2026 INSC 375

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026

(@ SLP (CRL.) NO.14640 OF 2025)

BALAJI JAISWAL **APPELLANT**

VERSUS

STATE OF CHATTISGARH AND ANOTHER **RESPONDENTS**

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. Leave granted.

2. The appellant is aggrieved by the order dated 08.04.2025 passed by the learned Single Judge of the Chhattisgarh High Court[1] in CRR No.450 of 2025. By the said order, the challenge made by the appellant to the order framing charge against him under Section 306 read with Section 34 of the Indian Penal Code, 1860[2] on 16.12.2024 has been turned down.

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Date: 2026.04.16 17:35:20 IST
Reason:

[1] For short, "the High Court"
[2] For short, "the Penal Code"

3. As per the First Information Report dated 07.10.2024, information was received of the death of one Komal Sahu by the Police Station In-charge at Pipariya Police Station. The death had occurred on account of hanging from a *Babool* tree in the village. As per the postmortem report, the cause of death was on account of 'Asphyxia'. Investigation was thereafter undertaken and a Special Investigation Team was formed for that purpose. After receiving a report from the Investigating Team, final report came to be filed on 05.12.2024. As per the final report, there was no factual evidence noted of the deceased being murdered. However, evidence was found that the death had occurred on account of suicide by hanging. As per the statements of various witnesses, the wife of the deceased Revati Bai had insulted Komal several times in front of the appellant. The appellant and Revati Bai had illicit relations and, hence, it was stated that the deceased had no option but to commit suicide. Accordingly, the final report named the appellant as the first accused while Revati Bai was named as the second accused.

4. On 16.12.2024, the following charge came to be framed:

> "You on 06.05.2024 and 07.05.2024 between 06.00 to 11.30 PM at central gram: Dharampura, Station: Piapriya, District-Kabirdham, Chattisgarh, tortured and abetted deceased Komal Sahu to commit suicide resulting which Komal Sahu committed suicide by hanging and through this you have such an act which is punishable under **section 306 of Indian Penal Code** and this court has taken cognizance of this act"
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> Alternative to this
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> "You on 06.05.2024 and 07.05.2024 between 06.00 to 11.30 PM at central gram: Dharampura, Station: Piapriya, District-Kabirdham, Chattisgarh, along with co-accused Revati Bai together with common intention tortured and abetted deceased Komal Sahu to commit suicide resulting which Komal Sahu committed suicide by hanging and through this you have such an act which is punishable under **section 306/34 of Indian Penal Code** and this court has taken cognizance of this act"

5. The appellant being aggrieved by the framing of the said charge filed a revision application under Section 438 read with Section 442 of the Bhartiya Nyaya Suraksha Sanhita, 2023[3] for challenging the said order. It was urged that from the material collected by the prosecution it could not be said that the appellant had abetted the commission of suicide by the deceased. Thus, no offence under Section 306 of the Penal Code had been made out. The prosecution

[3] For short, "the BNSS"

opposed the aforesaid application. The High Court after hearing all the parties held that on the basis of statements of various family members of the deceased, it was clear that on account of the behaviour of the accused persons, the deceased was annoyed and, hence, committed suicide. It accordingly dismissed the revision application by holding that, prima facie, the ingredients of Section 306 in the alternative Section 306/34 of the Penal Code had been satisfied and there was sufficient material to proceed with the charge. Thus, by the order dated 08.04.2025 the revision application came to be dismissed. Being aggrieved, the appellant has raised a challenge to the said order in this appeal.

6. Mr. Anand P. Pande, learned counsel appearing for the appellant submitted that even after taking all the material that forms part of the charge sheet cumulatively, the same was insufficient to charge the appellant under Section 306 of the Penal Code. There was no allegation against the appellant that on account of some proximate act committed by him, Komal was led to commit suicide on 07.05.2024. In fact, the material collected by the

prosecution in the form of statements of family members and neighbours indicated that on the night of 05.05.2024, the appellant and Komal had consumed liquor together. Thereafter, both were seen talking amongst themselves. Suicide by Komal was noticed on 07.05.2024 when his body was found hanging. Even assuming all the statements recorded to be correct, the said material was insufficient to charge the appellant of having abetted the suicide of Komal. In fact, some statements indicated that Komal used to fight with his wife while asking for money to drink liquor. In absence of any suicide note left by the deceased and there being no alleged act being committed by the appellant so as to instigate Komal to commit suicide, no purpose would be served by requiring the appellant to face trial for the charge under Section 306 of the Penal Code. The allegations of an affair between the appellant and the wife of the deceased were hearsay in nature. That aspect was also not material in the present context. The learned counsel for the appellant placed reliance upon the decisions in **Sanju @ Sanjay Singh**

Sengar Vs. State of M.P.[4] and **Prakash and others Vs. The State of Maharashtra and another**[5] to substantiate his contentions. He, thus, submitted that the High Court ought to have quashed the criminal proceedings in the absence of any material, whatsoever, for proceeding against the appellant.

7. Per contra, Ms. Ankita Sharma, learned counsel appearing for the first respondent opposed the aforesaid submissions. According to her, the conduct of the appellant indicating an illicit relationship with the wife of Komal was conduct that amounted to abetment of suicide by Komal. The statements recorded indicated that Revati Bai used to humiliate Komal in the presence of the appellant and that led to Komal committing suicide. The absence of any suicide note was not very material at this stage and was a matter of trial. The consistent statements by members of the family of the deceased as well as neighbours indicated that in view of the illicit relationship between the appellant and Revati Bai, Komal had no

[4] 2002 INSC 250
[5] 2024 INSC 1020

option but to commit suicide. The charge as framed by the Trial Court was, thus, justified and the appellant ought to meet the said charge during trial. The learned counsel placed reliance on the decisions in **Ramesh Kumar Vs. State of Chattisgarh**[6] and **Dammu Sreenu Vs. State of A.P.**[7] in that regard. It was, thus, submitted that the High Court having refused to quash the proceedings, the impugned order did not call for any interference. The appeal was, thus, liable to be dismissed.

8. We have heard the learned counsel for the parties at length and with their assistance, we have perused the entire documentary material on record that forms part of the charge sheet. Having given due consideration to the relevant factual aspects and bearing in mind the legal position as settled, we are of the view that the prayer made by the appellant deserves to be granted and the criminal proceedings qua the appellant deserve to be quashed. We would indicate our reasons hereinafter.

[6] 2001 INSC 515
[7] 2009 INSC 846

9. For the purposes of examining the challenge as raised by the appellant to the framing of charge under Section 306 of the Penal Code and in the alternative under Section 306 read with Section 34 of the Penal Code, it would be necessary to bear in mind the law as laid down by this Court in its earlier decisions. This Court in **R.P. Kapur Vs. State of Punjab**[8] has held that there are three categories of cases where the High Court in exercise of its inherent jurisdiction can quash criminal proceedings. One such category stipulated is that where the allegations in the First Information Report or the complaint, even if taken at their face value and accepted in their entirety, do not constitute the offence as alleged, the institution or continuation of criminal proceedings against an accused may amount to abuse of the process of the Court or that the quashing of such proceedings would secure the ends of justice.

Similarly, in **State of Haryana and others Vs. Ch. Bhajan Lal and others**[9], this position was reiterated that

[8] (1960) 3 SCR 388
[9] 1990 INSC 363

if even after taking all allegations made in the First Information Report or complaint at their face value and accepting them in their entirety do not prima facie constitute any offence, the proceedings can be quashed.

10. The charge as framed against the appellant is under Section 306 and in alternate under Section 306 read with Section 34 of the Penal Code. In this regard, we may refer to a recent decision in *Prakash and others (supra)* to which one of us (K.V. Viswanathan, J.) was a party. Therein, the appellants had sought discharge from the criminal proceedings filed under Section 306 of the Penal Code. Dealing with the ingredients of Section 306 read with Section 107 of the Penal Code, it was held 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.
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> **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.

15. The law on abetment has been crystallised by a plethora of decisions of this Court. Abetment involves a 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 instigating or intentionally aiding another person to commit suicide. Without such *mens rea* on the part of the accused person being apparent from the face of the record, a charge under the aforesaid Section cannot be sustained. Abetment also requires an active act, direct or indirect, on the part of the accused person which left the deceased with no other option but to commit suicide.

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18. More recently, in the case of ***Jayedeepsinh Pravinsinh Chavda and Others v. State of Gujarat***[10], this Court has relied on ***S.S.Chheena*** (supra) to hold that the element of *mens rea* cannot simply be presumed or inferred, instead it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law, that is deliberate and conspicuous intention to provoke or contribute to the act of suicide, would remain unfulfilled. This Court observed as follows:

> "18. For a conviction under Section 306 of the IPC, it is a well-established legal principle that the presence of clear *mens rea*—the intention to abet the act—is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct

[10] 2024 INSC 960 : [2024] 12 SCR 439: 2024 SCC OnLine 3679

action by the accused that led the deceased to take his/her own life. The element of *mens rea* cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide."

19. It is, therefore, evident that the positive act of instigation is a crucial element of abetment. While dealing with an issue of a similar nature, this Court in the case of **Ramesh Kumar v. State of Chhattisgarh**[11], laid down the parameters of what would be constituted to be an act of instigation. This Court observed as follows:-

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". 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. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

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

[11] 2001 INSC 515 : [2001] Supp. 4 SCR 247: (2001) 9 SCC 618

> 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.
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> **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."

11. From the aforesaid decision, it becomes clear that for sustaining a charge under Section 306 of the Penal Code, it has to be shown that the accused persons had contributed to the suicide by the deceased through some direct or indirect act. Section 107 of the Penal Code has thereafter been referred to hold that there ought to be some instigation or incitement that would reveal a clear *mens rea* to abet the commission of suicide, thus, leading the victim to such a position that he/she would have no other option but to commit suicide. There ought to be some material to indicate a positive act of instigation, which is a crucial component of abetment. Instigation or incitement

on the part of the accused person has been held to be the gravamen of the offence of abetment to suicide. The act of instigation also has to be in close proximity to the act of suicide so as to form the nexus or a chain to indicate that the act of suicide was the direct result of the act of instigation by the accused person. Incidentally, the decision in *Ramesh Kumar (supra)* cited by the learned counsel for the first respondent has been considered and relied upon in *Prakash and others (supra)*.

12. The material forming part of the charge sheet would, therefore, have to be examined keeping in mind the above perspective. Existence of all the ingredients constituting the alleged offence would be necessary. On going through the various statements recorded by the prosecution, the same indicate that deceased Komal was addicted to liquor and that the appellant and Komal used to have liquor together. The son of the deceased, Aakash, had stated that whenever his father used to drink from his money, Revati Bai used to scold him. However, when the appellant used to bring liquor for him, she did not object. In his subsequent statement recorded after about five months

from the incident, he suspected that there were illicit relations between his mother and the appellant. Statements of other family members and neighbours indicate the addiction of Komal to liquor. Except such statements and general allegations of illicit relationship between Revati Bai and the appellant, there is no material whatsoever to indicate any instigation or incitement at the instance of the appellant that could lead to Komal committing suicide. On 05.05.2024, the appellant had been to the house of Komal and they had liquor together between 09:00 P.M. to 10:00 P.M. There is no material whatsoever indicating any act of instigation or incitement or abetment by the appellant. The suicide was stated to have been committed in the morning of 07.05.2024. No material whatsoever as regards the proximity between the meeting of the appellant and the deceased, and his committing suicide is available on record. It, thus, will have to be held that the requirements of Section 107 of the Penal Code are not satisfied in the present case.

13. Even if we proceed on the premise that there were illicit relations between the appellant and the wife of the

deceased, the clear *mens rea* to abet the commission of suicide by Komal is absent. As held, to bring home a charge under Section 306 of the Penal Code, the act of abetment would require some positive act of instigating or intentionally aiding another person to commit suicide. There is no allegation that the appellant had instigated Komal to commit suicide or that he had in some way aided any act or illegal omission to bring about the suicide. Further, there is no material on record to infer that Komal was left with no other option except to commit suicide. In the absence of such *mens rea* on the part of the accused being apparent from the face of record, the charge under Section 306 of the Penal Code cannot be sustained.

14. We, therefore, find that even after accepting the entire material on record at its face value, the ingredients of Section 306 of the Penal Code are not satisfied. Continuation of such criminal proceedings would, therefore, be a futile exercise resulting in the absence of process of law. We may reiterate what this Court said in

paragraph 9 in **Madan Mohan Singh Vs. State of Gujarat and another**[12] are as follows:-

> "In the prosecution under Section 306, IPC, much more material is required. The Courts have to be extremely careful as the main person is not available for cross-examination by the appellant/accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant/accused to face the trial."

The proceedings, therefore, deserve to be quashed. The High Court failed to examine the material on record in the light of the law laid down in this regard. It, therefore, erred in not quashing the proceedings. The ratio of the decision in *Dammu Sreenu (supra)* relied upon by the learned counsel for the first respondent is clearly distinguishable as it arises from a challenge to the conviction of the appellant therein based on the evidence on record.

15. For the aforesaid reasons, the order dated 08.04.2025 passed in CRR No. 450 of 2025 by the High Court is set aside. The charge framed against the appellant in Sessions Case No.80 of 2024 by the learned Sessions

[12] 2010 INSC 521

Judge, Kabirdham stands quashed. Consequently, the appellant is discharged from the aforesaid criminal proceedings. It is clarified that the present adjudication is restricted to the case of the appellant-accused No.1. The trial against accused No.2 shall proceed uninfluenced by any observations made herein.

16. The criminal appeal is, accordingly, allowed.

17. Pending applications are also disposed of.

.....J.
[K.V. VISWANATHAN]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI,
APRIL 16, 2026.