

(2025) 10 KL CK 1310

In the High Court Of Kerala

Case No : Criminal Miscellaneous Petition No. 1229 Of 2021

Sivadasan Nair K.G

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 15-10-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 174Indian Penal Code, 1860 -
Section 113, 306, 482

Citation : (2025) 10 KL CK 1310

Hon'ble Judges : V.G.Arun, J

Bench : Single Bench

Advocate : Dr.S.Gopakumaran Nair, S.Prasanth, Sooraj T.Elenjickal, K.Arjun Venugopal, Aswin Kumar M J, Arun Roy, Shahir Showkath Ali, Helen P.A., Sanal. P. Raj

Final Decision : Dismissed

Judgement

V.G.Arun, J

1. The petitioner is the 2nd accused in Crime No.326 of 2019 initially registered at the Pudunagaram Police Station under Section 174 of Cr.P.C. The police, after investigation, filed Annexure-A2 final report alleging commission of offences under Sections 306 read with 113 of IPC. Thereupon, the matter was taken on files of the Judicial Magistrate of First Class, Chittur as C.P.No.2 of 2021. The allegations in the final report are to the following effect;

A business venture by name "Mind Masters Technology Pvt.Ltd." was started by the victim Ramesh, along with his wife and the accused. The money towards his share, as well as the shares of the accused, was invested by Ramesh himself, on the assurance of the accused that they will repay the amount. The money required for the investment was raised by Ramesh from the funds of his proprietary concern called "Solucion Limited". After forming the new company, its day to day affairs were entrusted with the accused, but the failure on their part to handle the affairs properly resulted in the company facing acute financial

crisis. The situation was so bad that it became impossible to even pay the salary of the company's staff. On their part, the accused directed the staff and creditors of the company to approach Ramesh demanding payment. They also compelled Ramesh to meet the demand. Unable to withstand the pressure, Ramesh committed suicide at his parental house in the early morning of 22.10.2019, by setting himself on fire.

2. Heard Senior Advocate S.Gopakumaran Nair for the petitioner and Public Prosecutor Adv.Sanal P Raj for the State.

3. Learned Senior Counsel contended that the prosecution allegations, even if accepted in their entirety, are not sufficient to attract the alleged offence since, for a person to be prosecuted alleging abetment of suicide, there should be instigation from his part and close proximity between the act of instigation and commission of suicide. To support the contention, reliance is placed on the decisions of the Apex Court in *Prakash and Others v. State of Maharashtra and Another* [2024 SCC OnLine SC 3835] and *Gurcharan Singh v. State of Punjab* [2020 KHC 6567].

4. According to the Senior Counsel, the allegation that the petitioner and other accused made the creditors demand the amounts due to them from Ramesh and had compelled Ramesh to make the payments are false. The suicide only indicates that Ramesh was a feeble minded person with no willpower to face and get over the business crisis. Even if Ramesh was under great mental stress and strain, his act of committing suicide, to escape from the crisis, cannot result in the petitioner being prosecuted.

5. It is then contended that the statements in the suicide note do not reveal any act of instigation from the petitioner's part. Further, the allegation that the petitioner had telephoned Ramesh on the ill-fated night cannot be accepted, since the call data records are not seized and produced. Finally, it is contended that for attracting the offence of abetment, as in other offences, mens rea has to be established. Support for this argument is sought to be drawn from the decision of the Apex Court in *Gurcharan Singh* (supra).

6. According to the learned Public Prosecutor, the circumstances under which Ramesh committed suicide makes it apparent that he was driven to take the extreme step due to the treacherous acts and the pressure exerted by the accused. The suicide note indicates that the final act was committed by Ramesh after answering the petitioner's call. Hence, the contention that there is no proximity between the act of the accused and the suicide cannot be countenanced. Even otherwise, that question has to be decided based on the evidence tendered during trial.

7. As contended by the learned Senior Counsel, for attracting the offence under Section 306 of IPC, the accused should have instigated the victim to commit suicide. The Supreme Court in *Prakash and Others* (supra) has held the close proximity between the positive act of instigation by the accused person and

commission of the suicide by the victim to be a cardinal aspect.

8. Here, the victim was under tremendous mental pressure by reason of the financial crisis faced by the company and his own proprietary concern. There is also forensic evidence to the effect that the suicide note recovered by the police is in the handwriting of the person who had written the other pages in the note book. The suicide note mentions about the treachery committed by the accused. The note also contains a tailpiece where the author has noted that the petitioner had called over phone and threatened that he will be taught a lesson. In order to satisfy the requirement of instigation, it is not necessary that the words spoken must be capable of compelling the victims to commit suicide. It would suffice if the instigation is suggestive of the consequence. Whether the alleged offensive acts of the accused are so proximate as to have a clear nexus with the suicide instigation, can be decided only on a wholesome consideration of the facts and circumstances. The law on this point is expounded by the Apex Court in *Chitresh Kumar Chopra v. State (Government of NCT of Delhi)* [(2009) 16 SCC 605], the relevant portion of which is extracted below;

"19. As observed in *Ramesh Kumar* [(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."

9. Thus, for deciding whether there was incitement or instigation by the petitioner, appreciation of evidence is essential. As held in *Naresh Aneja alias Naresh Kumar Aneja v. State of Uttar Pradesh and Another* [(2025) 2 SCC 604], the High Court is not expected to conduct a mini trial or minute examination of the records for deciding whether to exercise its inherent power under Section 482 Cr.P.C. Pertinent also to note that, the entire set of documents produced along with the final report are not made part of this CrI.M.C.

For the aforementioned reasons the CrI.M.C is dismissed, without prejudice to the petitioner's right to approach the trial court. Needless to say, if a discharge petition is filed, the court below is bound to pass a reasoned order thereon.