

Before Jasjit Singh Bedi, J.

HARBHAJAN SANDHU—*Petitioner*

versus

STATE OF PUNJAB AND ANOTHER—*Respondents*

CRM-M No.34495 of 2021

February 23, 2022

Indian Penal Code, 1860—Ss. 34 and 306—Abetment to suicide—Petitioner approached the deceased at Civil Hospital and threatened him in February, 2019— Deceased committed suicide on 16.05.2019—There must be approximate and live link between occurrence and subsequent suicide to constitute abetment to suicide— No evidence of contact between the accused with the deceased or his family members—Mere name in suicide note would not establish guilt of the accused until ingredients of offence are made out—FIR quashed.

Held that, a perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide, inasmuch as, the instigation or illegal complained off omission or commission at the hands of the accused to the deceased must be the only factor, which subsequently led to him committing suicide. In the present case, there is not even a remote mention of any date or time when the petitioner committed any overt act except the Civil Hospital occurrence which could only pertain to February, 2019.

(Para 21)

Further held that, to constitute abetment, the intention and involvement of the petitioner-accused to aid or instigate the commission of suicide is imperative. In the present case, taking the contents of the FIR and the suicide note to be the Gospel Truth, the petitioner is said to have approached the deceased at Civil Hospital, Jalandhar to threaten him and his family members in February, 2019, whereas, the deceased committed suicide on 16.05.2019. During the intervening period of three months, there is nothing on record to establish that the petitioner threatened the deceased or his family members in any way. In fact, there is no evidence of any contact between the deceased and his family with the petitioner. Thus, it is clearly established that there is no proximate and live link between the

alleged threats given in February, 2019 and the subsequent suicide in May, 2019.

(Para 22)

Further held that, another factor which would go to the root of the matter is that there has been absolutely no positive act on the part of the petitioner-accused to instigate or aid in the committing of suicide. From the allegations and from the record, it is not established that the petitioner-accused intended to push the deceased into such a position that he ultimately committed suicide. Issuance of the alleged threats three months prior to the suicide without any positive act of aiding or instigating would not by itself create an offence under Section 306 IPC.

(Para 23)

Further held that, it is true that in the earlier occurrence, the petitioner was driving the car, when his brother-in-law is said to have assaulted the deceased leading to the first FIR (Annexure P-1). However, the petitioner himself was never an accused in the said FIR and as such in the absence of any role played by him as per the FIR itself, no action was taken against him by the concerned police.

(Para 24)

Further held that, even, otherwise, merely being named in a suicide note would not by itself establish the guilt of an accused until the ingredients of an offence are made out. In the present case, taking the suicide note to be absolutely correct, the allegations therein do not constitute an offence for which the petitioner can be prosecuted.

(Para 25)

Further held that, therefore, viewed from any angle, in the absence of any mens rea to instigate or goad the deceased to commit suicide and, further, in the absence of live link between the threats of February, 2019 vis-à-vis the occurrence of suicide, which took place in May, 2019, the prosecution case qua the petitioner cannot be sustained.

(Para 26)

Further held that, keeping in view the above discussion and the law laid down by the Hon'ble Supreme Court and this Court, as mentioned hereinabove, FIR No.62 dated 16.05.2019 (Annexure P-2) registered under Sections 306 and 34 IPC, 1860, along with all the subsequent proceedings arising therefrom, including the report under Section 173(8) Cr.P.C. (Annexure P-7), are hereby quashed qua the petitioner.

(Para 27)

Krishan Singh Dadwal, Advocate
for the petitioner.

Kirat Singh Sidhu, DAG, Punjab.

J.S.Ghuman, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J.

(1) The prayer in the present petition is for quashing of FIR No.62 dated 16.05.2019 (Annexure P-2) registered under Sections 306 and 34 IPC along with all the subsequent proceedings arising therefrom, including the report under Section 173(8) Cr.P.C. (Annexure P-7).

The contents of FIR would read as under:-

“Statement of Jaswinder Lal S/o Dharam Singh, Resident of B-IX-591, Mohalla Santokhpura, PS Div No.8, Jalandhar, aged about 64 years, Mobile No.9464894102, Stated that I am the resident of above mentioned address and I do labour work. I have one son and two daughters. Today at time about 3 PM, I came back home from work and the gate was locked from inside. I knocked the gate firmly and also called my son by raising my voice, but he did not open the gate. Then I made telephone call to my daughter Dayal Kaur and my daughter Dayal Kaur and my son in law Birbal son of Tarsem Lal R/o Kangniwal came at the spot and my daughter Dayal Kaur went inside from the neighbouring house and opened the gate and I alongwith my daughter Dayal Kaur and Birbal went inside and saw that my son Manjit Lal alias Lucky had ended his life by hanging from the girder by tying bed-sheet around his neck. One suicide note was found in front of his chest in which it is written that my son Manjit Lal has committed suicide by hanging due to harassment of Harbhajan Sandhu who is residing in our neighborhood, his brother in law Bindri resident of Vill Jaitewali, his driver Jagjit Singh alias Jeeta who is residing in Mohalla Santokhpura Near Nimbu Wali Gali, Ashoka son of Jaswinder Lal Resident of Santokhpura and Sonu, Monu, sons of Dalwinder Lal who are my nephews. Legal action be taken against them. Sd/- English Jaswinder Lal. Attested Sd/- English Satwinder Singh SI PS

Div No.8, Jalandhar dated 16.5.2019.Action of Police: Today I SI was present in the Police Station, then one telephone call has been received that Manjit Lal @ Lucky s/o Jaswinder Lal Resident of Mohalla Santokhpura has committed suicide by hanging himself. Action be taken. On this SI alongwith HG Pram Singh 1101. HC Satnam Singh 1879, CT Bhupinder Kumar 1678 reached at the spot where in the present of father of the boy namely Jaswinder Lal and EX MC Rakesh Kumar Ward No.7, Bhogpur, the dead body was put down and Jaswinder Lal has handed over one suicide note before me, which was taken into police custody. Jaswinder Lal aforesaid has got recorded his statement before me and after hearing the statement and treating the same to be true signed underneath in English and I attested the same. From the statement, the offence under Section 306, 34 IPC has been found. After writing down of Ruqa, with a view to record the FIR, the same is hereby sent through CT Bhupinder Kumar No.1678 to the Police Station. After registration of FIR,number be informed Control Room be informed through wireless. After preparation of special reports, the same be sent before the officers. I am busy in investigation at the spotSd/English PS Div No.8, JAL at 16.5.19. Today in the area of Santokhpura Mohalla Jalandhar AT Today in Police Station: After receiving of writing in the police station, after registering of FIR under the aforementioned provisions, the copy of writing alongwith copy of FIR is hereby sent through CT before ASI at the spot. After preparation of Special Reports, the same are hereby sent through CT Amit Kumar No.792 before Illaqa Magistrate. Officers and Control Room has been informed through wireless. Complete Rapat No.51 dated 16.5.19.”

(2) As per the prosecution story, deceased-Manjit Lal @ Lucky son of Jaswinder Lal got registered an FIR No.31 dated 08.03.2019 (Annexure P-1), alleging that on 18.02.2019 at about 09.00 p.m., the brother-in-law of the petitioner, namely, Baljinder Kumar @ Bindri along with 6-7 other persons, had assaulted him. The occurrence took place when Bhajan Lal @ Harbhajan Sandhu was reversing his vehicle and Baljinder Kumar @ Bindri asked the deceased to move aside. After the assault, the deceased was admitted to Civil Hospital, Jalandhar, where, after conducting X-rays, a fracture of the bilateral nasal bone

was detected. The admitted fact is that the petitioner was not named as an accused in this FIR nor was any overt act attributed to him.

(3) Subsequent thereto, as per the prosecution case, Manjit Lal @ Lucky had committed suicide. As per the impugned FIR, got registered by respondent No.2-Jaswinder Lal father of Manjit Lal @ Lucky (deceased), dueto the harassment meted out by the petitioner, his brother-in-law Baljinder Kumar @ Bindri, his driver Jagjit @ Jeeta and three persons namely, Ashok @ Shoka, Sonu and Monu sons of Dalwinder Lal, the deceased had committed suicide by hanging himself.

(4) Pursuant to the registration of the FIR, a suicide note was recovered, which had been referred to in the FIR. This note is in the nature of a complaint to the S.H.O. The said suicide note attached to the petition as (Annexure P-3) is reproduced herein below:-

“To

SHO
Jalandhar.

Requested that I Manjit Lal s/o Jaswinder Lal is the resident of House No.B-9-591, Mohalla Santokhpura. On dated 18.2.2019, at 9.00 PM, I was coming after purchasing milk and when I reached in front of Gurudwara Ravidass, then the accomplices of Harbhajan Sandhu attacked me and I was grievously injured in this attack. About 8-9 youths gave very harsh beatings to me including Harbhajan Sandhu's brother in law Bindri, his driver Jagjit Singh alias Jeeta, son of Jaswinder Lal, Monu s/o Dalwinder Lal, Sonu son of Dalwinder Lal and other 3 unidentified youths. I was admitted at Civil Hospital for 25 days. In my MLR doctors declared that the bone of my nose has been fractured and my two ribs are fractured. My MLR was sent to police station and the police apprehended only 3 youths and released them afterwards and did not apprehend any other youth/accused. We are very poor and police did not help us. I am fed up of my injuries and now I cannot tolerate the pain anymore and I am about to commit suicide. My mother, father and my sister have gone to work. My family members are not aware of this. After my death, strict legal action be taken against the accused Harbhajan Sandhu is the main accused and he went to Civil Hospital and

also threatened to kill my family. This whole gang is of Harbhajan Sandhu. Prior to this also, he fought in the locality 4-5 times.”

(5) After due investigation, a report under Section 173(8) Cr.P.C. in FIR No.31 dated 08.03.2019 was submitted against Gurpreet Banga @ Ashok @ Shoka, and Baljinder Kumar @ Bindri and in the present FIR, the report under Section 173(8) Cr.P.C. has been submitted against six persons namely, Harbhanjan Sandhu (petitioner), Inderjit Maneka @ Sonu, Baljit Kumar @ Monu, Jagjit Kumar @ Jeeta, Gurpreet Banga @ Ashok @ Shoka and Baljinder Kumar @ Bindri.

(6) The present petition came to be filed by the petitioner stating therein that a perusal of the FIR and the suicide note, even if taken to be correct in its entirety, would not make out any offence under Section 306 of the IPC against the petitioner. While opening up his arguments, the learned counsel for the petitioner states that the question of abetment does not arise as the petitioner was not named as an accused in the first FIR. He further states that, taking the contents of the suicide note to be correct, the petitioner had approached the deceased way back in February, 2019 at the Civil Hospital, Jalandhar, when the deceased was admitted there, post the first incident. The present FIR is dated 16.05.2019 and thus, the alleged threat of February, 2019, if any, is approximately three months prior to the suicide. He further argues that there is no proximate and live link between the alleged threat of February, 2019 and the subsequent suicide dated 16.05.2019. In fact, between the said three months, there is no complaint whatsoever by the deceased or his family members to the authorities concerned regarding any threat. Further, there is absolutely no evidence of any contact between the petitioner and the deceased or his family and in the absence of any contact whatsoever there is no question of any threat and consequential abetment. Yet another ground has been raised by the learned counsel for the petitioner to the effect that the cause of death has not been established. He, thus, prays that the FIR, the report under Section 173(8) and all the subsequent proceedings arising therefrom ought to be quashed, in the interest of justice.

(7) A reply has been filed on behalf of the respondent No.1-State and the same was taken on record. As per the reply, the deceased had initially been beaten up by a close relative of the petitioner i.e. Baljinder Kumar @ Bindri and the petitioner was reversing the car at that time when the occurrence took place. The FIR and the suicide note clearly established that it was the petitioner and his

co-accused who were threatening and harassing the deceased, which ultimately led to his death by committing suicide. It is also stated in the reply that the handwriting expert had found that the suicide note is authored by the deceased and the cause of death was apparently 'asphyxia', due to hanging, which was sufficient to cause death in the ordinary course of nature. Thus, the contention of the learned State counsel was that the petitioner and his co-accused were rightly charge-sheeted, the offence being *prima facie* established and that the present petition for quashing is, thus, liable to be dismissed.

(8) Reference has also been made to an earlier petition filed by the petitioner seeking transfer of investigation, which was disposed of with a directions to the Investigating Agency to look into the grievance of the petitioner and take appropriate action in accordance with law.

(9) The learned counsel appearing for respondent No.2 though had chosen not to file reply, yet he has addressed this Court and adopted the arguments of the counsel for the State. As per him, the Investigating Agency was not proceeding fairly because the petitioner was the President of Ambedkar Sena in the District Jalandhar. He also stated that the harassment meted out by the petitioner to the deceased continued from the first occurrence upto the suicide of the deceased and reading the FIR with the suicide note, the offence was sufficiently established qua the petitioner and the other accused. He, therefore, prayed that the present petition may be dismissed.

(10) I have heard both the parties at length and have perused the record including the report under Section 173(8) Cr.P.C. (P-7).

(11) Before proceeding further in the matter, it would be useful to refer to the relevant provisions of law for the proper adjudication of the present case.

(12) Section 306 of the IPC 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.”

(13) Section 107 of the 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.”

(14) As to what constitutes abetment has been a matter of considerable debate. The Hon'ble Supreme Court in *Sanju @ Sanjay Singh Sengar* versus *State of Madhya Pradesh*¹, has discussed, as to what constitutes abetment and the relevant extract of the said judgment reads as under:-

“13. Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the suicide by the deceased is the direct result of the quarrel that had taken place on 25th July, 1998 wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased 'to go and die'. For this, the courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 Criminal Procedure Code, 1973 when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 Criminal Procedure Code, 1973 is annexed as annexure P -3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him 'to go and die'. Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional. Secondly, the alleged

¹, 2002(2) RCR (Criminal) 687

abusive words, said to have been told to the deceased were on 25th July, 1998 ensued by quarrel. The deceased was found hanging on 27th July, 1998. Assuming that the deceased had taken the abusive language seriously, he had enough time in between on think over and reflect and, therefore, it cannot be said that the abusive language, which had been used by the appellant on 25th July, 1998 derived the deceased to commit suicide. Suicide by the deceased on 27th July, 1998 is not proximate to the abusive language uttered by the appellant on 25th July, 1998. The fact that the deceased committed suicide on 27th July, 1998 would itself clearly point out that it is not the direct result of the quarrel taken place on 25th July, 1998 when it is alleged that the appellant had used the abusive language and also told the deceased to go and die. This fact had escaped notice of the courts below.”

[Emphasis supplied]

(15) Thus, what the Hon'ble Supreme Court found was that a gap of 2/3 days between the words used and suicide showed that there was no proximate link between the occurrence and subsequent suicide.

(16) The Hon'ble Supreme Court in *Netai Dutta* versus *State of West Bengal*² has held as under:-

“5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16.2.2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of the "abetment" have been stated in

² 2005 AIR (SC) 1775,

Section 107 of the Indian Penal Code. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing; or 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, or the person should have intentionally aided any act or illegal omission. The explanation to Section 107 says that any willful misrepresentation or willful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.

7. Apart from the suicide note, there is no allegation made by the complainant that the appellant herein in any way harassing his brother, Pranab Kumar Nag. The case registered against the appellant is without any factual foundation. The contents of the alleged suicide note do not in any way make out the offence against the appellant. The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the First Information Report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein. We find that this is a fit case where the extraordinary power under Section 482 of the Code of Criminal Procedure is to be invoked. We quash the criminal proceedings initiated against the appellant and accordingly allow the appeal.”

[Emphasis supplied]

(17) The Hon'ble Supreme Court in *S.S. Chheena* versus

Vijay Kumar Mahajan and Another³ has held as under:-

“26. In **State of West Bengal v. Orilal Jaiswal, 1994(3) RCR (Criminal) 186: (1994) 1 SCC 73**, this Court has cautioned that the court 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 appears 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.

27. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) 2009(4) RCR (Criminal) 196: 2009(5) R.A.J. 278: (2009) 16 SCC 605*, had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

28. 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

³ 2010(4) RCR (Criminal) 66

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.

29. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behaved differently in the same situation.

30. When we carefully scrutinize and critically examine the facts of this case in the light of the settled legal position the conclusion becomes obvious that no conviction can be legally sustained without any credible evidence or material on record against the appellant. The order of framing a charge under section 306 Indian Penal Code against the appellant is palpably erroneous and unsustainable. It would be travesty of justice to compel the appellant to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under section 306 Indian Penal Code against the appellant is quashed and all proceedings pending against him are also set aside.”

[Emphasis supplied]

(18) Further the Hon’ble Supreme Court in *Gurcharan Singh* versus *State of Punjab*⁴ has held as under:-

“22. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicating existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of this constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section

⁴ 2017(1) RCR (Criminal) 118,

306 I.P.C. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 I.P.C., thus criminalises the sustained incitement for suicide.

a. Significantly, this Court underlined by referring to its earlier pronouncement in *Orilal Jaiswal* (supra) that courts have to be extremely careful in assessing the facts and circumstances of each case to ascertain as to whether cruelty had been meted out to the victim and that the same had induced the person to end his/her life by committing suicide, with the caveat that if the victim committing suicide appears to be hypersensitive to ordinary petulance, discord and differences in domestic life, quite common to the society to which he or she belonged and such factors were not expected to induce a similarly circumstanced individual to resort to such step, the accused charged with abetment could not be held guilty. The above view was reiterated in **Amalendu Pal @ Jhantu v. State of West Bengal 2010(1) RCR (Criminal) 643 : 2010(1) Recent Apex Judgments(R.A.J.) 184 : (2010) 1 SCC 707.**

b. That the intention of the legislature is that in order to convict a person under Section 306 I.P.C., there has to be a clear mens rea to commit an offence and that there ought to be an active or direct act leading the deceased to commit suicide, being left with no option, had been propounded by this Court in **S.S. Chheena v. Vijay Kumar Mahajan 2010(4) RCR (Criminal) 66 : 2010(4) Recent Apex Judgments (R.A.J.) 629 : (2010) 12 SCC 190.**

(19) This Court in *Surender Kumar* versus *State of Haryana*,⁵ has held as under:-

“4. There is no dispute with the proposition of law as propounded by the learned trial Court that a charge can be framed on strong suspicion and that the merits of the case at that stage are not supposed to be inquired into, but this Court is of the considered opinion that the trial Court has not rightly appreciated the allegations so as to bring the case of the State under Section 306 Indian Penal Code. As per Section 306 whoever abets the commission of suicide, in

⁵ 1999 (1) RCR (Criminal) 558,

that eventuality only he will be attracted with the ingredients of that section. Abetment can be express, direct, indirect or implied but there must be a close proximity between the alleged abetment and the effect. The petitioner was the employer. If his gold had been stolen or had not been accounted for by his employees or apprentice he had the right to take the search and interrogate. In that eventuality if one or two slaps are given by the employer to his servant in order to get a confession even that is not barred. There is not an iota of evidence on the record prima facie to suggest that the petitioner ever goaded, urged or excited the deceased to jump before a running train. Moreover, the alleged incident has taken place after a lapse of 20 days. The jumping in front of the running train was the independent act of the deceased, it cannot be connected with the petitioner. In these circumstances, the learned trial Court was not justified in framing a charge against the petitioner under Section 306 Indian Penal Code. In this regard, reliance can also be placed on Gurdeep Singh v. State of Haryana, 1998(3) RCR (Criminal) 266.”

[Emphasis supplied]

(20) This Court in *Kashmiri Lal* versus *State of Haryana*,⁶ has held as under:-

“15. Needless to say, there was clear-cut interval of 3 days in between 26th April, 1993 and the date of occurrence i.e. 30.4.1993. If the deceased had taken decision to commit suicide, her passions for this act might have cooled down during this interregnum. Now it is to be noticed as to what has to be established by the prosecution to earn conviction under Section 306 of Indian Penal Code. The accused will be guilty of abetment in case of suicide if the cruelty meted out to the deceased had the effect of inducing her to end her life by committing suicide. He will not be guilty of the same if the victim was hypersensitive to ordinary discord and differences in domestic life. It is not enough that the husband treated the deceased with cruelty. There must be proof of direct or indirect acts of incitement to the commission of suicide. The abetment involves mental

⁶ 2008(4) RCR (Criminal) 497,

process of instigating a person or intentionally aiding that person in doing of a thing. Section 107 of Indian Penal Code defines abetment of a thing. The offence of abetment is a separate and distinct offence. A person abets the doing of thing when (i) he instigates any person to do that thing; or (ii) engages with one or more other persons in any conspiracy for the doing of that thing; (iii) 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 or bring about by persuasion to do any thing. Abetment may be by instigation, conspiracy or intentional aid, as provided in the 3 clauses of Section 107 *ibid*. Section 109 of Indian Penal Code provides 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 for the original offence. The offence for the abetment of which a person is charged with, the abetment is normally linked with proved offence. [See *Sohan Raj Sharma v. State of Haryana*, [2008(2) RCR (Criminal) 810 : 2008 (2) RAJ 272].”

[Emphasis supplied]

(21) A perusal of the aforementioned judgments would show that to constitute abetment, there must be a proximate and live link between the occurrence and the subsequent suicide, inasmuch as, the instigation or illegal complained off omission or commission at the hands of the accused to the deceased must be the only factor, which subsequently led to him committing suicide. In the present case, there is not even a remote mention of any date or time when the petitioner committed any overt act except the Civil Hospital occurrence which could only pertain to February, 2019.

(22) Further, to constitute abetment, the intention and involvement of the petitioner-accused to aid or instigate the commission of suicide is imperative. In the present case, taking the contents of the FIR and the suicide note to be the Gospel Truth, the petitioner is said to have approached the deceased at Civil Hospital, Jalandhar to threaten him and his family members in February, 2019, whereas, the deceased committed suicide on 16.05.2019. During the intervening period of three months, there is nothing on record to establish that the petitioner threatened the deceased or his family

members in any way. In fact, there is no evidence of any contact between the deceased and his family with the petitioner. Thus, it is clearly established that there is no proximate and live link between the alleged threats given in February, 2019 and the subsequent suicide in May, 2019.

(23) Another factor which would go to the root of the matter is that there has been absolutely no positive act on the part of the petitioner-accused to instigate or aid in the committing of suicide. From the allegations and from the record, it is not established that the petitioner-accused intended to push the deceased into such a position that he ultimately committed suicide. Issuance of the alleged threats three months prior to the suicide without any positive act of aiding or instigating would not by itself create an offence under Section 306 IPC.

(24) It is true that in the earlier occurrence, the petitioner was driving the car, when his brother-in-law is said to have assaulted the deceased leading to the first FIR (Annexure P-1). However, the petitioner himself was never an accused in the said FIR and as such in the absence of any role played by him as per the FIR itself, no action was taken against him by the concerned police.

(25) Even, otherwise, merely being named in a suicide note would not by itself establish the guilt of an accused until the ingredients of an offence are made out. In the present case, taking the suicide note to be absolutely correct, the allegations therein do not constitute an offence for which the petitioner can be prosecuted.

(26) Therefore, viewed from any angle, in the absence of any *mens rea* to instigate or goad the deceased to commit suicide and, further, in the absence of live link between the threats of February, 2019 vis-à-vis the occurrence of suicide, which took place in May, 2019, the prosecution case qua the petitioner cannot be sustained.

(27) Keeping in view the above discussion and the law laid down by the Hon'ble Supreme Court and this Court, as mentioned hereinabove, FIR No.62 dated 16.05.2019 (Annexure P-2) registered under Sections 306 and 34 IPC, 1860, along with all the subsequent proceedings arising therefrom, including the report under Section 173(8) Cr.P.C. (Annexure P-7), are hereby quashed qua the petitioner.

InderPal Singh Doabia