



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3086 OF 2023

Ramrao S/o Govindrao Dhakane,
Age-35 years, Occu:Agri.,
R/o-Ahemadpur, Taluka-Ahemadpur,
District-Latur.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Station, Chakur,
Taluka-Chakur, District-Latur,
- 2) Nagnath S/o Shivraj Hyderabad,
Age-53 years, Profession:Agri.,
R/o-Hali(Khurdali),
Taluka-Chakur, District-Latur.

...RESPONDENTS

...
Mr. Ajinkya Reddy Advocate for Applicant.
Dr. Kalpalata Patil-Bharaswadkar, A.P.P. for Respondent No.1.
Mr. Abhijit G. Choudhari Advocate for Respondent No.2.
...

CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE OF RESERVING JUDGMENT : 23rd AUGUST 2024

DATE OF PRONOUNCING JUDGMENT : 20th SEPTEMBER 2024

JUDGMENT [PER SMT. VIBHA KANKANWADI, J.] :

1. Heard finally with the consent of the learned Advocates for the rival parties.
2. Present Application has been filed under Section 482 of the Code of Criminal Procedure for quashing the First Information Report (for short "the FIR") vide Crime No. 111 of 2022 registered with Chakur Police Station, Taluka-Chakur, District-Latur and the proceedings in R.C.C. No.38 of 2023 pending before the learned Judicial Magistrate First Class, Chakur, District-Latur for the offence punishable under Section 306 of the Indian Penal Code. The said FIR came to be registered upon the report given by respondent No.2. Respondent No.2 is the father of deceased Prashant.
3. Heard learned Advocate Mr. Reddy for the applicant, learned APP Dr. Bharaswadkar for respondent No.1 and learned Advocate Mr. Choudhari for respondent No.2.
4. Perusal of the FIR lodged by respondent No.2 and the statements of the witnesses would show that deceased Prashant was residing at Ahmedpur, whereas respondent No.2 was

residing at Hali (Khurdali), Taluka-Chakur, District-Latur. Deceased Prashant was working with one Vyankatesh Lab. Five months prior to the FIR on 2nd April 2022, all of a sudden Prashant came to Hali and disclosed to the informant that he would be shifting to Pune and would do job at Pune. However, thereafter also deceased used to go to Ahmedpur after about 8 to 15 days, from Pune and then used to come to Hali. He used to be appearing annoyed and restless, therefore, the informant by taking him in confidence asked as to what was the problem. Then Prashant disclosed that he had developed friendly relationship with the applicant who is the owner of shoe shop by name "Sitak". There were financial transactions between Prashant and applicant. The applicant had taken amount around Rs.5,50,000/- from Prashant. He told that he had given his own amount of Rs.2,50,000/- which he had saved from his salary and rest was collected by him from his friends to give it to the applicant. However, later on the applicant has sold the shoe shop because he has become bankrupt and then he has switched off his mobile phone. The friends from whom Prashant had taken amount on loan, were asking for the refund and therefore, he was worried. The family members of the applicant persuaded Prashant by saying that they will find out some solution. Respondent No.2 had taken list of the names of the friends from

whom Prashant had taken amount. Respondent No.2 went to Ahmedpur along with Prashant and personally returned amount of Rs.3,00,000/- to those friends and disclosed that unless he is consulted, nobody should give amount to Prashant. Inquiry was made in respect of applicant, whereupon it was revealed that he has duped many persons like Prashant and he is absconding. Prasant thereafter went to Pune. Prashant then came to Hali on 22nd March 2022 around 3.00 p.m. and told that he is coming from Ahmedpur and met the applicant around 7.00 a.m. When Prashant asked the applicant to return the amount, applicant threatened him and told arrogantly that he would return the amount within four days and will not abscond. However, Prashant was not satisfied taking into consideration the past experience of the applicant. Respondent No.2 still felt that Prashant was not having peace in mind and was under tension. He was preferring to be alone and used to go to field alone. Around 4.00 p.m. on 30th March 2022, when respondent No.2 returned to house, his wife disclosed that Prashant has gone to the field alone. Around 4.23 p.m. he gave phone call to Prashant and told that he has returned home and would come to the field. Thereafter respondent No.2 went to field around 5.00 p.m. and at that time he found that Prashant has committed suicide by hanging himself to Neem tree. Respondent No.2 then called his relatives

and Sarpanch was also called. Police were invited. After drawing panchnama, the postmortem was conducted and then last rites were performed. They found video recording made in the Mobile Phone, which is stated to be suicide note recorded by Prashant wherein he has made the applicant responsible for his suicide.

5. Learned Advocate for the applicant has relied on *Vaijnath Kondiba Khandre vs. State of Maharashtra and another, (2018) 7 SCC 781*, wherein upon the facts of the case, it has been held that the ingredients of the offence under Section 306 of the Indian Penal Code have not been attracted. He has further relied on *Ramesh Kumar vs. State of Chhattisgarh, (2201) 9 SCC 618 (Three Judge Bench decision)*, wherein it has been observed that:-

“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 consequences. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. ”

6. Learned Advocate for the applicant further relies on the decision in *M. Arjunan vs. State Represented by its Inspector of Police, (2019) 3 SCC 315*, wherein in Para No.7 it has been observed thus:-

"7. The essential ingredients of the offence under Section 306 IPC 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 to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be convicted under Section 306 IPC."

7. Apart from these authorities, we would like to rely on *Dilip S/o Ramrao Shirasao and others vs. State of Maharashtra and another*, 2016 ALL MR (Cri) 4328, wherein this Court, relying upon the catena of the decisions of the Hon'ble Supreme Court, held that it is necessary for the prosecution to at least prima facie establish that the accused had an intention to aid or instigate or abet the deceased to commit suicide and in the absence of availability of such material, the accused cannot be compelled to face trial for the offence punishable under Section 306 of the Indian Penal Code. We would like to reproduce Paragraph Nos. 11 to 18 of the said decision:-

" 11. The law as to what are the requirements to constitute an offence punishable under Section 306 of the IPC is no more res integra. The law is very well crystalized by the Hon'ble Apex Court in the catena of cases including in the cases of *Sanju alias Sanjay Singh Sengar vs. State of Madhya Pradesh*, reported in 2002

Cri.L.J. 2796; Madan Mohan Singh vs. State of Gujrat and another, reported in (2010) 8 SCC 628; and in the case of S.S. Chheena vs. Vijay Kumar Mahajan reported in 2010 All MR (Cri) 3298 (S.C.).

12. In the case of *Sanju @ Sanjay Sengar* cited supra, the appellant before the Apex Court was the brother of Neelam wife of deceased Chander Bhushan @ Babloo. It was the prosecution case that after marriage of Neelam with the deceased, there was continuous ill-treatment by the deceased and his family members to Neelam. As such she had gone to her parents house and started living with her brother, the appellant before the Apex Court. About two months prior to the incident, the appellant advised the deceased to take his sister back to her matrimonial house and treat her properly. It was the prosecution case that on 25th July, 1998, the appellant visited the place of the parents of the deceased and pleaded with them that his sister should be rehabilitated in the matrimonial home and should not be physically ill-treated or harassed. It was also the prosecution case that on that day the appellant also said to have threatened the parents of the deceased that if they do not mend their behaviour towards his sister, he would be compelled to resort to filing a complaint under Section 498-A of the Indian Penal Code. On this, the parents of the deceased expressed helplessness. It was the further prosecution case that the parents of the deceased informed the deceased about the same. He went to the house of parents of the appellant, where quarrel took place between them. Therefore, the deceased returned alone and told his brothers and other acquaintances that the appellant had threatened and abused him by using filthy words. On the next date i.e. on 27th July, 1998, the deceased was found hanging with a rope by neck on the raft of his house and he was found dead. A suicide note was left by the deceased. On the basis of the said suicide note, the charge-sheet was filed against said Sanju alias Sanjay Sengar . A petition challenging filing of charge-sheet was filed before the High Court under Section 482 of the Code of Criminal Procedure. The same was rejected. Hence,

said Sanju alias Sanjay Sengar approached the Hon'ble Apex Court.

13. The Apex Court in *Sanju @ Sanjay Sengar's* case considered the earlier judgments in paragraphs 9 to 12 of the said judgment. It would be appropriate to refer to the same -

"9. In *Swamy Prahaladdas v. State of M.P. & Anr. , 1995 Supp. (3) SCC 438*, the appellant was charged for an offence under Section 306 I.P.C. on the ground that the appellant during the quarrel is said to have remarked the deceased 'to go and die' . This Court was of the view that mere words uttered by the accused to the deceased 'to go and die' were not even prima facie enough to instigate the deceased to commit suicide.

10. In *Mahendra Singh vs. State of M.P., 1995 Supp.(3) SCC 731*, the appellant was charged for an offence under Section 306 I.P.C basically based upon the dying declaration of the deceased, which reads as under:

"My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of those reasons and being harassed I want to die by burning."

11. This Court, considering the definition of 'abetment' under Section 107 I.P.C., found that the charge and conviction of the appellant for an offence under Section 306 is not sustainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of abetment are attracted on the statement of the deceased.

12. In *Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618*, this Court while considering the charge framed and the conviction for an offence under Section 306 I.P.C. on the basis of dying declaration recorded by an Executive Magistrate, in which she had stated that previously there had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set fire. Acquitting the accused this Court said :

"A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged and such petulance, discord and difference 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 for abetting the offence of suicide should be found guilty."

14. After considering the earlier judgments, Their Lordships observed thus at paragraph 13 -

"13. It is in a fit of anger and emotional. Secondly, the alleged 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 to 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 drove 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 pointed 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."

15. Their Lordships of the Apex Court further have reproduced the suicide note in the said case in paragraph 14 of the judgment, wherein Sanjay Sengar was directly implicated to be the person responsible for suicide of the deceased. After reproducing the said suicide note, Their Lordships observed thus at paragraph 15 -

"15. The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25th July, 1998 and if the deceased came back to the house again on 26th July, 1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25th July, 1998. Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of 'abetment' are totally absent in the instant case for an offence under Section 306 I.P.C."

After these observations, Their Lordships allowed the appeal and quashed and set aside the charge-sheet.

16. In the case of *Madan Mohan Singh, [2010 ALL MR (Cri) 3245 (S.C.)]* (cited supra), the petitioner was working as a DET in Bharat Sanchar Nigam Ltd. The deceased i.e. Deepakbhai Krishnalal Joshi has committed suicide. On the basis of complaint filed by his wife, an FIR came to be registered. The petitioner had applied for discharge. The trial Court rejected it. The Gujarat High Court upheld the order of the trial Judge. Being aggrieved thereby

the petitioner has approached the Apex Court. The prosecution heavily relied on the suicide note of the deceased wherein it was stated that the petitioner was responsible for his death. The Apex Court negating the contention on behalf of prosecution observed thus:-

"10. We are convinced that there is absolutely nothing in this suicide note or the FIR which would even distantly be viewed as an offence much less under Section 306 IPC. We could not find anything in the FIR or in the so-called suicide note which could be suggested as abetment to commit suicide. In such matters there must be an allegation that the accused had instigated the deceased to commit suicide or secondly, had engaged with some other person in a conspiracy and lastly, that the accused had in any way aided any act or illegal omission to bring about the suicide.

11. In spite of our best efforts and microscopic examination of the suicide note and the FIR, all that we find is that the suicide note is a rhetoric document in the nature of a departmental complaint. It also suggests some mental imbalance on the part of the deceased which he himself describes as depression. In the so-called suicide note, it cannot be said that the accused even intended that the driver under him should commit suicide or should end his life and did anything in that behalf. Even if it is accepted that the accused changed the duty of the driver or that the accused asked him not to take the keys of the car and to keep the keys of the car in the office itself, it does not mean that the accused intended or knew that the driver should commit suicide because of this.

12. In order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the

suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note.

13. It is absurd to even think that a superior officer like the appellant would intend to bring about suicide of his driver and, therefore, abet the offence. In fact, there is no nexus between the so-called suicide (if at all it is one for which also there is no material on record) and any of the alleged acts on the part of the appellant. There is no proximity either. In the prosecution under Section 306 IPC, much more material is required. The courts have to be extremely careful as the main person is not available for cross-examination by the appellant-accused. Unless, therefore, there is specific allegation and material of definite nature (not imaginary or inferential one), it would be hazardous to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience. The person like the appellant in the present case who is serving in a responsible post would certainly suffer great prejudice, were he to face prosecution on absurd allegations of irrelevant nature. In the similar circumstances, as reported in *Netai Duta v. State of W.B.*, this Court had quashed the proceedings initiated against the accused.

14. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are

allowed to continue on such basis, it will be difficult for every superior officer even to work." (emphasis supplied)

17. In case of ***S.S.Cheena*** (cited supra) , there was a dispute between one Saurav Mahajan, who was a final year student of Law Department and Harminder Singh, a fellow student of the same class with regard to the theft of a mobile phone. This came to the notice of M.D.Singh, the then Head of the Law Department who asked both the students to submit their versions of the incident in writing. The deceased and Harminder gave their versions and, thereafter, M.D.Singh forwarded their versions to the University authorities for taking necessary action. An inquiry was conducted on 13th October 2003 by the Security Officer of the University Shri S.S.Chheena. During the course of inquiry, on 17th October 2003, Saurav Mahajan committed suicide by jumping in front of the train. A suicide note was seized from the the pocket of the deceased. On the complaint of father of the deceased, an offence under Section 306 of I.P.C. was registered against Harminder Singh. During the course of trial, S.S.Cheena was also impleaded as accused. Being aggrieved by the framing of charge, S.S.Cheena approached the High Court. The High Court refused to interfere. Being aggrieved thereby, said S.S.Cheena approached the Supreme Court. The Apex Court observed thus:

"27. This Court in ***Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) (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 "goadings". 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 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 behave 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 IPC against the appellant is palpably erroneous and unsustainable. It would be criminal travesty of justice to compel the appellant to face a trial without any credible material whatsoever. Consequently, the order of framing charge under Section 306 IPC against the appellant is quashed and all proceedings pending against him are also set aside." (emphasis supplied)

18. Recently, in the case of *State of Kerala and others vs. S. Unnikrishnan Nair and others*, reported in *AIR 2015 Supreme*

Court 3351 : [2015 ALL SCR 2824], Their Lordships had an occasion to consider a similar case. In the said case, the Chief Investigating Officer had committed suicide pending investigation in a murder case. In the suicide note, it was alleged that two of his subordinates were responsible for his this situation. There were some allegations against one Advocate and the Chief Judicial Magistrate. The First Information Report came to be lodged against the subordinate officers. They filed a petition under Section 482 of the Criminal Procedure Code. The Kerala High Court quashed the First Information Report. Being aggrieved thereby, the State went in appeal before the Hon'ble Apex Court. While dismissing the appeal, the Their Lordships of the Apex Court observed thus :

"13. As we find from the narration of facts and the material brought on record in the case at hand, it is the suicide note which forms the fulcrum of the allegations and for proper appreciation of the same, we have reproduced it herein-before. On a plain reading of the same, it is difficult to hold that there has been any abetment by the respondents. note, except saying that the the respondents The compelled him to do everything and cheated him and put him in deep trouble, contains nothing else. The respondents were inferior in rank and it is surprising that such a thing could happen. That apart, the allegation is really vague. It also baffles reasons, for the department had made him the head of the investigating team and the High Court had reposed complete faith in him and granted him the liberty to move the court, in such a situation, there was no warrant to feel cheated and to be put in trouble by the officers belonging to the lower rank. That apart, he has also put the blame on the Chief Judicial Magistrate by stating that he had put pressure on him. He has also made the allegation against the Advocate."

8. Taking into consideration this legal position, we are required to consider as to what was the material in the charge-sheet. In view of the fact that the Mobile Phone found on the person of the deceased was containing a speech, which is at present sent for analysis, yet even if it is taken as it is, and that it has been left by the deceased, whether contents in the speech, which has been video-graphed, would attract Section 107 read with Section 306 of the Indian Penal Code, is required to be considered. The said speech recorded in the Mobile Phone, reads as under :

“मी प्रशांत नागनाथ हैदराबादे, मी आज आत्महत्या करीत आहे, त्याचे कारण श्री रामराव गोविंदराव ढाकणे राहणार सोनखेड मानखेड तालुका अहमदपूर जिल्हा लातूर. त्यांना पैशाच्या व्यवहारांमध्ये पैसे दिल्याबद्दल मी आत्महत्या करीत आहे. त्यांना मी रोख साडेपाच लाख रुपये दिल्यामुळे त्यामुळे मी आत्महत्या करीत आहे. कारण त्यांनी पैसे देण्यास नकार केले आहे. या संदर्भात मी आत्महत्या करत आहे. कारण पैसे दिल्यामुळे माझ्या घरच्यांना आणि मला खूप त्रास होत आहे. यासाठी हे प्रकरण करत आहे. या संदर्भात फक्त आणि फक्त एकमेव आणि एकमेव माणूस श्री. रामराव गोविंदराव ढाकणे हे आहेत. याची कल्पना मी देण्यासाठी हा व्हिडिओ करीत आहे. आणि मी आत्महत्या करीत आहे. याचा दोष मी कुणालाच न देता, मी पुढचं पाऊल उचलत आहे. पोलीस अधिकारी, तहसीलदार आणि जिल्हाधिकारी यांनी ही नोंद घ्यावी. आणि मी गेल्यानंतर माझ्या घरच्यांना माझ्या आई-वडिलांना रक्कम दिली आहे ती रक्कम

त्यांना मिळवून देण्यामध्ये सहकार्य करावे. हीच त्यांच्याशी नम्र विनंती आहे. कारण, मी खूप त्रासामध्ये असल्यामुळे तर माझी मानसिक परिस्थिती नसल्यामुळे मी हे पाऊल उचलत आहे. त्याच्यामध्ये कोणाचा काही दाब दबाव नाही, काय नाही. कारण, मी माझ्या हाताने झालेली चूक आहे ते मी मान्य करतो. आणि पुढचा पाऊल मी उचलत आहे. त्या संदर्भात तुम्ही दुसरं कुणाला काहीही न करता, तुम्ही फक्त एक आणि एकमेव श्री. रामराव ढाकणे यांना विरासत मध्ये घेऊन माझी पुढील कारवाई माझ्या नंतर तुम्ही पूर्ण करावी. ही आग्रहाची नम्र विनंती आहे आणि माझ्या घरच्यांचा काहीच माझ्यावर दाब दबाव नव्हता. पण माझी मनस्थिती नसल्यामुळे मी हा पुढचा पाऊल उचलत आहे. हे तुमच्याशी आग्रहाची नम्र विनंती आहे.”

9. English translation of the said speech reads as under:-

“Myself Prashant Nagnath Hyderabad, I am committing suicide today. It is due to Mr. Ramrao Govindrao Dhakane, residing at Sonkhed, Mankhed, Taluka-Ahmedpur, Distr-Latur. I am committing suicide for lending him money. Because he has refused to to return it. I am suicidal in this regard. Because my family and I are suffering a lot for lending money. This is what the case is for. The one and only and only person in this regard is Shri Ramrao Govindrao Dhakane. I am making this video to give an idea of this. And I became suicidal. I don't blame anyone for this. Hence I am taking the next step. Police authorities, Tahsildar and Collector should take note of this. And after I leave, this is my humble request to you to help them (family) in getting that amount which I have given to Shri. Dhakane. Because I am in a lot of trouble and not in my mental state, I am taking this step. In this there is no force and pressure from

anyone. Because I am accepting my fault and I am taking the next step. In that regard you will not do anything to anyone else, you will only take the one and only Mr. Ramrao Dhakne into custody and complete the further action after me. This is a humble request and there is no pressure from my family. But since I am not in the situation/mental state, I am picking up this next step. This is a humble request to you.”

(Translated by Senior Translator and Interpreter,
High Court of Bombay, Bench at Aurangabad)

10. Taking into consideration the above speech or recording together with the contents of the FIR and the statements under Section 161 of the Code of Criminal Procedure, the same would show that according to Prashant and the informant there was financial transaction between Prashant and the applicant. According to Prashant, he has given Rs.5,50,000/- to the applicant and then applicant refused to return the same. In the entire material in the charge-sheet, we are unable to get, when amount was given and since when it was due for return. In the video, at one place Prashant says that he is blaming present applicant for his suicide and at another place, he says that he is not holding anybody responsible for the suicide. He also says that as he was in trouble, his mental condition was not proper and therefore, he is taking the extreme step and nobody is pressuring him. It is his mistake which he is admitting. Neither informant nor Prashant is saying as to why they have not

adopted the legal procedure for recovery of the amount. Prashant could have lodged the FIR if he felt that he has been cheated or even he could have filed civil suit for the recovery.

11. The documents produced by the applicant-accused cannot be considered, but still it appears that there was a promissory note executed by the applicant in favour of Prashant, which was to the tune of Rs.2,00,000/- and it was executed on 10th February 2021. Applicant had promised to repay that amount on or before 9th July 2021. The applicant wants to rely on rough notes/entries showing that from 11th February 2021 till 9th July 2021 he made repayment, almost on daily basis and it has the signature of Prashant. If according to the deceased, the applicant had not abided by the terms of promissory note, then taking into consideration the said document, Prashant could have lodged the suit.

12. Neither the suicide note/video recording nor the FIR and the statements of witnesses under Section 161 of the Code of Criminal Procedure, discloses that between 22nd March 2022 to 30th March 2022, applicant had met Prashant and at that time there were such talks between them which amounted to instigation/abetment to the deceased to commit suicide. Even if

we take the statement in the FIR as it is, that Prashant had disclosed to the informant that he had met applicant around 7.00 a.m. on 22nd March 2022, then what applicant had communicated to him, was that he promised to pay the amount within four days, though it was stated that he spoke arrogantly at that time. In those utterings, it cannot be spelt out that the applicant was intending that Prashant should go and commit suicide. It is unfortunate that a young boy of 21 years had committed suicide but the facts and situation around are not attracting the offence under Section 306 of the Indian Penal Code. Case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure to quash the FIR and the entire proceedings.

13. Before parting, we must place it on record that earlier the present applicant had filed Criminal Application No.2790 of 2022 for quashing the FIR and after the disinclination was shown to grant any relief to the applicant, learned Advocate for the applicant, on instructions, sought withdrawal of the said application and by order dated 14th September 2022, this Court had allowed the said application to be withdrawn. However, now the change in situation is that on 21st January 2023, the charge-sheet is filed after the investigation was over.

14. Thus, considering the facts of the case, we are of the opinion that it would be unjust to ask the applicant to face the trial. The case is squarely covered in the parameters laid down in *State of Haryana vs. Ch. Bhajan Lal and others, AIR 1992 SC 604*. Therefore, we proceed to pass the following order:-

ORDER

(I) Application stands allowed.

(II) The First information Report vide Crime No. 111 of 2022 registered with Chakur Police Station, Taluka-Chakur, District-Latur and the entire proceedings in R.C.C. No.38 of 2023 pending before the learned Judicial Magistrate First Class, Chakur, District-Latur for the offence punishable under Section 306 of the Indian Penal Code, stands quashed and set aside as against the present applicant.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/SEP24