

(2025) 09 BOM CK 0319

In the Bombay High Court, Aurangabad Bench

Case No : Criminal Application No. 562 Of 2024

Vishal s/o Bhanudas Jadhav

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 04-09-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 107, 306

Citation : (2025) 09 BOM CK 0319

Hon'ble Judges : Vibha Kankanwadi, J; Hiten S. Venegavkar, J

Bench : Division Bench

Advocate : N. S. Ghanekar, P. R. Bharaswadkar, Ajinkya Joshi

Final Decision : Allowed

Judgement

Hiten S. Venegavkar, J

1. Rule.

2. Rule made returnable forthwith. With the consent of all the parties, petition is taken up for final hearing at the stage of admission itself.

3. Present petition filed under Section 482 of the Criminal Procedure Code seeks quashing of First Information Report (for short "F.I.R.") bearing Crime No. 0142 of 2023 registered with Waluj Police Station, Aurangabad for the offences punishable under Section 306 read with Section 34 of Indian Penal Code (for short "I.P.C"). Pending the hearing and final disposal, charge sheet came to be filed before the learned Judicial Magistrate First Class, Gangapur, Dist. Aurangabad and accordingly the proceedings were culminated in R. C. C. No. 103/2025. Accordingly, on 07.05.2025, as per the Court's order, amendment was carried out and charge sheet was annexed and challenged before this Court by way of prayer clause B-1.

4. The tragic facts involved in the present case pertains to dream of a man of

building a house for his family and because of his aspirations met with disappointment for lack of finances, he took his own life by committing suicide. The widow of the said deceased has turned to the criminal law to seek accountability of her husband's death thereby naming the employees of the finance company from which her deceased husband had sought loan. The allegations demonstrate that there was an abetment of committing suicide under Section 306 of I.P.C. The issue therefore, before this Court is whether the petitioners, who were the employees of Nivara Housing Finance, can be said, on the face of the allegations in F.I.R and charge sheet, have abetted the suicide of the deceased.

5. We are considering the allegations, material on record in the light of the law laid down by the Hon'ble Apex Court from time to time pertaining to the offences of abetment of suicide and though suicide in itself is a tragic incident, however a strict scrutiny of the said law has to be made giving references to the allegations made in the F.I.R. and the charge sheet. The Hon'ble Apex Court have time and again clarified that not every act which causes distress, humiliation or frustration is punishable. Section 306 of I.P.C. incorporates the definition of "abetment". In Section 107 of I.P.C, which in turn requires proof of instigation, conspiracy or intentional aid. Thus, repeatedly, Hon'ble Apex Court has questioned that unless there is strict and proximate link between the conduct of the accused and the act of suicide, supported by mens rea to provoke the deceased towards such act, criminal liability cannot be fastened. Keeping this legal position in mind, we proceed to examine the facts of the present case.

Factual Matrix :

5.1 The first informant i.e., respondent No.2 herein along with her deceased husband Krushna Baburao Mane and her children were residing together. Their house was under construction and due to lack of finances it continued under construction for several months. In order to complete the said construction, the deceased had applied for housing loan of Rs. 6,25,000/- from a finance company namely Nivara Housing Finance. The present petitioners were the employees of the said company and it is alleged that during the pendency of the loan proposal, some or the other time each of the petitioners have handled the said proposal for sanctioning the loan. The fulcrum of the entire allegations made in the F.I.R is that the petitioners had assured the deceased and respondent No. 2 that the loan has been sanctioned and even furnished a sanction letter dated 07.01.2023 to them, however no loan amount was ever disbursed. It is further alleged that the petitioners had obtained numerous signatures from respondent No. 2 and her deceased husband and have further demanded amounts for processing the loan application. It is alleged that respondent No. 2 and her deceased husband had already paid an amount of Rs. 70,000/- and in spite of that no loan amount was disbursed and every time when they followed up with the petitioners they were given vague answers. It is alleged that on one occasion, the petitioners had allegedly demanded an advance installment amount and the said amount of Rs.

1,600/- was also paid and yet the loan amount was not disbursed. According to the F.I.R. this non disbursement left construction of the house incomplete. It resulted in humiliation to the deceased in society and created unbearable mental agony for which on 26.03.2023, the deceased Krushna Baburao Mane committed suicide by hanging himself.

5.2 On 24.05.2023 i.e., nearly after two months of the date of suicide, respondent No. 2 lodged the F.I.R in question. Investigation was carried out and charge sheet came to be filed against the petitioners for the offences punishable under Section 306 read with Section 34 of I.P.C alleging that their actions in misleading the deceased and not disbursing a loan amount in spite of taking all the necessary amounts had abetted the suicide of respondent No. 2's husband.

6. Learned Advocate for the petitioners submitted that the allegations made in the F.I.R, even if taken at its face value, do not disclose the offence under Section 306 of I.P.C. The necessary elements constituting offence of abetment are conspicuously absent. It is also submitted that the petitioners had no role in sanctioning or disbursing the loan and hence cannot be said to have instigated the deceased to commit suicide. It was further pointed out that the third party verification gave a negative report on the loan proposal and, therefore, the amount of Rs. 11,600/- deposited by the deceased was refunded. According to the learned counsel for the petitioners, no case for abetment of suicide is made out and the allegations does not constitute any other offence under the criminal law.

7. Learned Assistant Public Prosecutor representing State submitted that the conduct of the petitioners in obtaining several signatures extracting money and issuing a sanction letter and yet withholding disbursement amounts to harassment which causes humiliation to the deceased in the society and, therefore, he was left in the despair and hence took such a drastic step of putting an end to his life. The F.I.R discloses individual acts showing involvement of the petitioners in the entire loan process and non disbursal of the loan is the main reason for which the deceased has committed suicide. Suicide of the deceased is thus urged the direct outcome of this exploitation done by the petitioners for the benefit of their finance company.

8. Learned counsel appearing for respondent No. 2 submitted that the facts of the case demonstrate how the petitioners are responsible for the humiliation that was caused to the deceased in the society as his house remained incomplete. He took us through the portion of the F.I.R and certain statements of the witnesses to show that repeated promises were made to the informant and her deceased husband about disbursement of the loan amount. The act of the petitioners of taking away money under the name of processing fee and first installment without actually disbursing the amount and further more giving vague answers and replies about the actual disbursement of loan amount amounted to mental torture due to which respondent No. 2's deceased husband was not able to sleep and in this mental tension, he committed suicide.

9. Before proceeding to analyze the present case on merits, it is necessary to mention the legal position as laid down by the Hon'ble Apex Court in several judgments pertaining to the offence of "abetment of suicide".

Law on abetment of suicide :

9.1 Section 306 of I.P.C. criminalizes abetment of suicide. In order to establish the offence, the prosecution must prove that the accused abetted the commission of the suicide as defined in Section 107 of I.P.C. Section 107 of I. P. C. provides that a person abet an act if he (a) instigates any person to do that act, or (b) engages in a conspiracy, or (c) intentionally aids by act or omission.

9.2 The word instigate as explained by Hon'ble Supreme Court in case of Ramesh Kumar Vs. State of Chattisgarh 2001 (9) SCC 618. means " to goad, urge forward, provoke, instigate or encourage". Abetment involves a mental process of active complicity. In case of S. S. Chheena Vs. Viay Kumar Mahajan, (2010) 12 SCC 190 , the Supreme Court held that without a positive act on the part of accused to instigate or aid in committing suicide, conviction cannot be sustained. There must be clear mens rea to provoke the commission of suicide and the act must be of such nature as leaves the factum with no option but to take his life. In case of Sanju @ Sanjay Singh Sengar, (2002) 5 SCC 371, the Hon'ble Supreme Court observed that discord, reprimands or disappointments cannot amount to instigate. In case of Prakash and others vs. State of Maharashtra and another, 2024 SCC OnLine SC 3835, financial dispute were held insufficient to constitute abetment unless accompanied by a proximate act of provocation. In recent judgment of Abhinav Mohan Delkar Vs. The State of Maharashtra, MANU/SC/1103/2025 the Court reiterated that the link between the accused conduct and the suicide must be direct and proximate, remote, vague or general allegations do not suffice.

Analysis :

10. In the present case, even accepting the F.I.R at its face value, the ingredients of Section 306 are not made out. The petitioners are alleged to have delayed disbursement and sought deposits by way of loan processing fee and first installment amount. However, these acts do not constitute the important element of abetment i.e., "instigation" within the meaning of Section 107 of I.P.C. There are no allegations against the petitioners uttering any word or committing any positive act or performing any positive act which can be said to have intended to provoke or push the deceased for committing suicide. On the contrary, the record reveals that the loan proposal was submitted for third party verification and the same was received with the negative report. This justifying the non disbursement of the loan amount. Act of the deceased in committing suicide, however, tragic itself seems to be an independent decision of his sense of frustration. If the construction of the house remains incomplete due to non-availability of funds, then it cannot cause instigation for suicide. Deceased could have raised money from other sources. Non-disbursement of sanctioned loan

cannot cause defamation. Criminal law in our considered view and in light of the law discussed above cannot be stretched to cover every such situation as the Supreme Court in case of S. S. Chheena (cited supra) held, there must be a direct and proximate act of instigation and no mere circumstances which creates its abetment can attract the ingredients of Section 306 of I.P.C.

11. The other aspect that needs to be consider is the delay of two months in lodging the F.I.R which according to us further weakens the prosecution case. Delay in reporting criminal offence often results in embellishments as observed by the Supreme Court in several cases. In this case, the delay suggest that the criminal complaint was lodged after reflection and may therefore, not represent the immediate and clear truth of evidence. In order to sustain the charge of abetment of suicide, there must be intentional aiding or direct provocation. Petitioners who are mere employees in a finance company and the allegations of non disbursement of a loan in the light of procedural requirements, or even demanding processing fee, or taking one installment of the loan in advance cannot be amount to abetment. There is absolutely nothing available on record as the investigation is complete and the charge sheet is filed which remotely suggest that there was a mens rea or direct act of any of the petitioners of instigation. The law therefore, laid down by the Apex Court in case of Prakash (cited supra) and also in the case of Abhinav Delkar (cited supra) under scores that unless accused is conduct the proximate cause, criminal liability cannot be imposed.

Conclusion :

12. Upon close scrutiny and analysis of the entire material on record and taking into consideration the entire law laid down by the Hon'ble Apex Court in respect of the offences pertaining to abetment of suicide we do not find that the allegations in the F.I.R and charge sheet discloses the ingredients of Section 306 of I.P.C. The petitioners have neither instigated nor conspired with intentionally aided to the deceased in committing suicide. The causal link between their acts and the suicide is absent. Thus, we are of the view that if prosecution is allowed to continue against the petitioners, would amount to abuse of process of law and hence following order :-

ORDER

1. Criminal application stands allowed.

2. F.I.R. No. 0142/2023 registered with Waluj Police Station, Aurangabad, subsequent charge sheet and consequential proceedings of R.C.C. No. 103/2025 pending before the learned Judicial Magistrate First Class, Gangapur, Dist. Aurangabad against the petitioners for the offences punishable under Section 306 read with section 34 of I.P.C. stands quashed and set aside against applicants namely - 1) Vishal s/o Bhanudas Jadhav 2) Jivak s/o Dnyanoba Dongare 3) Vishal s/o Bhimrao More 4) Manisha w/o Dnyandevrao Gawai

3. No orders as to cost.

4. Appointed Advocate Shri. Ajinkya Joshi appearing for Respondent No. 2 be paid his professional fees of Rs. 6,000/-. The fees be paid by State Legal Aid Department.