

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79977 of 2024

Arising Out of PS. Case No.-106 Year-2020 Thana- RAJAPAKAR District- Vaishali

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1. Radha Kumari Wife of Late Ranjeet Kumar Ravi R/o village- Govindpur, Jhakharaha, PS- Rajapakar, District- Vaishali
 2. Chandraket Rai Son of Late Lalan Rai R/o village- Rasulpur, Habib, PS- Desari (Chandapura O.P.), District- Vaishali
 3. Amta Kumar @ Amitabh Kumar Son of Upendra Rai R/o village- Bhikhanpura, PS- Desari (Chandapura O.P.), District- Vaishali
 4. Hari Rai Son of Sonful Rai R/o village- Rasulpur, Habib, PS- Desari (Chandapura O.P.), District- Vaishali

... .. Petitioner/s

Versus

1. The State Of Bihar Represented Through Principal Secretary, Deptt. Of Home, Govt. Of Bihar Patna
2. The Director General Of Police, Patel Bhawan, Bailey Road, Patna Bihar
3. The Superintendent Of Police, Vaishali Bihar
4. The Station House Officer, Rajapakar Police Station, Vaishali Bihar
5. Mahendar Ray Son Of Late Ramswarup Ray R/O Vill.- Govindpur, Jhakhraha, P.S.- Rajapakar, Dist.- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deo Prakash Singh, Advocate
For the Opposite Party/s : Mr. Rajendra Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 01-09-2025

Heard Mr. Deo Prakash Singh, learned counsel
appearing on behalf of the petitioners and Mr. Rajendra Singh,
learned A.P.P. for the State.

2. The present application has been filed for



quashing of the FIR arising out of Rajapakar P.S. Case No. 106 of 2020 registered under Section 306 of the Indian Penal Code and also for quashing of the consequential court proceedings subsequent to submission of Charge-Sheet No. 294 of 2024 dated 27.08.2024 in the light of supervision note submitted by the Superintendent of Police, Vaishali.

3. As per the allegation made in the FIR, the son of the informant (deceased), was married with petitioner No. 1, Radha Kumari, 5 years ago under Hindu customs and traditions. The wife of the deceased (petitioner no. 1) had left the house of the deceased and was residing in her father's house. On 14.05.2020, the deceased was called by petitioners at their house where hot discussion took place. It is further alleged that during the hot discussion, the petitioners had infuriated and reprimanded the deceased, due to which, the deceased had committed suicide by consuming poison.

4. Learned counsel appearing on behalf of the petitioners submitted that no case under Section 306 of the Indian Penal Code is made out against the petitioners. The petitioner no. 1 being own wife of the deceased, at no point of time, had ever instigated the deceased, nor any case was lodged by the deceased before the suicide note, which was found at the



time of preparation of the inquest report. Learned counsel further submitted that the ingredient of Section 107 of the Indian Penal Code to link the petitioners with the ingredient as contained under Section 306 of the Indian Penal Code are completely lacking and, as such, the further criminal proceeding pending against the petitioners will be abuse of process of Court.

5. Learned counsel has relied on the judgments passed by the Hon'ble Supreme Court in the case of ***Prabhat Kumar Mishra @ Prabhat Mishra vs. State of U.P. & Ors. (Criminal Appeal No. 1397 of 2024)*** and in the case of ***Mahendra Awase vs. State of Madhya Pradesh (Criminal Appeal No. 221 of 2025; Special Leave Petition (Crl.) No. 11868 of 2023)*** and submitted that in the said case, the Apex Court has held that from very perusal of the suicide note, no case of abatement is made out. In the present case also, no case of abatement is made out. In furtherance of the above proposition of law, learned counsel has further relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***M. Mohan vs. State represented by the Deputy Superintendent of Police*** reported in ***(2011) 3 SCC 626*** following the Apex Court judgment passed in the case of ***Ramesh Kumar vs. State***



of Chhattisgarh reported in (2001) 9 SCC 618. Learned counsel relying on the said judgment has drawn attention of this Court that from the very suicide note, it is not suggestive that the petitioners had ever instigated the deceased leading to suicide. In this regard, learned counsel has relied on paragraphs no. 17 and 20 of the observations made in *Mahendra Awase (Supra)*, which are as follows:

"17. M. Mohan vs. State, (2011) 3 SCC 626 followed Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618, wherein it was held as under:-

41. This Court in SCC para 20 of Ramesh Kumar has examined different shades of the meaning of "instigation". Para 20 reads as under: (SCC p. 629) "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."

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant- accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn."

Thereafter, this Court in Mohan (supra) held:- 45. The intention of the legislature and the ratio of the cases decided by this Court are 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 this act must have been intended to push the deceased into such a position that he/she committed suicide." [Emphasis supplied]

20. This Court has, over the last several decades, repeatedly reiterated the higher threshold,



mandated by law for Section 306 IPC [Now Section 108 read with Section 45 of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed more in the breach. Section 306 IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law laid down by this Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306."

6. *Per contra*, learned A.P.P. for the State drawing the attention of this Court to suicide note, submitted that all the ingredients of Section 306 is made out against the petitioners from the very perusal of the FIR, as well as, suicide note and the quashing of the FIR at the present stage will not be in public interest.

7. Heard the parties.

8. Having considered the rival submissions made on behalf of the parties, as well as, having perused the content of the FIR, which are as follows:

" मेरा नाम महेन्द्र राय उम्र करीब 60 वर्ष पिता स्व रामरुच राय सा0 गोविन्दपुर



झखराहा थाना राजापाकर जिला वैशाली का निवासी हूं। आज दिनांक 15.5.20 को समय करीब 20.42 बजे आप राजापाकर थाना के जमेदार साहब के समक्ष अपने घर के पास बिना कीसी दबाव या भेदभाव के अपना बयान दर्ज कराता हूँ कि मेरा लड़का (मृतक) रंजीत कुमार रवि उम्र करीब 30 वर्ष है जिसकी शादी करीब 5 वर्ष पहले राधा कुमारी पिता चन्द्रकेत राय सा0 रसुलपुर हबीब थाना चंनपुरा ओ0 पी0 थाना देसरी जिला वैशाली से हिन्दू रिति रिवाज के अनुसार शादी हुई थी जिससे एक लड़का भी है। जिसका उम्र लगभग 3 वर्ष है। मेरा लड़का रंजीत कुमार रवि एवं उसकी पत्नी राधा कुमारी से हमेशा कुछ-कुछ बातों को लेकर दोनों में बात विवाद होते रहता था। जिससे मेरा लड़का हमेशा टेन्सन में रहता था। मेरी बहू राधा कुमारी लगभग दो माह से अपने बच्चा रिषव के साथ उसके मायके रंजीत पहुंचा दिया था जो वही पर रहती है। दिनांक 15.5.20 को गांव के मेघनाथ राय पिता स्व कपीलदेव राय द्वारा पता चला की मेरा बेटा फेसबुक पर सोसाईट नोट लिखा है, तथा कुछ देर बात पता चला की जहर खा लिया है। जिसे राजापाकर प्राथमिक स्वास्थ्य केन्द्र में भर्ती कराया गया जहां से सदर अस्पताल हाजीपुर रेफर कर दिया गया। वहां से मेरी बेटी एवं गांव के लोग गणपति होस्पिटल हाजीपुर मे ईलाज कराया गया। इलाज के क्रम में उसकी मृत्यु हो गई है। मेघनाथ द्वारा बताया गया की दिनांक 14.5.20 को रंजीत कुमार रवि के साथ उसके ससुर द्वारा समझाने हेतु चकजनैब गांव पर बुलाया गया था वहां पर हमलोग करीब 2.00 बजे पहुंचे थे। वहा पर रंजीत के ससुर चन्द्रकेत राय एवं विनोद राय चकजनैब के समक्ष बात विचार होने लगा तो रंजीत बताया की राधा को किसी लड़का से दो-तीन वर्षों से गलत संबंध चल रहा है इसी पर विनोद राय गुस्सा कर डाटने लगे तथा ससुर बोले की अब जो हो कोर्ट से होगा। मुझे पूर्ण विश्वास है कि इसकी पत्नी राधा कुमारी, ससुर चनुकेत राय एवं विनोद राय, के बात को लेकर मेरा बेटा रंजीत कुमार रवि जहर खाकर अपना आत्महत्या कर लिया है। मेरे बेटे रंजीत के विस्तर के सिरहाना से एक सुसाईट नोट मिला है जिसमें लिखा है कि मां, बाबुजी, मुझे माफ किजीएगा। ससुराल वालों को नहीं छोडियेगा साथ ही विनोद जी चकजनैब वाला को भी तथा उसपर रंजीत का हस्ताक्षर भी है। साथ ही एक फेस बुक का सुसाईट नोट का छाया प्रति दिये। जिसमें D.G.P./D.M./S.P/ इत्यादि को संबोधित है जिसमें वर्णित है कि रंजीत की पत्नी का नाजायज संबंध अमता कुमार चाचा के साला के साथ है। आगे वर्णन है कि इस घटना में चनुकेत राय व हरि राय ग्राम रसुलपुर हबीब देसरी तथा विनोद कुमार सुमन (M.E.S) शंकर राय ग्राम चक जैनब, चक सिकन्दर बिदुपर बराबर का भागीदारी है, इस घटना में मेरे माता-पिता भाई बहन, भाभी बहनोई सभी निर्दोष है। जिसपर रंजीत का हस्ताक्षर है।

तथा दिनांक 14/5/20

09.50 pm अंकित है।

यही मेरा बयान है। मैं अपना बयान सुन व समझकर सही पाकर अपने लड़का धर्मवीर कुमार के समक्ष एवं मुखिया जी पति राजीव कुमार रंजन सिंह, तथा चाचा परमानंद राय के समक्ष अपना बांये अंगुठा का निशान बना दिया। "



9. I have also perused the content of the suicide note and for proper adjudication, the same is reproduced hereinafter:

" मैं पूरे होषोहवास के साथ यह Suicide Note लिख रहा हूँ। मैं अपने 5 वर्षों के वैवाहित जीवन में बर्बाद हो गया हूँ। मैं यह भलिभांति जानता व समझता हूँ कि आत्महत्या गलत है परन्तु मेरे पास किसी प्रकार का कोई विकल्प नहीं है। इस कृत का जिम्मेवार मैं अपनी पत्नी (राधा कुमारी), ससुर (चन्द्रकेत राय) तथा सास (लगनी देवी) को ही मानता हूँ। मेरे पास एक लड़का है तथा एक गर्भ में पल रहा है। ये दोनों बच्चे मेरे ही हैं। 3 वर्ष पहले मुझे यह ज्ञात हुआ कि मेरी पत्नी का अमता कुमार (चाचा के साला, राधा के चाचा) के साथ है। नाजायज संबंध है। फिर मेरे समझाने बुझाने व सास-ससुर को सूचित करने के पश्चात सबकुछ ठीक चल रहा था तभी मेरे सास-ससुर फोन पर राधा को उल्टा-सीधा कहकर मेरे व मेरे परिवार के खिलाफ भड़काने लगी जिससे ये परिस्थिति उत्पन्न हुई। मेरी गलती सिर्फ इतनी है कि मैं अपनी पत्नी को कभी-काल गाली बक देता था। मेरे ससुर पहले कोलकाता के हुगली जिला में रहते थे। वे वहां के पूर्व चेअरमैन (मनोज उपाध्याय) का करीबी माने जाते थे जिनकी हत्या हो गयी। तब से मेरे ससुर गांव में रहकर झोला छाप डॉक्टर कर रहे हैं जबकि इनके पास किसी भी प्रकार का medical certificate नहीं है इतना ही नहीं ये तो मैट्रिक पास भी नहीं हैं। इन्होंने राधा के विवाह में मनोज उपाध्याय से 2 लाख रुपये उधार लिए थे वह अभी तक चुकता नहीं किये। मेरा मानना ही नहीं अपितु पूर्ण विश्वास है कि मनोज उपाध्याय के मर्डर में मेरे ससुर का भी हाथ है। लेकिन इन्होंने साक्ष्य छिपाने के लिए eye witness बन गये।

आज दिनांक 14.05.2020 को जब मैं अपनी पत्नी के मोबाइल पर फोन किया तो मामला बढ़ गया। फिर समझौता कराने के लिए मेरे ससुर व उनके गांव के ही चाचा हरि राय चकजैनब (बिदुपुर) गांव पहुंचे जहां विनोद कु0 सुमन (पूर्व नाम) ने सभी के सामने मुझे जान से मारने के लिए उतावले हो गये लेकिन मेरे साथ मेरे ही गांव के मेघनाथ भैया साथ थे। इसलिए हमलोग वहां से किसी प्रकार जान बचाकर चले गये। इस घटना में चन्द्रकेत राय व हरि राय ग्राम-रसुलपुर हबीब (देसरी) तथा विनोद कु0 सुमन (MES), शंकर राय ग्राम चकजैनब, चकसिकन्दर (बिदुपुर) बराबर का भागीदार हैं। विनोद कु0 सुमन नाम बदलकर परीक्षा दिया है और उसमें लगभग 20 वर्ष उम्र करके नये प्रमाण-पत्र से MES का नौकरी कर रहे हैं जबकि 22 साल का तो उनका बेटा ही है।

इस घटना में मेरे माता, पिता, दोनों भाई, भाभी, बहन-बहनोई सभी निर्दोष हैं। मुझे मेरे माता-पिता के संपत्ति पर किसी प्रकार का कोई अधिकार नहीं है क्योंकि मेरी मां तो वही है परन्तु पिता स्व0 शिवनाथ राय ग्राम-मधौल (महुआ) थे। जब मैं मां के गर्भ में ही 6 महीने का था तो मेरे पिता की मृत्यु हो गयी। फिर मेरी मां की शादी कर्म



पिता (महेन्द्र राय) से हुआ जिन्होंने मुझे पढ़ाया लिखाया पाला पोषा। अतः मेरे बच्चे का भी यहां कोई अधिकार सिद्ध नहीं होता है। "

10. The viscera report also reveals that the cause of death is due to consumption of Aluminium Phosphide, which commercially known as Celphos, which is a severe gastrointestinal irritant, which is commonly used as a grain preservative and is highly poisonous.

11. In the case of ***Mahendra Awase (Supra)***, the facts has been taken note of in several paragraphs but it has been concluded in paragraph no. 19 as follows:

"19. Applying the above principle to the facts of the present case, we are convinced that there are no grounds to frame charges under Section 306 IPC against the appellant. This is so even if we take the prosecution's case on a demurrer and at its highest. A reading of the suicide note reveals that the appellant was asking the deceased to repay the loan guaranteed by the deceased and advanced to Ritesh Malakar. It could not be said that the appellant by performing his duty of realising outstanding loans at the behest of his employer can be said to have instigated the deceased to commit suicide. Equally so, with the transcripts, including the portions emphasised hereinabove. Even taken literally, it could not be said that the appellant intended to instigate the commission of suicide. It could certainly not be said that the appellant by his acts created circumstances which left the deceased with no other option except to commit suicide. Viewed from the armchair of the appellant, the exchanges with the deceased, albeit heated, are not with intent to leave the deceased with no other option but to commit suicide. This is the conclusion we draw taking a realistic approach, keeping the context and the situation in mind."

12. The ingredients of Section 107 of the Indian Penal Code are as follows:

"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.*

Illustration

*A, a public officer, is authorized by a warrant
from a Court of Justice to apprehend Z. B, knowing that fact
and also that C is not Z, wilfully represents to A that C is Z,
and thereby intentionally causes A to apprehend C. Here B
abets by instigation the apprehension of C.*

*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
facilitate the commission thereof, is said to aid the doing of
that act."*

13. The ingredients of Section 306 of the Indian
Penal Code are as follows:

"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."*

14. The Apex Court in ***Chitresh Kumar Chopra v.
State (Govt. of NCT of Delhi)*** reported in **(2009) 16 SCC 605**
had an occasion to deal with this aspect of abatement. 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.

15. The Apex Court in the case of *S.S. Chheena v. Vijay Kumar Mahajan* reported in (2010) 12 SCC 190 held that the "abatement 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."

16. No doubt, the nature of relationship in matrimony, social and legal obligation arise, which when interlaid with persistent cruel conduct by the wife, may lead a man to



find himself optionless. Of course, it depends on the circumstances of a man, his financial and social status and his general outlook towards life. But, what cannot be ignored is the fact that in the matrimonial relationship both spouses, in sometime, become aware of the others general outlook and the threshold of toleration beyond which the other may not be driven, and if persistently harassed, may adopt fatal options.

17. In the instant case, from the suicide note and the FIR, there are sufficient materials, which show that the deceased was not having good relationship with his wife (petitioner no. 1), who had fallen in company of some other person with whom, she was having illicit relationship. So far as the retraction by the informant is concerned that during the Covid-19 Pandemic period, the earning of the deceased came to be stalled only shows that the entire allegation levelled against the petitioners don't attract any criminal prosecution, cannot be sustained in light of suicide note, which is the sterling evidence about what drove the man to take his own life.

18. I find that from the beginning of the relationship, the petitioner no. 1 had subjected the deceased to cruelty, which ultimately resulted into suicide and the ingredients of the two sections 107 and 306 of the Indian Penal



Code are attracted against the petitioners, as such, I am not inclined to quash the FIR.

19. Accordingly, the present application stands dismissed.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	04.09.2025
Transmission Date	N/A

