



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR No.624 of 2018 (O&M)
Reserved on: 29.04.2025
Pronounced on: 01.05.2025**

Ashwani Bhatia

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikram Singh Bhatia, Advocate
for the petitioner (through video conferencing)

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Ajit Sihag, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present revision petition is for setting aside the impugned order dated 02.02.2018 passed by learned Additional Sessions Judge, Gurugram vide which charge for the offence under Section 306 read with Section 34 of the IPC has been ordered to be framed against petitioner with respect to FIR No. 48 dated 22.01.2017 registered under Sections 306, 34 of the Indian Penal Code (hereinafter IPC) at Police Station City Palam Vihar, Gurugram.

2. Briefly, the facts are that Rajni Rani was married to Bharat Bhushan (now deceased) in the year 2011. Owing to alleged dowry-related harassment and maltreatment by the deceased and his family, she began residing separately at her parental home in Shahdara, Delhi, from



11.08.2017. Thereafter, she initiated proceedings under the Protection of Women from Domestic Violence Act against her husband and in-laws, and also filed a petition seeking divorce. The present petitioner acted as her counsel in the said divorce proceedings.

3. On 22.01.2017, Bharat Bhushan committed suicide by hanging himself in a rented accommodation. A written complaint was lodged by Pushp Kumar, the brother of the deceased, at Palam Vihar Police Station, Delhi. He alleged that the deceased was subjected to constant harassment by Rajni Rani and her brothers, Jyoti and Deepak, who had allegedly coerced him for money and received a sum of ₹1,50,000/-. It was further alleged that they repeatedly threatened him, citing the influence of their maternal uncle—the present petitioner—who was employed in the court and could falsely implicate the deceased's family. A suicide note dated 19.01.2017 was recovered, wherein the petitioner was also named. Based on these allegations, an FIR was registered, a charge sheet was filed, and on 02.02.2018, charge under Section 306 read with Section 34 of IPC was framed against the petitioner and other accused persons.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner is the maternal uncle of accused Rajni, who is wife of deceased Bharat Bhushan. He further submits that Rajni and Bharat Bhushan had a matrimonial dispute and in the month of October, 2016, Rajni filed a petition under the Hindu Marriage Act for seeking divorce as well as the petition under the Prevention of Women from Domestic



Violence Act against her husband. The petitioner, being an Advocate, was pursuing the aforesaid petitions on behalf of the accused Rajni. It is further submitted that in the suicide note dated 19.01.2017, though it is mentioned that maternal uncle of wife of the deceased Bharat Bhushan was threatening, however, the petitioner is not named and it is not stated in the suicide note that the petitioner directly gave any threat to him and the allegations are that the other co-accused, using the name of the petitioner that he is an Advocate, were extending threat to the deceased. Further, the deceased committed the suicide on 22.01.2017, after 03 days of writing the alleged suicide note and in the intervening period, he had sufficient time to rethink about his decision. Learned Counsel for the petitioner has further submitted that from the perusal of the suicide note or from the investigation report under Section 173 Cr.P.C., it is not made out that the petitioner, at any stage, has induced the deceased to commit suicide. It is next submitted on behalf of the petitioner that as per the report under Section 173 Cr.P.C., except from mentioning that the petitioner was granted anticipatory bail and was joined the investigation, no specific role is attributed to the petitioner, as to how he has abetted the deceased Bharat Bhushan in committing the suicide. Moreover, even if the allegations in the complaint and charge-sheet are taken at face value, they do not disclose the commission of an offence under Section 306 IPC. It is contended that there is no direct or indirect act of instigation, abetment, or any positive act on the part of the petitioner that would satisfy the ingredients of the said offence. Thus,



the learned Court below has erroneously framed the charges against the petitioner under section Section 306 read with Section 34 IPC vide impugned order dated 02-02-2018 and the same is liable to be set aside.

5. On the other hand, supported by learned counsel for respondent no.2 and learned State counsel argues that learned trial Court has passed a well-reasoned order based on correct appreciation of evidence available on record and as such, no interference by this Court is warranted. Additionally, there is nothing on record to suggest that the petitioner may have been falsely implicated.

6. Having heard learned counsel for the parties and after the record of the case, it transpires that neither the FIR(supra) nor the impugned order mentions any prior or recent incident that involves instigation on the part of the petitioner. It is unclear as to how the allegations leveled against the petitioners result in formation of a prima facie belief that he could have abetted the suicide in terms of Sections 107 and 306 of the IPC, which read as follows:

Section 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 or 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 the 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.

Section 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.

7. Hence, the learned trial Court has erred in framing charge under Section 306 IPC, as the material on record does not prima facie establish the essential elements of abetment required under Section 306 IPC. While, the suicide note contains a reference to the maternal uncle of the deceased's wife, however, it neither names the petitioner nor attributes any direct threat made by the petitioner to the deceased. The allegations pertain to co-accused individuals who, purportedly using the petitioner's name and claiming that he is an Advocate, extended threats to the deceased. Therefore, there is nothing on record to suggest that the petitioner played a direct role or active participation in instigating or abetting the deceased to commit suicide.

8. A two Judge bench of the Hon'ble Supreme Court in ***Gangula Mohan Reddy v. State of Andhra Pradesh 2010(1) SCC 750***, speaking through Justice Dalveer Bhandari, held as follows:

"19. This court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), 2009(4) RCR (Criminal)



196 : 2009(5) RAJ 278 : 2009(11) SCALE 24 had an occasion to deal with this aspect of abetment. The court dealt with the dictionary meaning of the word "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 others person has his own idea of self esteem and self respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

20. 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.

21. 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 Indian Penal Code 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 committed suicide"

9. Before proceeding further, it is pertinent to recapitulate the law regarding the scope and nature of judicial evaluation at the stage of framing of charge. The law on this issue is well settled. The learned trial Court at this stage is only to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the offence alleged. At the stage of formation of opinion under Sections 227, 239 and 240 of Cr.P.C, the learned trial Court is not required to weigh the probative value of the material brought on record in the



golden scale or to presume the prosecution story as gospel truth. The nature and degree of evaluation at this stage is limited to determine whether a *prima facie* case exists depending upon the facts of each case and as such, there is no requirement to go deep into the probative value of material on record. The learned trial Court is only required to evaluate whether there is a ground for presuming that the accused has committed the offence. The adequacy and sufficiency of the evidence is not to be considered at this stage. The veracity of the evidence can only be evaluated during the trial. In view of the legal literature and judgmental law on this issue, it could be safely concluded that at the stage of forming an opinion under Section 227, 239 and 240 of Cr.P.C, the learned trial Court is required to evaluate the material only with a purpose to ascertain whether the facts emerging from the record if taken at their face value disclose the existence of all the ingredients constituting the offence. The discharge of the accused is only permissible when the case set up by the investigating agency in the final report filed before the trial Court under 173 of Cr.P.C. has no basis or foundation. The trial Court cannot consider the probable defence of the accused in the case at this stage.

The Hon'ble Supreme Court has *in extenso* laid down the principles for the purpose of framing of charges in ***P. Vijayan Vs. State of Kerala (2010) SCC 398***. Recently, the Hon'ble Supreme Court examined the issue involved in the present case in ***State through Deputy Superintendent of Police Vs. R.Soundirarasu etc. 2023 (2)***



RCR Criminal 206 reiterated that the primary consideration at this stage of framing of charges is the test of existence of a prima facie case and the probative value of the material available on record is not to be gone into.

10. *Merely because the prosecution has presented its version couched in verisimilitude, the trial Court is not supposed to act like a postmaster. If the allegations are so absurd and explicitly implausible that no prudent man would entertain any suspicion regarding the commission of the offence, the trial Court must apply its judicial mind and ascertain the existence of factual ingredients breaching the threshold of the alleged offence for the purpose of framing charges. The assessment of the trial Court, in such a scenario, must satisfy the objective standard of reason and prudence. Reliance in this regard can be placed on the judgment rendered by this Court in **Krishan @ Tiwari vs. State of Haryana 2024(1) PLR 406.***

11. In view of the facts and circumstances of the case and the ratio laid down in settled laws, this Court has no hesitation to hold that *prima facie*, a case under Section 306 IPC is not made out against the petitioner, Ashwani Bhatia. Resultantly, the impugned order dated 02.02.2018 passed by the learned Additional Sessions Judge, Gurugram for framing charge under Section 306 read with Section 34 of IPC against the petitioner, is hereby set aside. The petitioner stands discharged of the said charge and his bail/surety bonds also stand discharged.



12. Accordingly, the revision petition is allowed.
13. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

01.05.2025

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No