



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 1300/2023

Kapil Ram @ Kapil Ram Singhani S/o Shri Kanhaiya Lal, Aged About 45 Years, Residing At 312, Hari Nagar, Behind Vijaylaxmi Apartment, Near Pf Office, Chopasni Housing Board, Jodhpur Rajasthan

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Sandeep Singh S/o Shri Jeevan Singh Rajput, Residing At 60, Shiyana House, Subhash Chowk, Ratanada, Jodhpur, Rajasthan

-----Respondents

For Petitioner(s) : Mr. Vishwas Khatri
For Respondent(s) : Mr. Deepak Choudhary, AAG assisted by Mr. Pawan Kumar Bhati, PP
Mr. BS Deora

HON'BLE MR. JUSTICE MANOJ KUMAR GARG
Order

REPORTABLE

24/04/2025

Instant revision petition has been filed by the petitioner against the order dated 28.06.2023, passed by learned Additional Session Judge No.4, Jodhpur Metro in Session Case No.129/2021, whereby learned trial court framed the charges against the petitioner for offence under Sections 306, 500, 501, & 504 IPC.

Brief facts of the case are that the complainant, Sandeep Singh, submitted a written report to the S.H.O. of Police Station Udaimandir, Jodhpur, concerning the untimely demise of his younger brother, Narendra Singh, who was engaged in the profession of a private cricket coach. In his report, Sandeep Singh alleged that his brother had been subjected to animosity from



fellow cricket coaches, specifically the petitioner, Kapil Ram Singhani and co-accused Pradhyut Singh Champawat. It was claimed that this animosity manifested in the form of harassment and threats directed towards the deceased on a social media platform, specifically within a WhatsApp group. Consequently, it is asserted that the distress caused by this harassment contributed to Narendra Singh's decision to take his own life.

On this report, the police registered FIR 184/2020. After investigation, the police filed charge-sheet against the present petitioner before the competent court and after arguments on charge, charges were framed against the petitioner for aforesaid offence. Hence, this revision petition.

Counsel for the petitioner asserts that there is a conspicuous absence of evidence implicating the petitioner in the abetment of suicide, and there has been no recovery of a suicide note that would establish a connection between the petitioner and the alleged offence. The counsel points out that statements of witnesses—namely Sarabjeet, Rajyavardhan Singh, Kailash Prajapat, Lokendra Singh, Urmit Sharma, Manish Sankhala, and Yash Kumar—have been recorded by the police in accordance with Section 161 of Cr.P.C. These witnesses have unequivocally testified that they neither witnessed the deceased committing suicide nor observed any individual in proximity to the scene of the incident. Moreover, they have explicitly stated that there is no involvement of the petitioner or the co-accused in the circumstances surrounding the deceased's suicide. Consequently, it is contended that there exists no evidence whatsoever against the petitioner for the alleged abetment of suicide, thereby rendering the charges



under Sections 306, 500, 501, and 504 of the Indian Penal Code (IPC) unfounded. In support of these assertions, learned counsel for the petitioner cites the judgment of the Hon'ble Supreme Court in the case of Shabbir Hussain vs. State of M.P. (Special Leave to Appeal (Crl.) No. 7284/2017) dated 26.07.2021 and case of State of West Bengal vs. Indrajit Kundu and others, reported in (2019) 10 SCC 188.



Mr. BS Charan, Adv. informed this Court that respondent No.2 passed away and earlier he was appearing on his behalf.

Per contra, learned AAG Public Prosecutor and Mr. BS Deora, counsel for respondent argued that the trial court after considering the entire evidence as well as statements of witnesses rightly framed charges against the petitioner. Therefore, the order impugned does not call for any interference.

I have heard rival contention of the parties and carefully considered the material available on record.

In order to appreciate the controversy, it would be apt to refer to Section 306 of I.P.C. which reads as under:

"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."

For commission of offence punishable under Section 306 IPC, abetment is the necessary thing, which has been defined in Section 107 IPC. Section 107 IPC, reads as under:--

"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.

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.”

When Section 306 IPC is read with Section 107 IPC, it is clear that there must be: (i) direct or indirect instigation; (ii) in close proximity to the commission of suicide; along with (iii) clear *mens rea* to abet the commission of suicide.

The core element of Section 306 of IPC is the intentional abetment of suicide. Thus, for framing a charge for the offence under section 306 IPC, the learned court below is to consider whether the abettor intentionally instigated or aided the commission of the suicide. Mere allegations of harassment do not suffice to establish abetment.

The ingredients of Section 306 Indian Penal Code have been extensively laid out in **M. Arjunan v. State, represented by its Inspector of Police** reported in **(2019) 3 SCC 315** which reads as under:

“The act of the Accused, however, insulting the deceased by using abusive language will not, by itself,





constitute the abetment of suicide. There should be evidence capable of suggesting that the Accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, Accused cannot be convicted Under Section 306 Indian Penal Code.”

A plethora of Apex Court decisions have crystallized the law of abetment. Abetment involves the mental process of instigating or intentionally aiding another person to do a particular thing. To bring a charge under Section 306 of the IPC, the act of abetment would require the positive act of instigation or intentionally aiding. 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 he/she would have no other option but to commit suicide.

In the present case, it is noteworthy that no suicide note was discovered in proximity to the deceased, which significantly complicates the task of determining the motive behind the individual's tragic decision to take his own life. The assertion of harassment and torture made by the complainant against the petitioner, while serious, does not suffice to establish culpability under Section 306 of the Indian Penal Code, which pertains to abetment of suicide. To elaborate, the legal framework requires a direct and demonstrable link between the actions or omissions of the accused and the victim's decision to commit suicide. Without concrete evidence substantiating the claims of harassment—such as documented instances of alleged abuse or coercive behavior—the mere allegations cannot meet the threshold of proof necessary for framing charges under section 306 of I.P.C. In the absence of



substantial evidence directly correlating the petitioner's conduct with the deceased's suicide, the allegations alone fall short of satisfying the legal criteria for establishing abetment under section 306 of I.P.C. Thus, it raises serious questions regarding the validity of the allegations and their ability to substantiate an offence under Indian law.

Hon'ble Supreme Court in case of **Chitresh Kumar Chopra v.State (Govt. of NCT of Delhi)** reported in **(2009) 16 SCC 605** had an occasion to deal with the aspect of abetment. In the said case, this Hon'ble Supreme Court observed that there should be an intention to provoke, incite or encourage the doing of an act by the accused. Besides, the judgment also observed that each person's suicidability pattern is different from the other and each person has his own idea of self-esteem and self-respect.

The scope and ambit of Section 107 of IPC and its co-relation with Section 306 of IPC has been discussed repeatedly by the Hon'ble Supreme Court and Co-ordinate Bench of different High Courts. In case of **S.S. Chheena v. Vijay Kumar Mahajan and another** reported in **(2010) 12 SCC 190**, Hon'ble Supreme Court reiterated the ingredients of offence of Section 306 IPC and observed asunder :-

"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act



which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."

The legal position as regards Sections 306 IPC which is long settled was reiterated by the Hon'ble Apex Court in the case of **Randhir Singh v. State of Punjab** Reported in **1 (2004) 13 SCC 129** as follows in paras 12 and 13:

"12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC.

13. In State of W.B. v. Orilal Jaiswal this Court has observed that the courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."



Further in the case of **Kishori Lal v. State of M.P.**,
Reported in 2 (2007) 10 SCC 797, the Hon'ble Supreme Court
gave a clear exposition of Section 107 IPC when it observed as
follows in para 6:



"6. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. "Abetted" in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence."

In the case of **Amalendu Pal @ Jhantu vs. State of West Bengal** *Reported in 2009 7 Supreme 289*, the Hon'ble Supreme Court observed that:-

"15. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the Court must scrupulously examine the facts and circumstances of the case and



also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. 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 their 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.

16. In order to bring a case within the purview of Section 306 of 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.

17. The expression 'abetment' has been defined under Section 107 IPC which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause firstly or to do anything as stated in clauses secondly or thirdly of Section 107 IPC. Section 109 IPC provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence.

18. Learned counsel for the respondent-State, however, clearly stated before us that it would be a





case where clause thirdly' of Section 107 IPC only would be attracted. According to him, a case of abetment of suicide is made out as provided for under Section 107 IPC."

Hon'ble Apex Court in the case of **Mariano Anto Bruno and Ors. vs. The Inspector of Police** reported in **AIR 2022 SC 4994** observed as under :-

"This Court has time and again reiterated that before convicting an Accused Under Section 306 Indian Penal Code, the Court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. 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 their 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 Indian Penal Code is not sustainable."

Hon'ble Apex Court in another case of **Mohit Singhal Vs. State of Uttarakhand** (Criminal Appeal No. 3578/2023) dated 01.12.2023 has observed as under :-

"9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide."



In the case of **Prakash and Others v. The State of Maharashtra and Another** reported in **2024 INSC 1020** The Hon'ble Supreme Court 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.

...

20. It could thus be seen that this Court observed that instigation is to goad, urge forward, provoke, incite or encourage to do "an act". It has been held that in order 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, however, a reasonable certainty to incite the consequence must be capable of being spelt out. Applying the law to the



facts of the case, this Court went on to hold that a word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

...

22. It could thus be seen that this Court observed that 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 has been held that since the cause of suicide particularly in the context of the offence of abetment of suicide involves multifaceted and complex attributes of human behaviour, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. This Court further observed that a mere allegation of harassment of the deceased by another person would not suffice unless there is such action on the part of the accused which compels the person to commit suicide. This Court also emphasised that such an offending action ought to be proximate to the time of occurrence. It was further clarified that 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. It was further held that if the acts and deeds are only of such nature where the accused intended nothing more than harassment or a 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. This Court held that owing to the fact that the human mind could be affected and could react in myriad ways and that similar actions are dealt with differently by different persons, each case is required to be dealt with its own facts and





circumstances.

...

26. Thus, this Court has 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. However, it has been clarified on many occasions that in order to link the act of instigation to the act of suicide, the two occurrences must be in close proximity to each other so as to form a nexus or a chain, with the act of suicide by the deceased being a direct result of the act of instigation by the accused person.

27. This Court in the case of Mohit Singhal (supra) reiterated that the act of instigation must be of such intensity and in such close proximity that it intends to push the deceased to such a position under which the person has no choice but to commit suicide. This Court held that the incident which had allegedly driven the deceased to commit suicide had occurred two weeks prior and even the suicide note had been written three days prior to the date on which the deceased committed suicide and further, there was no allegation that any act had been done by the accused-appellant therein in close proximity to the date of suicide. This Court observed as follows:

"11. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in close proximity to the date of suicide. By no stretch of



imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.

12. Therefore, in our considered view, the offence punishable under Section 306IPC was not made out against the appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of law."

(emphasis supplied)

28. This Court in the case of **Naresh Kumar v. State of Haryana**, 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 306IPC 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 306IPC is not sustainable."

Recently, in the case **Lamxi Das vs The State of West Bengal & Ors. Reported in 2025 INSC 86** the Hon'ble Apex Court has observed that:-

"14. It is discerned from the record that the Appellant along with her family did not attempt to put any pressure on the deceased to end the relationship between her and





Babu Das. In fact, it was the deceased's family that was unhappy with the relationship. Even if the Appellant expressed her disapproval towards the marriage of Babu Das and the deceased, it does not rise to the level of direct or indirect instigation of abetting suicide. Further, a remark such as asking the deceased to not be alive if she cannot live without marrying her lover will also not gain the status of abetment. There needs to be a positive act that creates an environment where the deceased is pushed to an edge in order to sustain the charge of Section 306 IPC."

Upon reviewing the aforementioned judicial pronouncements, this Court finds itself unable to concur with the trial Court's assessment. Even if all the evidence on record, including the charge-sheet and witness statements, is presumed to be accurate, there is no substantive evidence against the petitioner for attempt to abet the complainant to commit suicide. No allegation has been made against the accused that would suggest that the complainant was left with no alternative but to attempt suicide. The prosecution is required to demonstrate a clear motive for the accused to abet the suicide. In the absence of any proof indicating the active involvement or role of accused in the events leading to the attempt, it would be unjust to proceed with the charge. Acts such as threats or harassment, without evidence of direct participation in the suicide, cannot be deemed sufficient to establish abetment.

So far as the other offences under Sections 500, 501, & 504 IPC are concerned, the evidence presented indicates that the



petitioner did not transmit any derogatory messages via social media pertaining to the deceased. This finding is pivotal, as Section 500 IPC addresses the offence of defamation, requiring the demonstration of false statements that harm an individual's reputation. Similarly, Section 501 IPC pertains to the publication of such defamatory content, while Section 504 IPC addresses intentional insult with the intent to provoke a breach of the peace. Absent any substantiation of the petitioner's involvement in disseminating derogatory or insulting communications regarding the deceased, the foundation for these allegations is significantly weakened. Given that no concrete evidence has been provided to implicate the petitioner in any form of defamatory conduct, the claims under these sections lack the requisite legal basis. Therefore, the absence of any insulting correspondence undermines the validity of the charges and raises substantial doubts about the propriety of pursuing legal action based on these allegations. This reinforces the principle that accusations must be supported by clear and compelling evidence to warrant legal consequences.

In view of above, this Court is of the opinion that trial court has committed error in framing charge for offence under Sections 306, 500, 501, & 504 IPC against the petitioner.

Accordingly, the revision petition is hereby allowed and the impugned order dated 28.06.2023 passed by learned Additional Sessions Judge No.4, Jodhpur Metro in Session Case No.129/2021 framing charge for offence under Sections 306, 500, 501, & 504



IPC is hereby quashed and set aside. The petitioner is discharged from the said offences.

The stay petition also stands disposed of.

(MANOJ KUMAR GARG),J

53-MS/-

