

GEO VARGHESE

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v.

THE STATE OF RAJASTHAN & ANR.

(Criminal Appeal No. 1164 of 2021)

OCTOBER 05, 2021

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[S. ABDUL NAZEER AND KRISHNA MURARI, JJ.]

Code of Criminal Procedure, 1973: s.482 – Allegation against appellant was that the son of the complainant committed suicide due to mental harassment meted out by the appellant – Appellant was physical Training Teacher in the school where complainant's son was student – Appellant was also assigned responsibility for maintaining overall discipline by the students of the school – The allegations in the FIR was that the appellant had harassed and insulted her son in the presence of everyone due to which he was under deep mental pressure and committed suicide – High Court dismissed s. 482 application for quashing the FIR – Hence the instant appeal – Held: To constitute an alleged abetment of suicide under s.306 IPC, there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide – In the FIR and as also the statement of the complainant recorded by the police, no reasons or cause for the appellant to harass and insult the victim were spelled out nor there were any details with respect to any action on the part of the appellant by which the deceased boy might have felt being harassed and insulted – Appellant in his petition under s.482 before the High Court set out detailed facts and circumstances, which unfortunately the High Court failed to even take notice of much less analyse the same before coming to the conclusion – It was also stated therein that the victim, school student, generally used to bunk his classes and was warned by the appellant and other school staff a number of times – Persistent act of bunking classes was reported to the Principal of the School, who informed the parents of the boy to come to the school – A simple act of reprimand of a student for his behaviour or indiscipline by a teacher, who is under moral obligations to inculcate good qualities of a human being in a student would definitely not amount to instigation or intentionally aid to the commission of suicide by a student – No further overt act was attributed to the appellant either

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- A *in the FIR or in the statement of the complainant, nor anything in this regard was stated in the alleged suicide note – Thus, no mens rea can be attributed – In the absence of the element of abetment missing from the allegations, the essential ingredients of offence under s.306 IPC do not exist – All these facts were clearly ignored*
- B *by the High Court while mechanically dismissing the petition under s.482 CrPC on the ground that FIR disclosed the commission of a cognizable offence – High Court was not justified in dismissing the application under s.482 CrPC for quashing the FIR in exercise of its inherent jurisdiction – Penal Code, 1860 – s.306.*
- C *Code of Criminal Procedure, 1973: s.482 – Scope of – Held: High Court has inherent power to act ex debito justitiae i.e., to do real and substantial justice, or to prevent abuse of the process of the Court – The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise – The Court must be careful to see that its decision in exercise of this*
- D *power is based on sound principles – The inherent power vested in the Court should not be exercised to stifle a legitimate prosecution – However, the inherent power or the extra-ordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court, or the ends of justice require that the proceeding ought to be quashed.*
- E *Penal Code, 1860: s.306 – Abetment of suicide – Essential ingredients – There must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide.*

Allowing the appeal, the Court

- G **HELD:** 1. An attempt to suicide is considered to be an offence under Section 309 IPC. The abetment of suicide by anybody is also an offence under Section 306 IPC. Though, the IPC does not define the word ‘Suicide’ but the ordinary dictionary meaning of suicide is ‘self-killing’. The word is derived from a modern latin word ‘suicidium’, ‘sui’ means ‘oneself’ and ‘cidium’
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means ‘killing’. Thus, the word suicide implies an act of ‘self-killing’. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. Abetment is defined under Section 107 of IPC. The ordinary dictionary meaning of the word ‘instigate’ is to bring about or initiate, incite someone to do something. [Paras 13, 14, 15, 16][402-G; 403-B-C, G-H]

Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618 : [2001] 4 Suppl. SCR 247; S.S.Cheena v. Vijay Kumar Mahajan and Anr. (2010) 12 SCC 190 : [2010] 9 SCR 1111; Arnab Manoranjan Goswami v. State of Maharashtra & Ors. (2021) 2 SCC 427; M. Arjunan v. State, Represented by its Inspector of Police (2019) 3 SCC 315; Ude Singh & Ors. v. State of Haryana (2019) 17 SCC 301 : [2019] 9 SCR 703; Narayan Malhari Thorat v. Vinayak Deorao Bhagat and Anr. (2019) 13 SCC 598 : [2018] 14 SCR 232 – relied on.

2. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased. [Para 22][408-E-G]

3. The FIR recites that victim boy was under deep mental pressure because the appellant had harassed and insulted him in

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- A the presence of everyone and he was not willing to go to school on 25.04.2018 but was persuaded to go to school by the complainant. When he returned from the school, again he was under very much pressure and on being enquired told that today again he was harassed and insulted by the appellant. The boy was informed that the parents have been called to school next day and this brought him under further severe pressure and tension. In the First Information Report and as also the statement of the complainant recorded by the police, no reasons or cause for the appellant to harass and insult the victim are spelled out nor there are any details with respect to any action on the part of the appellant by which the deceased boy might have felt being harassed and insulted. [Paras 24, 25][409-A-D]
 - 4. The appellant in his petition under Section 482 CrPC before the High Court has set out detailed facts and circumstances, which unfortunately the High Court failed to even
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- D take notice of much less analyse the same before coming to the conclusion. It was stated in the petition that as a PT Teacher, he was imparting Physical Training to the students from 1st to 5th standard and being a member of the Disciplinary Committee, was also charged with the duty of maintaining discipline in the school which included keeping a watch upon students and oversee that they are attending the classes instead of bunking the same and moving around in the school premises without permission. It was also stated that the victim, a student of class 9, generally used to bunk his classes and was warned by the appellant and other school staff a number of times. On 19.04.2018, he was caught by the
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- F appellant bunking classes and moving around the school campus without any cause or permission and a warning was given to him. On 25.04.2018, he was caught bunking classes and again the appellant issued him a warning and reported the same to the Principal of the School, who informed the parents of the boy to come to the school. [Para 26][409-D-G]
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- 5. It is a solemn duty of a teacher to instil discipline in the students. The disciplinary measures adopted by a teacher or other authorities of a school, reprimanding a student for his indiscipline, would not tantamount to provoking a student to commit suicide,
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unless there are repeated specific allegations of harassment and insult deliberately without any justifiable cause or reason. A simple act of reprimand of a student for his behaviour or indiscipline by a teacher, who is under moral obligations to inculcate the good qualities of a human being in a student would definitely not amount to instigation or intentionally aid to the commission of a suicide by a student. It is not only a moral duty of a teacher but one of the legally assigned duty under Section 24 (e) of the Right of Children to Free and Compulsory Education Act, 2009 to hold regular meetings with the parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other act or relevant information about the child. Thus, the appellant having found the deceased boy regularly bunking classes, first reprimanded him but on account of repeated acts, brought this fact to the knowledge of the Principal, who called the parents on telephone to come to the school. No further overt act has been attributed to the appellant either in the First Information Report or in the statement of the complainant, nor anything in this regard has been stated in the alleged suicide note. The alleged suicide note only records insofar as, the appellant is concerned, 'THANKS GEO (PTI) OF MY SCHOOL'. Thus, even the suicide note does not attribute any act or instigation on the part of the appellant to connect him with the offence for which he is being charged. [Paras 27, 28, 29] [409-G-H; 410-A-F]

6. If, a student is simply reprimanded by a teacher for an act of indiscipline and bringing the continued act of indiscipline to the notice of Principal of the institution who conveyed to the parents of the student for the purposes of school discipline and correcting a child, any student who is very emotional or sentimental commits suicide, the said teacher cannot be held liable for the same and charged and tried for the offence of abetment of suicide under section 306 IPC. Considering the facts that the appellant holds a post of a teacher and any act done in discharge of his moral or legal duty without their being any circumstances to even remotely indicate that there was any intention on his part to abet the commission of suicide by one of his own pupil, no *mens rea* can be attributed. In the absence of

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- A the element of abetment missing from the allegations, the essential ingredients of offence under section 306 IPC do not exist. All these facts have been clearly ignored by the High Court while mechanically dismissing the petition under Section 482 CrPC on the ground that FIR discloses the commission of a cognizable offence. [Paras 30, 32, 33][410-F-H; 411-A-C]
- B 7. Undoubtedly, every High Court has inherent power to act *ex debito justitiae* i.e., to do real and substantial justice, or to prevent abuse of the process of the Court. The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power vested in the Court should not be exercised to stifle a legitimate prosecution. However, the inherent power or the extra-ordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court, or the ends of justice require that the proceeding ought to be quashed. [Para 34][411-C-E]
- C 8. The suicide note is rhetoric document, penned down by an immature mind. A reading of the same also suggests the hypersensitive temperament of the deceased which led him to take such an extra-ordinary step, as the alleged reprimand by the accused, who was his teacher, otherwise would not ordinarily induce a similarly circumstanced student to commit suicide. [Para 39][414-C]
- F *State of Karnataka v. L. Muniswamy & Ors. (1977) 2 SCC 699 : [1977] 3 SCR 113; Madhavrao Jiwajirao Scindia & Anr. v. Sambhajirao Chandrojirao Angre & Ors. (1988) 1 SCC 692 : [1988] 2 SCR 930; State of Haryana & Ors. v. Bhajan Lal & Ors. (1992) Supp (1) SCC 335:[1990] 3 Suppl. SCR 259; M/s.Zandu Pharmaceutical Works Ltd. & Ors. v. Mohd. Sharaful Haque & Anr. (2005) 1 SCC 122:[2004] 5 Suppl. SCR 790 – relied on.*
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9. In the absence of any material on record even, *prima facie*, in the FIR or statement of the complainant, pointing out any such circumstances showing any such act or intention that he intended to bring about the suicide of his student, it would be absurd to even think that the appellant had any intention to place the deceased in such circumstances that there was no option available to him except to commit suicide. Thus, it would be travesty of justice, to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience and the appellant who is a teacher would certainly suffer great prejudice, if he has to face prosecution on absurd allegations of irrelevant nature. The High Court was not justified in dismissing the application under section 482 CrPC for quashing the First Information Report in exercise of its inherent jurisdiction. [Paras 40, 41, 42][414-D-G]

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<u>Case Law Reference</u>		
[2001] 4 Suppl. SCR 247	relied on	Para 16
[2010] 9 SCR 1111	relied on	Para 17
(2021) 2 SCC 427	relied on	Para 18
(2019) 3 SCC 315	relied on	Para 19
[2019] 9 SCR 703	relied on	Para 20
[2018] 14 SCR 232	relied on	Para 21
[1977] 3 SCR 113	relied on	Para 35
[1988] 2 SCR 930	relied on	Para 36
[1990] 3 Suppl. SCR 259	relied on	Para 37
[2004] 5 Suppl. SCR 790	relied on	Para 38

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CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No.1164 of 2021.

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From the Judgment and Order dated 30.04.2019 of the High Court of Judicature for Rajasthan Bench at Jaipur in S.B. Criminal Misc. Petition No.2979 of 2018.

Abhishek Gupta, Adv. for the Appellant.

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A Dr. Manish Singhvi, Sr. Adv., Milind Kumar, Aditya Kr. Choudhary, Deepak Chauhan, Gurmehar Vaan Singh, Vaibhav Prasad Deo, Babu Malayil, Alok Pandey, Rajesh Singh Chauhan, Advs. for the Respondents.

The Judgment of the Court was delivered by

KRISHNA MURARI, J.

B 1. Leave granted.

2. Being aggrieved by the impugned judgment and order dated 30.04.2019 passed by the High Court of Judicature for Rajasthan at Jaipur (hereinafter referred to as 'High Court') dismissing the petition under Section 482 of the Code of Criminal Procedure seeking to quash

C the First Information Report dated 02.05.2018 registered as Case No. 162 of 2018 at Police Station Sodala, Jaipur City (South), the accused, a Physical Training Teacher in St. Xavier's School, Nevta, Jaipur and also a member of the Disciplinary Committee for maintaining overall discipline by the students of the School, who is to face prosecution for offence

D under Section 306 Indian Penal Code (hereinafter referred to as 'IPC') is before us.

3. The appellant herein was appointed as a Physical Training Teacher in St. Xavier's School, Nevta in the year 2016. He was imparting Physical Training to the students from 1st to 5th standard. He was also a

E member of the Disciplinary Committee for maintaining overall discipline by the students of the School.

4. One student of Class 9th of the institution, unfortunately, committed suicide in the morning at about 04:00 AM on 26.04.2018. The mother of the deceased-student lodged the FIR in question on 02.05.2018 before the concerned Police Station under Section 306 IPC after about

F 7 days of the suicide, alleging that her son committed suicide due to mental harassment meted out by the appellant.

5. Detailed facts as unfolded in the First Information Report by the complainant- Respondent No. 2 was that :

G On 26.04.2018, my son Nitant Raj Lata, aged 14 years was found hanging with the fan in the room at 04:00 AM by his grandmother. Immediately, the knot was opened and after bringing him down, he was immediately taken to Santkba Durlabhji Hospital where doctors declared him brought dead. The Hospital administration informed the concerned Police Station immediately and on the same day, the body of deceased was handed over to the police

and postmortem was conducted. It is further stated in the FIR A that on 19.04.2018, Nitant Raj (the deceased) informed her that on the said day his PTI (Physical Training Instructor) GEO Sir had harassed and insulted him in the presence of everyone because of which he was under deep mental pressure. However, she persuaded her son and sent him to the School on Monday. Thereafter, on 25.04.2018, when the child was in the School, a telephone call was received from school at about 09:00 AM calling the parents to come to the school on the next day i.e., 26.04.2018. When Nitant returned from the school on 25.04.2018 again he was under very much pressure and on being inquired he told that today again GEO PTI Sir has harassed and insulted him very much. On this she persuaded the child that we will go to school tomorrow and will discuss because a phone call came from the school. Thereafter, the child had been under more severe pressure and tension. He went to his room to sleep and was found hanging at about 04:00 AM. It is further stated that on 30.04.2018 at 11:00 AM, Assistant Sub-Inspector Shri Kallu Khan, came to the house and searched his room where a suicide note in two pages and curtain which was used for hanging and other items like a blank copy from which two pages were torn and note book, etc. were recovered.

6. Heard Shri Abhishek Gupta, learned Counsel for the appellant, E Dr. Manish Singhvi, learned counsel for the State-Respondent No. 1 and Mr. Aditya Kumar Chaudhary, learned counsel for the State- Respondent No. 2. We have also gone through the impugned judgment as also the record of the case with the assistance of the learned counsel for the parties.

7. Shri Abhishek Gupta, learned counsel for the appellant F vehemently contended that on a plain reading of the First Information Report, by no stretch of imagination, it can be said that necessary ingredients to constitute an offence of abetment, as defined under Section 306 IPC, are not borne out and the complaint does not disclose the commission of the said offence.

8. It was further asserted that the allegations made in the FIR G clearly spells out that appellant in no manner abetted the commission of suicide by the deceased as no such material exists on record and present proceedings if allowed to continue would be nothing but an abuse of the process of law.

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A 9. Shri Abhishek Gupta, also took us through the suicide note which is filed as Annexure P-2. A perusal of the same reveals that it is a note consisting of three pages with following written on each separate paper:-

01st page – ‘*MY ALL THINGS GOES TO MY DEAR BRO
KAIRN EVEN MY LOVE BYE BUDDY & SORRY*’

B 02nd page – ‘*NEEDED JUSTICE*’

03rd page – ‘*THANKS GEO (PTI) OF MY SCHOOL*’

10. Dr. Manish Singhvi, learned senior counsel appearing for the State of Rajasthan contends that the allegations in the FIR discloses a commission of cognizable offence and there is a suicide note specifically

C taking the name of the appellant. He further contends that the appellant harassed the deceased from 19.04.2018 till 24.04.2018 and ultimately on the complaint of the appellant when the deceased was called by the Principal on 25.04.2018 for bunking classes and the parents were also asked to come to school on 26.04.2018, the deceased committed suicide

D on the intervening night of 25.04.2018 - 26.04.2018 and there is a proximate nexus in the harassment and suicide and thus, a *prima facie* case for alleged cognizable offence is made out against the appellant and the High Court has rightly refused to quash the First Information Report.

E 11. Shri Aditya Kumar Chaudhary, learned counsel appearing for Respondent No. 2 – ‘the Complainant’, while trying to defend the impugned order submits that the impugned First Information Report clearly makes out that appellant’s direct and indirect acts of humiliation, harassment led the deceased boy to commit suicide. He further submitted that the question of *mens rea* attributable to the appellant cannot be F established at this stage when the investigation is yet to be completed.

12. We have considered the rival contentions of the learned counsel appearing for the parties and perused the entire records.

G 13. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under Section 309 IPC. The abetment of suicide by anybody is also an offence under Section 306 IPC. It would be relevant to set out Section 306 of the IPC which reads as under :-

H “**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.” A

14. Though, the IPC does not define the word ‘Suicide’ but the ordinary dictionary meaning of suicide is ‘self-killing’. The word is derived from a modern latin word ‘*suicidium*’, ‘sui’ means ‘oneself’ and ‘cidium’ means ‘killing’. Thus, the word suicide implies an act of ‘self-killing’. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself. B

15. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. Abetment is defined under Section 107 of IPC which reads as under :- C

“107. Abetment of a thing - A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or D

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 E 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 F 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.” G

16. The ordinary dictionary meaning of the word ‘instigate’ is to bring about or initiate, incite someone to do something. This Court in the case of **Ramesh Kumar Vs. State of Chhattisgarh**¹ has defined the word ‘instigate’ as under :-

¹ (2001) 9 SCC 618 H

- A “*Instigation is to goad, urge forward, provoke, incite or encourage to do an act.*”

17. The scope and ambit of Section 107 IPC and its co-relation with Section 306 IPC has been discussed repeatedly by this Court. In the case of **S.S.Cheena Vs. Vijay Kumar Mahajan and Anr.**², it was observed as under:-

- C “*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 the Supreme 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.*”

D 18. In a recent pronouncement, a two-Judge Bench of this Court in the case of **Arnab Manoranjan Goswami Vs. State of Maharashtra & Ors.**³, while considering the co-relation of Section 107 IPC with Section 306 IPC has observed as under :-

- E “47. The above decision thus arose in a situation where the High Court had declined to entertain a petition for quashing an FIR under Section 482 of the 14 (2014) 4 SCC 453 PART I 33 CrPC. However, it nonetheless directed the investigating agency not to arrest the accused during the pendency of the investigation. This was held to be impermissible by this Court. On the other hand, this Court clarified that the High Court if it thinks fit, having regard to the parameters for quashing and the self restraint imposed by law, has the jurisdiction to quash the investigation and may pass appropriate interim orders as thought apposite in law. Clearly therefore, the High Court in the present case has misdirected itself in declining to enquire *prima facie* on a petition for quashing whether the parameters in the exercise of that jurisdiction have been duly

H ²(2010) 12 SCC 190
³(2021) 2 SCC 427

established and if so whether a case for the grant of interim bail has been made out. The settled principles which have been consistently reiterated since the judgment of this Court in State of Haryana vs Bhajan Lal(Bhajan Lal) include a situation where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused. This legal position was recently reiterated in a decision by a two-judge Bench of this Court in Kamal Shivaji Pokarnekar vs State of Maharashtra.

48. *The striking aspect of the impugned judgment of the High Court spanning over fifty-six pages is the absence of any evaluation even prima facie of the most basic issue. The High Court, in other words, failed to apply its mind to a 15 1992 Supp. I SCC 335 16 (2019) 14 SCC 350 PART I 34 fundamental issue which needed to be considered while dealing with a petition for quashing under Article 226 of the Constitution or Section 482 of the CrPC. The High Court, by its judgment dated 9 November 2020, has instead allowed the petition for quashing to stand over for hearing a month later, and therefore declined to allow the appellant's prayer for interim bail and relegated him to the remedy under Section 439 of the CrPC. In the meantime, liberty has been the casualty. The High Court having failed to evaluate prima facie whether the allegations in the FIR, taken as they stand, bring the case within the fold of Section 306 read with Section 34 of the IPC, this Court is now called upon to perform the task."*

19. In the case of *M. Arjunan Vs. State, Represented by its Inspector of Police*⁴, a two-Judge Bench of this Court has expounded the ingredients of Section 306 IPC in the following words:-

"The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. 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

⁴ (2019) 3 SCC 315

- A *to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C.”*
- B 20. At this stage, we may also refer to another recent judgment of a two-Judge Bench of this Court in the case of *Ude Singh & Ors. Vs. State of Haryana*⁵, which elucidated on the essential ingredients of the offence under Section 306 IPC in the following words:-
- C “*16. 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 could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.*
- D *16.1. For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit*
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- E *H* ⁵(2019) 17 SCC 301

suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. 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 and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or 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. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.”

21. We may also refer to a two-Judge Bench judgment of this Court in the case of *Narayan Malhari Thorat Vs. Vinayak Deorao Bhagat and Anr.*,⁶ wherein the judgement rendered by the High Court quashing the FIR under Section 482 was set aside. In the said case, an FIR was registered under Section 306 IPC stating that the son and daughter-in-law were teachers in a Zila Parishad School where the accused was also a teacher used to make frequent calls on the mobile of the daughter-in-law, and used to harass her. Despite the efforts of the son of the informant in trying to make the accused see reason and stop calling, the accused continued with his activity. On 09.02.2015, there was a verbal altercation between the son of the informant and the accused and on 12.02.2015, he committed suicide leaving a note stating that his family life has been ruined by the accused who should not be pardoned and should be hanged. Under Section 482 Cr.PC, a petition was filed by the accused challenging the FIR, which was allowed by the High Court and thereafter, was challenged before this Court. The appeal was allowed by this Court and made the following observations:-

“We now consider the facts of the present case. There are definite allegations that the first respondent would keep on

⁶ (2019) 13 SCC 598

- A *calling the wife of the victim on her mobile and keep harassing her which allegations are supported by the statements of the mother and the wife of the victim recorded during investigation. The record shows that 3-4 days prior to the suicide there was an altercation between the victim and the first respondent. In the light of these facts, coupled with the fact that the suicide note made definite allegation against first respondent, the High Court was not justified in entering into question whether the first respondent had the requisite intention to aid or instigate or abate the commission of suicide. At this juncture when the investigation was yet to be completed and charge-sheet, if any, was yet to be filed, the High Court ought not to have gone into the aspect whether there was requisite mental element or intention on part of the respondent."*
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In the above quoted observations of this Court, there is a clear indication that there was a specific averment in the FIR that the respondent had continuously harassed the spouse of the victim and did not rectify his conduct despite being objected by the victim. Thus, as a matter of fact he had actively facilitated in the commission of suicide.

22. What is required to constitute an alleged abetment of suicide
- E under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration
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 - G the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.

23. In the backdrop of the above discussion, we may now advert to the facts of the present case to test whether the ingredients of offence under Section 306 IPC exist, even *prima-facie*, to continue with the investigations.

24. The FIR recites that victim boy was under deep mental pressure because the appellant herein had harassed and insulted him in the presence of everyone and he was not willing to go to school on 25.04.2018 but was persuaded to go to school by the complainant. When he returned from the school, again he was under very much pressure and on being enquired told that today again he was harassed and insulted by the GEO, PTI Sir (the appellant). The boy was informed that the parents have been called to school next day and this brought him under further severe pressure and tension.

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25. In the First Information Report and as also the statement of the complainant recorded by the police, no reasons or cause for the appellant to harass and insult the victim are spelled out nor there are any details with respect to any action on the part of the appellant by which the deceased boy might have felt being harassed and insulted.

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26. The appellant in his petition under Section 482 CrPC before the High Court has set out detailed facts and circumstances, which unfortunately the High Court failed to even take notice of much less analyse the same before coming to the conclusion. It was stated in the petition that as a PT Teacher, he was imparting Physical Training to the students from 1st to 5th standard and being a member of the Disciplinary Committee, was also charged with the duty of maintaining discipline in the school which included keeping a watch upon students and oversee that they are attending the classes instead of bunking the same and moving around in the school premises without permission. It was also stated that the victim, a student of class 9, generally used to bunk his classes and was warned by the appellant and other school staff a number of times. On 19.04.2018, he was caught by the appellant bunking classes and moving around the school campus without any cause or permission and a warning was given to him. On 25.04.2018, he was caught bunking classes and again the appellant issued him a warning and on account of persistent act of bunking classes, reported the same to the Principal of the School, who informed the parents of the boy to come to the school.

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27. It is a solemn duty of a teacher to instil discipline in the students. It is not uncommon that teachers reprimand a student for not being attentive or not being upto the mark in studies or for bunking classes or not attending the school. The disciplinary measures adopted by a teacher or other authorities of a school, reprimanding a student for his indiscipline, in our considered opinion, would not tantamount to provoking a student

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- A to commit suicide, unless there are repeated specific allegations of harassment and insult deliberately without any justifiable cause or reason. A simple act of reprimand of a student for his behaviour or indiscipline by a teacher, who is under moral obligations to inculcate the good qualities of a human being in a student would definitely not amount to instigation or intentionally aid to the commission of a suicide by a student.
- B 28. ‘Spare the rod and spoil the child’ an old saying may have lost its relevance in present days and Corporal punishment to the child is not recognised by law but that does not mean that a teacher or school authorities have to shut their eyes to any indiscipline act of a student. It is not only a moral duty of a teacher but one of the legally assigned duty under Section 24 (e) of the Right of Children to Free and Compulsory Education Act, 2009 to hold regular meetings with the parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other act or relevant information about the child.
- C 29. Thus, the appellant having found the deceased boy regularly bunking classes, first reprimanded him but on account of repeated acts, brought this fact to the knowledge of the Principal, who called the parents on telephone to come to the school. No further overt act has been attributed to the appellant either in the First Information Report or in the statement of the complainant, nor anything in this regard has been stated in the alleged suicide note. The alleged suicide note only records insofar as, the appellant is concerned, ‘THANKS GEO (PTI) OF MY SCHOOL’. Thus, even the suicide note does not attribute any act or instigation on the part of the appellant to connect him with the offence for which he is being charged.
- D 30. If, a student is simply reprimanded by a teacher for an act of indiscipline and bringing the continued act of indiscipline to the notice of Principal of the institution who conveyed to the parents of the student for the purposes of school discipline and correcting a child, any student who is very emotional or sentimental commits suicide, can the said teacher be held liable for the same and charged and tried for the offence of abetment of suicide under section 306 IPC.
- E 31. Our answer to the said question is ‘No’.
- F 32. Considering the facts that the appellant holds a post of a teacher and any act done in discharge of his moral or legal duty without their

being any circumstances to even remotely indicate that there was any intention on his part to abet the commission of suicide by one of his own pupil, no *mens rea* can be attributed. Thus, the very element of abetment is conspicuously missing from the allegations levelled in the FIR. In the absence of the element of abetment missing from the allegations, the essential ingredients of offence under section 306 IPC do not exist.

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33. All these facts have been clearly ignored by the High Court while mechanically dismissing the petition under Section 482 CrPC on the ground that FIR discloses the commission of a cognizable offence.

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34. The scope and ambit of inherent powers of the Court under Section 482 CrPC or the extra-ordinary power under Article 226 of the Constitution of India, now stands well defined by series of judicial pronouncements. Undoubtedly, every High Court has inherent power to act *ex debito justitiae* i.e., to do real and substantial justice, or to prevent abuse of the process of the Court. The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power vested in the Court should not be exercised to stifle a legitimate prosecution. However, the inherent power or the extra-ordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court, or the ends of justice require that the proceeding ought to be quashed.

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35. The following observations made by this Court in the case of *State of Karnataka Vs. L. Muniswamy & Ors.*⁷ may be relevant to note at this stage:-

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"The whole some power under Section 482 CrPC entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent power, both in civil and criminal matters, to achieve a salutary public purposes. A Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The

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⁷ (1977) 2 SCC 699

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A *Court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature.”*

B 36. Again in ***Madhavrao Jiwajirao Scindia & Anr. Vs. Sambhajirao Chandrojirao Angre & Ors.***⁸, this Court observed in paragraph 7 as under :-

C “7. The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made *prima facie* establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

D 37. In ***State of Haryana & Ors. Vs. Bhajan Lal & Ors.***⁹, this Court held that it may not be possible to lay down any precise, clearly defined and inflexible guidelines or rigid formulae and to specify an exhaustive list of the cases, where such power should be exercised. However, by way of illustration, the Court laid down the following categories of cases wherein such power could be exercised either to prevent abuse of the process of the Court or otherwise to secure the ends of justice.

E G “(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.

F G (2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police

H ⁸(1988) 1 SCC 692
H ⁹(1992) Supp (1) SCC 335

officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code. A

(3) *Where the uncontested allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.* B

(4) *Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.* C

(5) *Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.* D

(6) *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.* E

(7) *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.* F

38. In the case of **M/s. Zandu Pharmaceutical Works Ltd. & Ors. Vs. Mohd. Sharaful Haque & Anr.**¹⁰, this Court observed as under :-

"It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of G

¹⁰ (2005) 1 SCC 122 H

- A *these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."*
- B 39. Insofar as, the suicide note is concerned, despite our minute examination of the same, all we can say is that suicide note is rhetoric document, penned down by an immature mind. A reading of the same also suggests the hyper-sensitive temperament of the deceased which led him to take such an extra-ordinary step, as the alleged reprimand by the accused, who was his teacher, otherwise would not ordinarily induce a similarly circumstanced student to commit suicide.
- C 40. In the absence of any material on record even, *prima-facie*, in the FIR or statement of the complainant, pointing out any such circumstances showing any such act or intention that he intended to bring about the suicide of his student, it would be absurd to even think that the appellant had any intention to place the deceased in such circumstances that there was no option available to him except to commit suicide.
- D 41. In the absence of any specific allegation and material of definite nature, not imaginary or inferential one, it would be travesty of justice, to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience and the appellant who is a teacher would certainly suffer great prejudice, if he has to face prosecution on absurd allegations of irrelevant nature.
- E 42. Bearing in mind the factual aspects of the case delineated herein above and the legal principles enunciated by a series of pronouncements of this Court discussed herein above, we are of the view that High Court was not justified in dismissing the application under section 482 CrPC for quashing the First Information Report in exercise of its inherent jurisdiction.
- F 43. We are conscious of the pain and suffering of the complainant who is the mother of the deceased boy. It is also very unfortunate that a young life has been lost in this manner, but our sympathies and the pain and suffering of the complainant, cannot translate into a legal remedy,
- G much less a criminal prosecution.

44. In view of above facts and discussions, the impugned judgment A of the High Court dated 30.04.2019 cannot be sustained and is hereby set aside. The First Information Report registered as Case No. 162 of 2018 at Police Station Sodala, Jaipur City (South), stands quashed.

45. The appeal, accordingly, stands allowed.

Devika Gujral

Appeal allowed.