S/o Govindrao Dhakane Vs The State of Maharashtra and Another Criminal Application No.3086/2023, decided on 20.09.2024, the Aurangabad Bench of this Court, quashed the FIR, after observing that no offence under Section 306 of the IPC was disclosed. Paras 10 to 12 of the said judgment reads thus:-

" 10. Taking into consideration the above speech or recording together with the contents of the FIR and the statements under Section 161 of the Code of Criminal Procedure, the same would show that according to Prashant and the informant there was financial transaction between Prashant and the applicant. According to Prashant, he has given Rs.5,50,000/- to the applicant and then applicant refused to return the same. In the entire material in the charge-sheet, we are unable to get, when amount was given and since when it was due for return. In the video, at one place Prashant says that he is blaming present applicant for his suicide and at another place, he says that he is not holding anybody responsible for the suicide. He also says that as he was in trouble, his mental condition was not proper and therefore, he is taking the extreme step

and nobody is pressuring him. It is his mistake which he is admitting. Neither informant nor Prashant is saying as to why they have not adopted the legal procedure for recovery of the amount. Prashant could have lodged the FIR if he felt that he has been cheated or even he could have filed civil suit for the recovery.

11. The documents produced by the applicant-accused cannot be considered, but still it appears that there was a promissory note executed by the applicant in favour of Prashant, which was to the tune of Rs.2,00,000/- and it was executed on 10th February 2021. Applicant had promised to repay that amount on or before 9th July 2021. The applicant wants to rely on rough notes/entries showing that from 11th February 2021 till 9th July 2021 he made repayment, almost on daily basis and it has the signature of Prashant. If according to the deceased, the applicant had not abided by the terms of promissory note, then taking into consideration the said document, Prashant could have lodged the suit.

12. Neither the suicide note/video recording nor the FIR and the statements of witnesses under Section 161 of the Code of Criminal Procedure, discloses that between 22nd March 2022 to 30th March 2022, applicant had met Prashant and at that time there were such talks between them which amounted to instigation/abetment to the deceased to commit suicide. Even if we take the statement in the FIR as it is, that Prashant had disclosed to the informant that he had met applicant around 7.00 a.m. on 22nd March 2022, then what applicant had communicated to him, was that he promised to pay the amount within four days, though it was stated that he spoke arrogantly at that time. In those utterings, it cannot be spelt out that the applicant was intending that Prashant should go and commit suicide. It is unfortunate that a young boy of 21 years had committed suicide but the facts and situation around are not attracting the offence under Section 306 of the Indian Penal Code. Case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure to quash the FIR and the entire proceedings.”

21. Thus, it is clear from the judgements of the Apex Court and this Court that the ingredients of Section 107 are sine qua non for constituting an offence under Section 306 IPC. Courts have consistently taken the view that instigation or incitement on the part of the accused person is the gravamen of the offence of abetment to suicide.

22. In the present case, taking the FIR and the contents of the suicide note as well as the statement of Ranchod Parmar, as it stands, it is not possible from any angle to conclude that the petitioner instigated the deceased to commit suicide by demanding the payment of the amount borrowed by him or that the petitioner used abusive language or intimidated him.

23. We also do not find any close proximity between the date of suicide note, which was allegedly written from 20th July 2017 till 23rd July 2017. Infact, the statement of Ranchod Parmar, does not reveal when the petitioner had come to

the shop and demanded money. Nor, does the suicide note reveal any proximity between the petitioner's act and the deceased committing suicide. The same is completely amiss. Thus, by no stretch of imagination, can the act of the petitioner be said to constitute an act of instigation towards the deceased compelling him to commit suicide.

24. Thus, keeping in mind the provisions of the IPC, the judgments of the Apex Court and this Court and taking the case as it stands, we are of the opinion that, no offence either under Sections 306 or 506(2) of the IPC, is disclosed qua the petitioner. Thus, the petition ought to succeed. Hence, we pass the following order:-

ORDER

i) The petition is allowed;

ii) The FIR bearing C.R. No.515 of 2017, registered with the Khar Police Station, Mumbai, is quashed and set aside and consequently the charge-sheet filed qua the petitioner, is also quashed and set-aside.

25. Rule is made absolute on the aforesaid terms. Petition is accordingly disposed of.

All concerned to act on the authenticated copy of this judgment.