

David D' Souza v. The State of Karnataka (Karnataka)
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KARNATAKA HIGH COURT

Before: M. Nagaprasanna, J.

Criminal Petition No.4851 of 2022

Reserved on: 05.04.2024 Decided on: 22.04.2024

David D' Souza - Petitioner

Versus

The State of Karnataka - Respondent

Indian Penal Code, 1860 (45 of 1860), Section 107, 306 – Code of Criminal Procedure, 1973 (2 of 1974), Section 482 -- Abetment to suicide – Quashing of criminal proceedings – Inherent powers u/s 482 Cr.P.C. -- Uttering words “go and hang yourself” – Whether abetment – No -- Sole accused, husband of the lady with whom the deceased had certain relationship and had blunt out his anger and had uttered words ‘go and hang yourself’ cannot mean that it would become the ingredients of Section 107 of the IPC for it to become an offence u/s 306 of the IPC – Reason for the deceased to commit suicide may be myriad, one of which could be the factum of him having illicit relationship with the wife of the petitioner, despite being the Father and Priest of a Church -- Charge sheet filed -- Such cases should be nipped in exercise of its jurisdiction u/s 482 of the Cr.P.C. – Proceedings pending before the Principal District & Sessions Judge quashed.

(Para 14-15)

Full text Judgment/ Order with Headnote

Note:

For easy reference of readers, alongwith Headnote, the judgment downloaded from the official website of the Court has been annexed

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Reserved on : 05.04.2024
Pronounced on : 22.04.2024



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.4851 OF 2022

BETWEEN:

DAVID D' SOUZA
S/O XAVIER D'SOUZA
AGED ABOUT 53 YEARS
R/AT PRINCE POINT
PILAR VILLAGE
KAUP TALUK, UDUPI DISTRICT
UDUPI – 574 116.

... PETITIONER

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE FOR
SRI RAKSHITH KUMAR, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY SHIRVA POLICE
UDUPI DISTRICT
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

... RESPONDENT

(BY SMT.K.P.YASHODHA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE CHARGE SHEET DATED 09.09.2021 IN S.C. NO. 38/2021 FILED BY RESPONDENT POLICE FOR THE OFFENCES PUNISHABLE U/S 204, 306, 504, 506 OF IPC NOW PENDING BEFORE HONBLE PRINCIPAL DISTRICT AND SESSIONS JUDGE UPUPI, VIDE DOCUMENT NO. 4.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.04.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The sole accused is before this Court calling in question the entire proceedings in S.C.No.38 of 2021 pending before the Principal District & Sessions Judge, Udupi District, Udupi arising out of Crime No.29 of 2020 registered for offences punishable under Sections 306, 506, 504 and 201 of the IPC.

2. Facts, in Brief, are as follows:-

One, Father Mahesh D'Souza, who was the Principal of Don Bosco CBSC English Medium School and Junior Priest of Shirva Parish committed suicide on 11-10-2019. It is the case of the prosecution that on 22-12-2019 one Stephen Richard Lobo registers a complaint before Shirva Police Station against Father Dennis Desa

and Father Ashwin Prakash Aranha for offences punishable under Section 306 r/w 120B of the IPC. Second FIR comes to be registered on 26-02-2020 against the petitioner alleging that petitioner that he had indulged in a telephone conversation with Father Mahesh D'Souza immediately before his death and the Father had committed suicide owing to the conversation with the petitioner. It is alleged that the petitioner had threatened the Father that he would be defamed for having illicit relationship with the wife of the petitioner and had also made a statement that the Father should hang himself for the act of him having affair with the wife of the petitioner. This is said to be abetment to suicide of the Father Mahesh D'Souza. On that allegation a crime comes to be registered by the Police of Shirva Police Station who were conducting an inquiry into an UDR proceeding. UDR proceeding emerged on the score, that the death of Father Mahesh D'Souza was an unnatural death.

3. It is later the impugned complaint comes to be registered by the Circle Inspector of Shirva Police Station. The complaint becomes a crime in Crime No.29 of 2020 for the afore-quoted

offences. The Police conduct investigation, collect statement of witnesses and file a charge sheet before the concerned Court on 09-09-2021 retaining the offences punishable under Sections 306, 504 and 506 of the IPC and giving up Section 201 of the IPC but adding Section 204 of the IPC. The learned Sessions Judge then registers SC No.38 of 2021, which is now pending trial before the concerned Court. The filing of charge sheet is what has driven the petitioner to this Court in the subject petition.

4. Heard Sri Sandesh J. Chouta, learned senior counsel appearing for the petitioner and Smt. K.P. Yashoda, learned High Court Government Pleader appearing for the respondent.

5. The learned senior counsel Sri Sandesh J. Chouta appearing for the petitioner would vehemently contend that it is an admitted fact that Father Mahesh D'Souza, the deceased had illicit relationship with the wife of the petitioner. The petitioner comes to know about it, contacts the Father and expresses his agony of the Father having relationship with his wife. While so saying, it is alleged, that the petitioner has used the words to the Father 'go hang yourself'. This statement, according to the learned senior

counsel, can never become an abetment to suicide. The Father, on coming to know that somebody else has also known his illicit relationship has committed suicide. Therefore, the petitioner cannot be hauled up for abetment to suicide. The mental makeup of the deceased cannot be dependent upon the statement made by the petitioner, that too if it is a statement saying 'go hang yourself'. The petitioner has spoken out of agony of the fact that the Father has lured his wife. That cannot mean that it would become an abetment to suicide. The learned senior counsel would narrate the events of that day from hour to hour which would also be considered in the course of the order.

6. Per contra, the learned High Court Government Pleader would vehemently oppose the petition and the submissions so made on the score that the Police after detailed investigation have filed an elaborate charge sheet. The Father commits suicide only due to the threatening words of the petitioner that he would reveal illicit relationship between his wife and the Father. But, for the statement of the petitioner, the Father would not have committed suicide. It is, therefore, her submission that it is a clear case of

abetment to suicide and would submit that it is for the petitioner to come out clean in a full blown trial. There is no warrant of interference at this stage, in a petition under Section 482 of the Criminal Procedure Code, is the submission of the learned High Court Government Pleader.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. There are three protagonists in the *lis* – one, Father Mahesh D’Souza; two, the petitioner David D’Souza and three wife of the petitioner. The records speak that the wife of the petitioner and Father Mahesh D’Souza had an affair. This comes within the knowledge of the petitioner on 11-10-2019. Certain events happen on 11-10-2019 which are germane to be noticed. At about 9.00 a.m. Father Mahesh D’Souza participates in an inaugural function of spoken English training programme at the school. Along with the Father there were others. At 3.00 p.m. on the same day, he participates in another training programme where he informs one Father Vincent

Crasta about non-cooperation of others in his work. It is then at 3.26 p.m. the Father spoke to Wilson D'Souza about his transfer to another school. At about 3.45 p.m. Priya D'Souza, third protagonist, wife of the petitioner sends a whatsapp message to the Father asking him to conduct her sister's son's marriage to which the Father has replied that he will not be alive till the day of marriage of her sister's son and told her to conduct the marriage through another Father. Between 4.00 p.m. and 4.45 p.m. the Father participated in all other ceremonies at the Church and later at 6.02 p.m. he spoke to another Father about his transfer. At about 8.30 p.m. the petitioner, husband of Priya D'Souza is said to have called the deceased and spoken for 5 minutes in relation to whatsapp messages that the Father had sent to his wife stating that he will not be alive till the date of marriage of the sister of the petitioner's wife's son. He said to have questioned the Father as to why he is sending messages to his wife and that he would complain about it to the Bishop as well as to the Police. Again at about 8.37 p.m. the Father calls the petitioner and during that conversation it is alleged that the petitioner had made a statement "you have to hang yourself as she is also going to hang herself". It is further alleged,

as per the complaint, that the petitioner had also indicated that 'you see what I will do in half an hour. I am in possession of mobile with full messages'. What happened at 8.37 p.m. are the contents of the complaint. All other narratives prior to 8.37 p.m. are statements recorded. At 8.43 p.m. the CCTV footage shows that the Father was walking towards the school and later was not traceable. At 12.00 midnight others found Father Mahesh D'Souza hanging in his Principal's chamber.

9. On the next day i.e., on 12-10-2019 an unnatural death report was registered in UDR 12 of 2019 based on the complaint filed on 12-10-2019 by Agostin Barbosa. On 22-12-2019 a crime in Crime No.103 of 2019 was registered against Father Dennis Desa and Father Ashwin Prakash Aranha for offences punishable under Sections 306, 120B and 34 of the IPC. The said crime is pending investigation. After about 3 months of the incident comes the impugned crime *suo motu* registered by the Investigating Officer who was investigating UDR proceedings for the afore-quoted offence. It is then the Investigating Officer filed his final report in UDR proceedings No.12 of 2019 and the investigation was handed

over to the Crime Investigation Department. It is the CID that files the charge sheet before the concerned Court on 09-09-2021 for the aforesaid offences. The issue that would now fall for consideration is,

"Whether the circumstances and the statements made by the petitioner would satisfy the ingredients of Section 306 of the IPC – abetment to suicide, is what requires consideration in the case at hand?"

10. Since the entire issue springs from the complaint, I deem it appropriate to quote the same for the purpose of quick reference. It reads as follows:

"ರಿಗ್ಲೆ,

ಪೊಲೀಸ್ ಉಪ ನಿರೀಕ್ಷಕರು
ಶಿರ್ವ ಪೊಲೀಸ್ ಠಾಣೆ, ಉಡುಪಿ ಜಿಲ್ಲೆ.

ರಿಂದ:

ಮಹೇಶ್ ಪ್ರಸಾದ್,
ಪೊಲೀಸ್ ವೃತ್ತ ನಿರೀಕ್ಷಕರು
ಕಾಪು ವೃತ್ತ, ಉಡುಪಿ ಜಿಲ್ಲೆ.

ವಿಷಯ: ಡೇವಿಡ್ ಡಿಸೋಜ ಎಂಬುವರ ವಿರುದ್ಧ ಕ್ರಿಮಿನಲ್ ಪ್ರಕರಣ ದಾಖಲಿಸುವ ಬಗ್ಗೆ
ಉಲ್ಲೇಖ: ಶಿರ್ವ ಪೊಲೀಸ್ ಠಾಣಾ ಯುಡಿಆರ್ 12/2019 ಕಲಂ 174 ಸಿಆರ್‌ಪಿಸಿ.

ಈ ಮೇಲಿನ ವಿಷಯದ ಬಗ್ಗೆ ತಿಳಿಸುವುದೇನೆಂದರೆ ಉಲ್ಲೇಖದ ನಮೂದಿನ ಪ್ರಕರಣವು
ದಿನಾಂಕ 12.10.2019 ರಂದು ಶಿರ್ವ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ವರದಿಯಾಗಿದ್ದು, ಶಿರ್ವ ಚಾರ್ಜ್‌ನ

ಸಹಾಯಕ ಧರ್ಮಗುರು ಮತ್ತು ಶಿರ್ವ್ ಡೋನ್ ಬಾಸ್ಕೋ ಆಂಗ್ಲ ಮಾಧ್ಯಮ ಶಾಲೆಯ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರಾಗಿರುವ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ದಿನಾಂಕ 11.10.2019 ರಂದು ರಾತ್ರಿ 9.05 ರಿಂದ ರಾತ್ರಿ 01.00 ಗಂಟೆಯ ನಡುವೆ ಯಾವುದೋ ಸಮಸ್ಯೆಯಿಂದ ಜೀವನದಲ್ಲಿ ಜಿಗುಪ್ಸೆಗೊಂಡು ಶಿರ್ವ್ ಡೋನ್ ಬಾಸ್ಕೋ ಆಂಗ್ಲ ಮಾಧ್ಯಮ ಶಾಲೆಯ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರ ಕೊಠಡಿಯ ಸೀಲಿಂಗ್ ಫ್ಯಾನ್‌ಗೆ ನೇಣು ಬಿಗಿದುಕೊಂಡು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದಾಗಿ ಇತ್ಯಾದಿ ಪಿರ್ಯಾದಿಯ ಸಾರಾಂಶ ಆಗಿರುತ್ತದೆ. ಶಿರ್ವ್ ತಾಣಾ ಪಿ.ಎಸ್.ಐ.ಯವರು ತನಿಖೆ ನಡೆಸಿ ಶವ ಮಹಜರು ನಡೆಸಿ, ಮೃತರ 2 ಐ.ಫೋನ್, ಪ್ರಿಯಾ ಡಿಸೋಜ ರವರ ಐ ಫೋನ್, ಡೇವಿಡ್ ಡಿಸೋಜ ರವರ ವಿವೋ ಫೋನ್ ಮತ್ತು ಚರ್ಚಿನ ಸಿಸಿ ಟಿವಿ ಕ್ಯಾಮರಾಗಳ ಫೋಟೋವನ್ನು ವಶಪಡಿಸಿಕೊಂಡು ಎಫ್.ಎಸ್.ಎಲ್ ಪರಿಶೀಲನೆಗೆ ಕಳುಹಿಸಿರುತ್ತಾರೆ.

ನಂತರದ ಬೆಳವಣಿಗೆಗಳಲ್ಲಿ ಮೃತರ ಸಾವಿನ ಬಗ್ಗೆ ಸಂಶಯ ವ್ಯಕ್ತವಾಗಿದ್ದು, ಈ ಕಾರಣದಿಂದ ಉಡುಪಿ ಜಿಲ್ಲಾ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರು, ಜ್ಞಾಪನ ಸಂಖ್ಯೆ 258/ಅಪರಾಧ-2/ಉಡುಪಿ /2019 ದಿನಾಂಕ 05.11.2019 ರಲ್ಲಿ ಸದ್ರಿ ಯುಡಿಆರ್ ಪ್ರಕರಣವನ್ನು ಮುಂದಿನ ತನಿಖೆಯ ಸಲುವಾಗಿ ಕಾಪು ವೃತ್ತ ನಿರೀಕ್ಷಕರಿಗೆ ಹಸ್ತಾಂತರಿಸಿ ಆದೇಶಿಸಿರುತ್ತಾರೆ. ಕಾಪು ವೃತ್ತ ನಿರೀಕ್ಷಕರಾಗಿರುವ ನಾನು ದಿನಾಂಕ 06.11.2019 ರಿಂದ ದಿನಾಂಕ 26.02.2020 ತನಕ ಪ್ರಕರಣದ ತನಿಖೆ ನಡೆಸಿರುತ್ತೇನೆ.

ದಿನಾಂಕ 11.10.2019 ರಂದು ಘಟನಾ ದಿನದಂದು ರಾತ್ರಿ 20.29.48 ಗಂಟೆಗೆ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರು ಮೊಬೈಲ್ ನಂ.9845446668 ರಿಂದ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರ ಮೊಬೈಲ್ ನಂ.9880774552 ನೇಯದಕ್ಕೆ ಸುಮಾರು 329 ಸೆಕೆಂಡ್‌ಗಳ ಕಾಲ (ಅಂದರೆ ಸುಮಾರು ಐದುವರೆ ನಿಮಿಷ) ಸಂಭಾಷಣೆ ನಡೆಸಿದ್ದು, ಸಂಭಾಷಣೆ ಕೊನೆಗೊಳ್ಳುವಾಗ 20:34:17 ಆಗಿರುತ್ತದೆ. ಆ ಬಳಿಕ ರಾತ್ರಿ 20:37:34 ಗಂಟೆಗೆ ನಂ 9880774552 ದಿಂದ ನಂ 9845446668 ನೇಯದಕ್ಕೆ 41 ಸೆಕೆಂಡ್‌ಗಳ ಕಾಲ ಸಂಭಾಷಣೆ ನಡೆಸಿದ್ದು, ಸಂಭಾಷಣೆ ಕೊನೆಗೊಳ್ಳುವಾಗ 20:38:15 ಆಗಿರುತ್ತದೆ. ಆ ಬಳಿಕ 9880774552 ನಂಬರ್ ನಿಂದ ಮೊಬೈಲ್ 9448469469 ನೇಯದಕ್ಕೆ 32 ಸೆಕೆಂಡ್‌ಗಳ ಕಾಲ ಸಂಭಾಷಣೆ ನಡೆದಿರುವುದು ಸಿಡಿಆರ್ ಪರಿಶೀಲನೆಯಿಂದ ತಿಳಿದು ಬಂದಿರುತ್ತದೆ. ಈ ಮೂರು ಕರೆಗಳು ಕೊನೆಯದಾಗಿ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರಿಗೆ ಬಂದಿರುವ ಹಾಗೂ ಅವರಿಂದ ಮಾಡಿರುವ ಕರೆಗಳಾಗಿರುತ್ತವೆ.

ಪರಿಶೀಲನೆಗೆ ಕಳುಹಿಸಿಕೊಟ್ಟಿರುವ ಮೊಬೈಲ್ ಪೋನ್ ಗಳ ಬಗ್ಗೆ ನ್ಯಾಯ ವಿಜ್ಞಾನ ಪ್ರಯೋಗಾಲಯ ಬೆಂಗಳೂರು ಇವರ ನಂ. FSL/MFS/404/2019 ರ ವರದಿಯನ್ನು ಮತ್ತು ಪೆನ್ ಡ್ರೈವ್ ಸ್ವೀಕರಿಸಿ ಪರಿಶೀಲಿಸಲಾಗಿರುತ್ತದೆ. ಪೆನ್ ಡ್ರೈವ್ ನ Annexure-A2g-Audio report-Deleted Model Vivo 1818-files-audio ರಲ್ಲಿ Fr Mahesh Dsouza 2019-10-11 20-29-50 (754 KB) ಮತ್ತು Fr Mahesh Dsouza 2019-10-11 20-37-36 (63 KB) ರಲ್ಲಿ ದಿನಾಂಕ 11.10.2019 ರಂದು ಡೇವಿಡ್ ಡಿಸೋಜ ಮತ್ತು ಫಾದರ್ ಮಹೇಶ್ ರವರು ಕೊಂಕಣಿ ಭಾಷೆಯಲ್ಲಿ ಸಂಭಾಷಣೆ ನಡೆಸಿರುವುದು ರೆಕಾರ್ಡ್ ಆಗಿರುತ್ತದೆ. ಸದ್ರಿ ರೆಕಾರ್ಡ್‌ನ್ನು ಪರಿಶೀಲಿಸಿದ್ದು, ಮೊದಲನೇದರಲ್ಲಿ ಡೇವಿಡ್ ಡಿಸೋಜರವರು ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರಿಗೆ ನೀನು ಪ್ರಿಯಾಳಿಗೆ ಏನೆಂದು ಮೆಸೇಜ್ ಮಾಡುತ್ತೀ ಎಂದು ಕೇಳುತ್ತಾ ಅವಾಚ್ಛವಾಗಿ ಬೈದಿರುವುದು, ಅವರ ತಾಯಿಗೆ ಅವಮಾನಕರವಾಗಿ ಬೈದಿರುವುದು ಬಿಷಪ್ ರವರಿಗೆ, ಫಾದರ್ ಡೆನಿಸ್ ರವರಿಗೆ, ಪೊಲೀಸ್ ಠಾಣೆಗೆ ದೂರು ನೀಡಿರುವುದಾಗಿ ಹೇಳಿರುವುದು, ಚರ್ಚ್ ಗೆ ಬಂದು ಸೊಂಟ ಮುರಿಯುತ್ತೇನೆ, ನಿನ್ನನ್ನು ಕತ್ತರಿಸುತ್ತೇನೆ, ಹೆಂಡತಿಯನ್ನು ಕತ್ತರಿಸುತ್ತೇನೆ, ಅರ್ಧ ಗಂಟೆಯೊಳಗಾಗಿ ಚರ್ಚೆಗೆ ನುಗ್ಗುತ್ತೇನೆ ಎಂದು ಬೆದರಿಕೆ ಒಡ್ಡಿರುವುದು, ಪ್ರಾರ್ಥನೆಯನ್ನು ಬಿಡಬೇಕು, ಇವಳನ್ನು ಕರೆದುಕೊಂಡು ಹೋಗಬೇಕು ಎಂದು ಹೇಳಿರುವುದು, ಮೊಬೈಲಿನಲ್ಲಿ ಎಲ್ಲಾ ಮೆಸೇಜ್ ಇದೆ, ಪೂಪ್ ಇದೆ ಎಂದು ಹೇಳಿರುವ ಸಂಭಾಷಣೆ ಇರುತ್ತದೆ. ಈ ಸಂಭಾಷಣೆಯ ನಡುವೆ ಡೇವಿಡ್ ರವರು ಅವರ

ಹೆಂಡತಿಗೆ ಹಲ್ಲೆ ನಡೆಸುತ್ತಿರುವಂತೆ ಹಾಗೂ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ಉದ್ದೇಗಕ್ಕೆ, ದಿಗ್ಗಮೆಗೆ ಒಳಗಾಗಿ ಕ್ಷಮೆಯಾಚಿಸುವಂತೆ ಕಂಡುಬಂದಿರುತ್ತದೆ. ಎರಡನೇ ರೆಕಾರ್ಡ್‌ಗೆ ನಲ್ಲಿಯೂ ಡೇವಿಡ್ ಡಿಸೋಜಾ ರವರು ಫಾದರ್ ಮಹೇಶ್ ರವರಿಗೆ ಅವಾಚ್ಯವಾಗಿ ಬೈದಿದ್ದು ಮತ್ತು ಪ್ರಮುಖವಾಗಿ ಒಂದೇ ಕುತ್ತಿಗೆಗೆ ಹಗ್ಗ ತೆಗೆದುಕೊಳ್ಳಬೇಕು ಇವತ್ತು ಅವಳು ತೆಗೆದುಕೊಳ್ಳುತ್ತಾಳೆ, ನೀನು ತೆಗೆದುಕೊಳ್ಳಬೇಕು. ಇಲ್ಲ ಅಂದ್ರೆ ಅರ್ಧ ಗಂಟೆಯಲ್ಲಿ ನಿನ್ನ ಮರ್ಯಾದೆ ತೆಗೆಯುವುದಾಗಿ ಪೋನ್ ಮುಖಾಂತರ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರಿಗೆ ನೇರವಾಗಿ ಬೆದರಿಕೆ ಮತ್ತು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳಲು ದುಷ್ಕರಣೆ ನೀಡಿರುವುದು ಕಂಡು ಬಂದಿದ್ದು ಮತ್ತು ಇದನ್ನು ಮಹೇಶ್ ಡಿಸೋಜ ರವರು “ಹಾಂ ಡೇವಿಡ್ ಬಾಪ್” ಎಂದು ಹೇಳಿ ಒಪ್ಪಿಕೊಂಡಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಡೇವಿಡ್ ಡಿಸೋಜರವರು ಮುಂದುವರಿದು “ಗೊತ್ತಾಯ್ತು” ಎಂದು ಮತ್ತೊಮ್ಮೆ ಒತ್ತಿ ಹೇಳಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ನ್ಯಾಯ ವಿಜ್ಞಾನ ಪ್ರಯೋಗಾಲಯ ಬೆಂಗಳೂರು ಇವರ ನಂಬ್ರ FSL/AVFS/141/2019 ರ ಚರ್ಚಿನ ಸಿಸಿಟಿವಿ ಫೋಟೋಜಿಗೆ ಸಂಬಂಧಿಸಿದ ವರದಿಯನ್ನು ಮತ್ತು ಸಿ.ಡಿ.ಯನ್ನು ಸ್ವೀಕರಿಸಿ ಪರಿಶೀಲಿಸಿರುತ್ತೇನೆ. ಸದ್ರಿ ಸಿ.ಡಿ.ಯಲ್ಲಿ ದಿನಾಂಕ 11.10.2019 ರಂದು 20:43:40 ಗಂಟೆಗೆ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ಚರ್ಚಿನ ಸ್ವಾಕೃಷ್ಟಿ ಏರಿಯಾದಿಂದಾಗಿ ಹೋಗುತ್ತಿರುವುದು (ಚಾನೆಲ್ ನಂ 13, ನಂಬ್ರ 13202059) ಕಂಡುಬಂದಿರುತ್ತದೆ. 20:44:12 ಗಂಟೆಗೆ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ಚರ್ಚಿನ ಹಾಲ್‌ನ ಪಕ್ಕದ ವರಾಂಡದ ಮೂಲಕ ಕೈಯಲ್ಲಿ ಹಗ್ಗ ಮತ್ತು ಮೊಬೈಲ್ ಫೋನ್ ಸಹಿತ ನಡೆದುಕೊಂಡು ಹೋಗುವುದು ಮತ್ತು ವರಾಂಡದಿಂದ ಕೆಳಗೆ ಇಳಿದು ಡೋನ್ ಬಾಸ್ಕೋ ಶಾಲೆಯ ಕಡೆಗೆ ಹೋಗುತ್ತಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಅಂದರೆ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರು ತಕ್ಷಣದಲ್ಲಿ ಅಂದರೆ ಕೇವಲ 5-6 ನಿಮಿಷಗಳ ಒಳಗೆ ಕೈಯಲ್ಲಿ ಹಗ್ಗ ಸಹಿತ 20:43:40 ಮತ್ತು 20:44:12 ಗಂಟೆಗೆ ತಕ್ಷಣ ಸ್ಥಳಕ್ಕೆ ಹೋಗುತ್ತಿರುವುದು ಚರ್ಚಿನ ಸಿಸಿಟಿವಿ ಫೋಟೋಜ್ ಪರಿಶೀಲನೆಯಿಂದ ಖಚಿತವಾಗಿರುತ್ತದೆ. ಡೇವಿಡ್ ಡಿಸೋಜ ಮತ್ತು ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರ ನಡುವೆ ನಡೆದ ಸಂಭಾಷಣೆಯಲ್ಲಿ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜರವರು ಪಡೆದಿರುವ ಬೆದರಿಕೆ ಮತ್ತು ಅಪರಾಧಿಕ ದುಷ್ಕರಣೆಯ ತೀವ್ರತೆಯ ಒತ್ತಡದಿಂದ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ಅವರ ನಿವಾಸವನ್ನು ಬಿಟ್ಟು ಕೈತ್ಯ ಸ್ಥಳಕ್ಕೆ ತಲುಪುವ ತನಕದ ಅವಧಿ ಸೇರಿ ಕೇವಲ 25 ರಿಂದ 28 ನಿಮಿಷದ ಒಳಗಾಗಿ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಅಂದರೆ ರಾತ್ರಿ 9.05 ರ ಒಳಗಾಗಿ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದು ವೈದ್ಯಕೀಯ ಮರಣೋತ್ತರ ಪರೀಕ್ಷಾ ವರದಿಯಿಂದ ಖಚಿತವಾಗಿರುತ್ತದೆ.

ಚರ್ಚಿನ ಸಿಸಿಟಿವಿ ಫೋಟೋಜ್ ಪರಿಶೀಲನೆಯಿಂದ 21:26:47 ಗಂಟೆಗೆ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರು ಅವರ ಮಗ ಡೇವಿನ್ ಡಿಸೋಜ ರವರ ಸಹಿತ ಕಾರಿನಲ್ಲಿ ಚರ್ಚ್ ಪ್ರೀಸ್ಟ್ ಹೌಸ್ ಎದುರು (ಚಾನೆಲ್ ನಂ 03, ನಂಬ್ರ 3212111) ಬಂದಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. 21:43:15 ಗಂಟೆಗೆ ವಿಲ್ಸನ್ ಡಿಸೋಜ ರವರು ಅವರ ಕಾರಿನಲ್ಲಿ ಚರ್ಚ್ ಪ್ರೀಸ್ಟ್ ಹೌಸ್ ಎದುರು (ಚಾನೆಲ್ ನಂ 03, ನಂಬ್ರ 3212835) ಬಂದಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. 23:28:42 ಗಂಟೆಗೆ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರು ಮಗನ ಸಹಿತ ಕಾರಿನಲ್ಲಿ ಹೋಗುತ್ತಿರುವುದು (ಚಾನೆಲ್ ನಂ 03, ನಂಬ್ರ 232841) ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಚರ್ಚಿನಲ್ಲಿ ಇದ್ದ ಸಂದರ್ಭದಲ್ಲಿ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರು ಸಾಕ್ಷಿದಾರರಾದ ಫಾದರ್ ಅಶ್ವಿನ್ ಅರಾನಾ, ವಿಲ್ಸನ್ ಡಿಸೋಜರವರಲ್ಲಿ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜರವರು ತನ್ನ ಪತ್ನಿಗೆ ಮಾಡಿರುವ ಮೆಸೇಜ್ ಗಳ ಬಗ್ಗೆ ಪೂವ್ ಇದ್ದು, ಅವರನ್ನು ಕೂಡಲೇ ಕರೆಸುವಂತೆ ಸೂಚಿಸಿದ್ದು, ಇಲ್ಲದೇ ಇದ್ದರೆ ಚರ್ಚಿನ ಗಂಟೆ ಬಾರಿಸುವ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ.

ಡೇವಿಡ್ ಡಿಸೋಜ ರವರು ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜರವರಿಗೆ ಅವಾಚ್ಯವಾಗಿ ಬೈದಿರುವುದರಿಂದ, ಅವರ ತಾಯಿಗೆ ಅವಮಾನಕರವಾಗಿ ಬೈದಿರುವುದರಿಂದ ಹಿರಿಯ ಧರ್ಮಗುರುಗಳಿಗೆ, ಪೊಲೀಸರಿಗೆ ದೂರು ನೀಡುವುದಾಗಿ ಹೇಳಿರುವುದರಿಂದ, ಸೊಂಟ ಮುರಿಯುತ್ತೇನೆ, ಕತ್ತರಿಸಿ ಹಾಕುತ್ತೇನೆ,

ಅರ್ಧ ಗಂಟೆಯೊಳಗಾಗಿ ಚಾರ್ಜ್‌ಗೆ ನುಗ್ಗುತ್ತೇನೆ ಮತ್ತು ಮೊಬೈಲ್ ನಲ್ಲಿ ಎಲ್ಲಾ ಪೂರ್ವ ಇದೆ ಎಂಬಿತ್ಯಾದಿಯಾಗಿ ಬೆದರಿಕೆ ಒಡ್ಡಿದವುದರಿಂದ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ತಕ್ಷಣದ ದಿಗ್ಭ್ರಮೆಗೆ ಒಳಪಟ್ಟು ದಿಕ್ಕು ತೋಚದವರಾಗಿ ಮಾನ ಮರ್ಯಾದೆ ಪ್ರತಿಷ್ಠೆಗೆ ಹೆದರಿ, ಈ ಸಮಸ್ಯೆಗಳಿಂದ ಮುಕ್ತಿ ಹೊಂದಲು ಬೇರೆ ದಾರಿಯನ್ನು ಕಂಡುಕೊಳ್ಳಲು ಸಾಧ್ಯವಾಗದೇ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರ ಬೆದರಿಕೆ ಮತ್ತು ನೇಣು ಹಾಕಿಕೊಳ್ಳುವ ಬಗ್ಗೆ ಅಪರಾಧಿಕ ದುಷ್ಟೇರಣೆಗೆ ಒಳಗಾಗಿ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದು ತನಿಖೆಯಿಂದ ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ಮತ್ತು ಪ್ರಿಯಾ ಡಿಸೋಜ ರವರು ಕೊನೆಯದಾಗಿ ರವಾನಿಸಿರುವ ಮತ್ತು ಸ್ವೀಕರಿಸಿರುವ ಸಂದೇಶಗಳನ್ನು ಡೇವಿಡ್ ಡಿಸೋಜರವರು ಪತ್ನಿ ಪ್ರಿಯಾ ಡಿಸೋಜ ರವರ ಮೊಬೈಲಿನಿಂದ ಉದ್ದೇಶ ಪೂರ್ವಕವಾಗಿ ಡಿಲಿಟ್ ಮಾಡಿ ಸಾಕ್ಷ್ಯ ನಾಶ ಮಾಡಿರುತ್ತಾರೆ.

ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳಲು ಡೇವಿಡ್ ಡಿಸೋಜರವರು ನೀಡಿರುವ ಬೆದರಿಕೆ ಅಪರಾಧಿಕ ದುಷ್ಟೇರಣೆ ಕಾರಣವಾಗಿರುವುದು ಯುಡಿಆರ್ ಪ್ರಕರಣವು ತನಿಖೆಯಿಂದ ಕಂಡು ಬಂದಿರುವುದರಿಂದ ಮತ್ತು ಇದು ಸಂಜ್ಞೆಯ ಅಪರಾಧ ಆಗಿರುವುದರಿಂದ ಅಪಾದಿತ ಡೇವಿಡ್ ಡಿಸೋಜರವರನ್ನು ಅಪರಾಧಿಕ ನೈಯಾಲಯದಲ್ಲಿ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಲು ಅವರ ವಿರುದ್ಧ ಕಲಂ 306, 504, 506, 201 ಐಪಿಸಿ ಯಡಿ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಈ ಸ್ವದೂರು ಸಲ್ಲಿಸಿರುತ್ತೇನೆ.

ದಿನಾಂಕ: 26.02.2020”

11. On the aforesaid complaint, the police conduct investigation. The product of the investigation is the filing of the charge sheet. Column No.17 of the charge sheet – the summary reads as follows:

“ಈ ಪ್ರಕರಣದ ಈ ವರೆಗಿನ ತನಿಖೆಯಿಂದ, ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಸಂಗ್ರಹಿಸಿರುವ ದಾಖಲಾತಿಗಳಿಂದ ಪ್ರತ್ಯಕ್ಷ ಮತ್ತು ಪರೋಕ್ಷ ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳಿಂದ, ಎಫ್.ಎಸ್.ಎಲ್. ರವರ ವರದಿಗಳಿಂದ ಮೃತ ಫಾದರ್ ಮಹೇಶ್ ಡಿಸೋಜ ರವರು ಶಿರ್ವ ಚಾರ್ಜ್‌ನ ಸಹಾಯಕ ಧರ್ಮಗುರು ಹಾಗೂ ಶಿರ್ವ ಡಾನ್ ಬಾಸ್ಕೋ ಆಂಗ್ಲ ಮಾಧ್ಯಮ ಶಾಲೆಯ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರಾಗಿರುತ್ತಾರೆ. ಅದೇ ಶಾಲೆಯಲ್ಲಿ ಆರೋಪಿ ಡೇವಿಡ್ ಡಿಸೋಜ ರವರ ಮಕ್ಕಳು ವ್ಯಾಸಂಗಮಾಡುತ್ತಿದ್ದು, ಸದರಿ ಶಾಲೆಗೆ ಆರೋಪಿಯ ಪತ್ನಿ ಸಾಕ್ಷಿ-34 ರವರು ಮೋಷಕರ ಸಭೆಯ ಮುಖ್ಯಸ್ಥರಾಗಿದ್ದು, ಶಾಲಾ ಮಕ್ಕಳ ಯೋಗಕ್ಷೇಮ ಮತ್ತು ವಿದ್ಯಾಭ್ಯಾಸದ ಸಲುವಾಗಿ ಶಾಲೆಗೆ ಹೋಗುತ್ತಿದ್ದು, ಇದರಿಂದ ಮೃತನು ಸಾಕ್ಷಿ-34 ರವರಿಗೆ ಪರಿಚಯವಾಗಿ ಆಗಾಗ ಶಾಲೆಯ ಬಗ್ಗೆ ಮತ್ತು ಮಕ್ಕಳ ವಿದ್ಯಾಭ್ಯಾಸದ ಬಗ್ಗೆ ಫೋನ್‌ನಲ್ಲಿ ಮಾತನಾಡುವುದು ಹಾಗೂ ವಾಟ್ಸಾಪ್ ಸಂದೇಶಗಳನ್ನು ಮಾಡುತ್ತಿದ್ದರು. ಇದನ್ನು ಗುರುತಿಸಿದ ಆರೋಪಿ ತನ್ನ ಪತ್ನಿ ಸಾಕ್ಷಿ-34 ರವರ ಮೇಲೆ ಅನುಮಾನಗೊಂಡು ಆಗಾಗ ಜಗಳ ಮಾಡುತ್ತಿದ್ದನು.

ದಿನಾಂಕ:11.10.2019 ರಂದು ರಾತ್ರಿ ಸುಮಾರು 20.29 ರಿಂದ 21.05 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಆರೋಪಿಯ ಪತ್ನಿ ಸಾಕ್ಷಿ-34 ರವರು ಮೃತನೊಂದಿಗೆ ವಾಟ್ಸಾಪ್‌ನಲ್ಲಿ ಚಾಟ್‌ಮಾಡುತ್ತಿದ್ದಾಗ

ಆರೋಪಿ ಸಂಶಯಗೊಂಡು, ಮೊಬೈಲ್‌ಫೋನ್‌ನ್ನು ಸಾಕ್ಷಿ-34 ರವರ ಕೈಯಿಂದ ಕಿತ್ತುಕೊಂಡು ನೋಡಲಾಗಿ ಮೃತನೊಂದಿಗೆ ಸಂದೇಶ (ವಾಟ್ಸಾಪ್ ಮೆಸೇಜ್) ರವಾನಿಸುತ್ತಿರುವುದನ್ನು ಕಂಡು, ಆರೋಪಿ ತನ್ನ ಮೊಬೈಲ್ ನಂ. 9845446668 ರಿಂದ ಮೃತ ಫಾದರ್ ಮಹೇಶ ಡಿಸೋಜ ರವರ ಮೊಬೈಲ್ ನಂ.9880774552 ಗೆ ಫೋನ್ ಮಾಡಿ ನೀನು ಪ್ರಿಯಾಳಿಗೆ ಏನೆಂದು ಮೆಸೇಜ್ ಮಾಡುತ್ತಿ ಎಂದು ಅವಾಚ್ಕ ಶಬ್ದಗಳಿಂದ ಬೈದದ್ದಲ್ಲದೇ ಅವರ ತಾಯಿಗೆ ಅವಮಾನಕರವಾಗಿ ಬೈದು, ಈಗಲೇ ಚರ್ಚೆಗೆ ನುಗ್ಗುತ್ತೇನೆ, ಚರ್ಚೆನ ಗಂಟೆ ಬಾರಿಸುತ್ತೇನೆ, ಹಿರಿಯ ಧರ್ಮಗುರುಗಳಾದ ಸಾಕ್ಷಿ-41, ಸಾಕ್ಷಿ-42 ರವರಿಗೆ ತಿಳಿಸುತ್ತೇನೆ, ಪೊಲೀಸ್ ಠಾಣೆಗೆ ನಿನ್ನ ವಿರುದ್ಧ ದೂರು ನೀಡುತ್ತೇನೆ, ಚರ್ಚೆಗೆ ಬಂದು ನಿನ್ನ ಸೊಂಟ ಮುರಿಯುತ್ತೇನೆ, ನಿನ್ನನ್ನು ಕತ್ತರಿಸುತ್ತೇನೆ ಎಂದು ಕೊಲೆ ಬೆದರಿಕೆ ಹಾಕಿದಲ್ಲದೇ, ತನ್ನ ಪತ್ನಿಯನ್ನು ಕತ್ತರಿಸುತ್ತೇನೆ ಇನ್ನು ಅರ್ಧ ಗಂಟೆಯೊಳಗೆ ಚರ್ಚೆಗೆ ನುಗ್ಗುತ್ತೇನೆಂದು ಬೆದರಿಕೆ ಒಡ್ಡಿ, ಫ್ಯಾರಿಶನ್ನು ಬಿಡಬೇಕು, ಇವಳನ್ನು ಕರೆದುಕೊಂಡು ಹೋಗಬೇಕು ಎಂದು ಹೇಳಿ ಎಲ್ಲಾ ಮೆಸೇಜ್ ನನ್ನ ಮೊಬೈಲ್‌ನಲ್ಲಿ ಫ್ಲೂಪ್ ಇದೆ ಎಂದು ಹೇಳುತ್ತಿದ್ದಂತೆ, ಮೃತ ಫಾದರ್ ಮಹೇಶ ಡಿಸೋಜ ರವರು ಉದ್ದೇಗದಲ್ಲಿ ದಿಗ್ಭ್ರಮೆಗೆ ಒಳಗಾಗಿ ಆರೋಪಿಯ ಕ್ಷಮೆಯಾಚಿಸಿದರು, ಆರೋಪಿ ಕೇಳದೆ ಅವಾಚ್ಕ ಶಬ್ದಗಳಿಂದ ಬೈದು ನೀನು ಕುತ್ತಿಗೆಗೆ ಹಗ್ಗ ತೆಗೆದುಕೊಳ್ಳಬೇಕು, ಅವಳು ತೆಗೆದುಕೊಳ್ಳುತ್ತಾಳೆ, ಇಲ್ಲ ಅಂದರೆ ಅರ್ಧ ಗಂಟೆಯಲ್ಲಿ ಚರ್ಚೆಗೆ ನುಗ್ಗುತ್ತೇನೆ, ಚರ್ಚೆನ ಗಂಟೆ ಬಾರಿಸುತ್ತೇನೆ, ನಿನ್ನ ಮರ್ಯಾದೆ ತೆಗೆಯುತ್ತೇನೆಂದು ಫೋನ್ ಮುಖಾಂತರ ಆರೋಪಿ ಮೃತನಿಗೆ ನೇರವಾಗಿ ಬೆದರಿಕೆ ಹಾಕಿದ ಪರಿಣಾಮ ಮೃತನು ಮಾನ, ಮರ್ಯಾದೆ, ಪ್ರತಿಷ್ಠೆಗೆ ಹೆದರಿ ಈ ಸಮಸ್ಯೆಗಳಿಂದ ಮುಕ್ತಿಹೊಂದಲು ಬೇರೆದಾರಿ ಕಾಣದೇ, ಆರೋಪಿಯ ಬೆದರಿಕೆ ಮತ್ತು ಅಪರಾಧಿಕ ದುಷ್ಟೇರಣೆಗೆ ಒಳಗಾಗಿ ಡಾನ್ ಬಾಸ್ಕೋ ಶಾಲೆಯ ಮುಖ್ಯೋಪಾಧ್ಯಾಪಕರ ಕೊಠಡಿಯಲ್ಲಿ ನೈಲಾನ್ ಹಗ್ಗದಿಂದ ನೇಣುಹಾಕಿಕೊಂಡು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದು ದೃಢಪಟ್ಟಿರುತ್ತೆ.

ಫಾದರ್ ಮಹೇಶ ಡಿಸೋಜ ಹಗೂ ಆರೋಪಿ ರವರು ಕೊನೆಯದಾಗಿ ಮಾತನಾಡಿರುವ ವಾಯ್ಸ್ ರೆಕಾರ್ಡ್ ಹಾಗೂ ಮೃತ ಮತ್ತು ಸಾಕ್ಷಿ-34 ರವರು ಕೊನೆಯದಾಗಿ ರವಾನಿಸಿರುವ ಮತ್ತು ಸ್ವೀಕರಿಸಿರುವ ವಾಟ್ಸಾಪ್ ಸಂದೇಶಗಳನ್ನು ಆರೋಪಿ ತನ್ನ ಪತ್ನಿ ಸಾಕ್ಷಿ-34 ರವರ ಮೊಬೈಲ್ ನಿಂದ ಉದ್ದೇಶ ಪೂರ್ವಕವಾಗಿ ಡಿಲೀಟ್ ಮಾಡಿ ಸಾಕ್ಷಿ ನಾಶಮಾಡಿರುವುದು ತನಿಖೆಯಲ್ಲಿ ದೃಢಪಟ್ಟ ಮೇರೆಗೆ ಆರೋಪಿಯ ಮೇಲ್ ಐಪಿಸಿ ಕಲಂ 306, 504, 506, 204 ಐಪಿಸಿ ರೀತ್ಯ ಕೃತ್ಯ ವೆಸಗಿರುವುದು ದೃಢಪಟ್ಟಿರುವುದರಿಂದ ಸದರಿ ಆರೋಪಿಗಳ ಮೇಲೆ ಈ ದೋಷಾರೋಪಣೆ.

ತನಿಖಾ ಕಾಲದಲ್ಲಿ ಆರೋಪಿಯು ಮೊಬೈಲ್‌ನಲ್ಲಿ ಸಾಕ್ಷಿವನ್ನು ನಾಶಮಾಡಿದ ಕಾರಣ ಐಪಿಸಿ ಕಲಂ 201 ರ ಬದಲಾಗಿ ಕಲಂ 204 ಐಪಿಸಿ ಅನ್ನು ಅಳವಡಿಸಿಕೊಂಡಿದೆ. ಸ್ಥಳೀಯ ತನಿಖಾಧಿಕಾರಿಯವರು ಘನ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಕಲಂ 65(ಬಿ) ಐಟಿ ಆಕ್ಟ್ ಅನ್ನು ಅಳವಡಿಸಿಕೊಳ್ಳಲು ಕೋರಿ ಮನವಿ ಸಲ್ಲಿಸಿದ್ದು, ಕಲಂ 65(ಬಿ) ಐಟಿ ಆಕ್ಟ್ ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಅನ್ವಯವಾಗದ ಕಾರಣ ತನಿಖೆಯಿಂದ ಕೈಬಿಡಲಾಗಿದೆ.”

(Emphasis added)

If the complaint or the summary of the charge sheet as obtaining in column No.17 (*supra*) are perused, it is foundationed upon the statement allegedly made by the petitioner to the Father during his

conversation. They could be hurling of abuses or the agony of a husband being blunted out for the reason that the Father had an affair with his wife and that had just then come into light.

12. Before embarking upon analysis of such abetment on the facts obtaining in the case at hand *qua* the complaint or the charge sheet, I deem it appropriate to notice the law as laid down by the Apex Court from time to time in identical circumstances. Before noticing the judgments of the Apex court, I deem it appropriate to notice Section 306 of the IPC. It reads as follows:

"306. Abetment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Section 306 directs that whoever abets the commission of suicide, shall be punished with imprisonment for a term of not less than 10 years. Therefore, the soul of Section 306 is abetment. What is abetment is found in Section 107 of the IPC. Section 107 of the IPC reads as follows:

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

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

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by willful misrepresentation, or by willful 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.”

(Emphasis supplied)

Section 107 clearly mandates that if the accused intentionally aids any act against the victim which leads to the ingredients of Section 306, then it would apply. Therefore, the crux of Section 107 is intention of the accused should be to aid or instigate or abet the deceased to commit suicide. Therefore, what is required is intentional mindset of the accused which would be *mens rea*. It must be a positive act of the accused to instigate commission of suicide. The Apex Court in plethora of judgments rendered from time to time has laid down principles for entertaining a petition

under Section 482 of the Cr.P.C. in cases where abetment to suicide is the offence alleged.

13. The Apex Court in the case of **SWAMY PRAHALADDAS v. STATE OF M.P.**¹ has held as follows:

"....

2. The impugned order of the High Court of Madhya Pradesh is in confirmation of the order of the Court of Session, whereby, the appellant herein, has been summoned to face trial for offence under Section 306 IPC. The said order has been passed in this background:

Sushila Bai, respondent, a married woman, is alleged to have had two paramours, one was the deceased and the other is the appellant. It is alleged that there was sexual jealousy between the two. The deceased was a married man. The prosecution alleges that Sushila Bai had completely bewitched him but her heart was with the appellant. On the morning of 13-6-1992, all the three had a quarrel while sharing their morning tea. During that course, the appellant is said to have remarked for the deceased to go and die. The prosecution alleges that thereafter the deceased went home in a dejected mood, whereafter he committed suicide. The suicide has been termed as the direct cause for the treatment meted out to the deceased by the appellant. It is Sushila Devi though, who alone stands committed to the Court of Session to face trial because of her preferential treatment to the appellant.

3. At the time of framing of charge, the trial court thought it appropriate to associate the appellant herein as an accused because of the words he uttered to the deceased. We think that just on the basis of that utterance the Court of

¹ 1995 Supp (3) SCC 438

*Session was in error in summoning the appellant to face trial. In the first place it is difficult, in the facts and circumstances, to come to even a prima facie view that what was uttered by the appellant was enough to instigate the deceased to commit suicide. **Those words are casual in nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite mens rea on the assumption that these words would be carried out in all events. Besides the deceased had plenty of time to weigh the pros and cons of the act by which he ultimately ended his life. It cannot be said that the suicide by the deceased was the direct result of the words uttered by the appellant. For these reasons, the error is apparent requiring rectification. The appeal is accordingly allowed. The orders of the High Court and that of the Court of Session are thus upset. The appellant need not face the charge.***

(Emphasis supplied)

The Apex Court considers an identical circumstance where after a quarrel the accused is said to have remarked to the deceased to go and die. The Apex Court holds that mere utterance of the kind will not amount to suicide. The Apex Court in **SANJU v. STATE OF M.P.**² was also considering a case where the accused in the fit of anger uttered the words 'go and die'. The Apex Court holds as follows:

"....

12. *Reverting to the facts of the case, both the courts below have erroneously accepted the prosecution story that the*

² (2002) 5 SCC 371

suicide by the deceased is the direct result of the quarrel that had taken place on 25-7-1998 **wherein it is alleged that the appellant had used abusive language and had reportedly told the deceased "to go and die".** For this, courts relied on a statement of Shashi Bhushan, brother of the deceased, made under Section 161 CrPC when reportedly the deceased, after coming back from the house of the appellant, told him that the appellant had humiliated him and abused him with filthy words. The statement of Shashi Bhushan, recorded under Section 161 CrPC is annexed as Annexure P-3 to this appeal and going through the statement, we find that he has not stated that the deceased had told him that the appellant had asked him "to go and die". Even if we accept the prosecution story that the appellant did tell the deceased "to go and die", that itself does not constitute the ingredient of "instigation". The word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or on the spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotion. Secondly, the alleged abusive words, said to have been told to the deceased were on 25-7-1998 ensued by a quarrel. The deceased was found hanging on 27-7-1998. 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 25-7-1998 drove the deceased to commit suicide. Suicide by the deceased on 27-7-1998 is not proximate to the abusive language uttered by the appellant on 25-7-1998. The fact that the deceased committed suicide on 27-7-1998 would itself clearly point out that it is not the direct result of the quarrel taken place on 25-7-1998 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.

...

...

...

14. A plain reading of the suicide note would clearly show that the deceased was in great stress and depressed. One

*plausible reason could be that the deceased was without any work or avocation and at the same time indulged in drinking as revealed from the statement of the wife Smt Neelam Sengar. He was a frustrated man. Reading of the suicide note will clearly suggest that such a note is not the handiwork of a man with a sound mind and sense. Smt Neelam Sengar, wife of the deceased, made a statement under Section 161 CrPC before the investigation officer. She stated that the deceased always indulged in drinking wine and was not doing any work. She also stated that on 26-7-1998 her husband came to them in an inebriated condition and was abusing her and other members of the family. **The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25-7-1998 and if the deceased came back to the house again on 26-7-1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25-7-1998. 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 IPC. It is in the statement of the wife that the deceased always remained in a drunken condition. It is common knowledge that excessive drinking leads one to debauchery. It clearly appeared, therefore, that the deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25-7-1998 where the appellant is stated to have used abusive language. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to the irresistible conclusion that it is the deceased and he alone, and none else, is responsible for his death."***

(Emphasis supplied)

The Apex Court then considers the purport of abetment and holds that it involves a mental process of instigating a person or

intentionally aiding a person to suicide. The Apex Court in **S.S. CHHEENA v. VIJAY KUMAR MAHAJAN**³ has held as follows:

"....

25. 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.**

26. 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."

(Emphasis supplied)

A little later, in the case of **AMALENDU PAL v. STATE OF WEST BENGAL**⁴ the Apex Court holds as follows:

"....

12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and

³ (2010)12 SCC 190

⁴ (2010) 1 SCC 707

harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. *In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.*

14. *The expression "abetment" has been defined under Section 107 IPC which we have already extracted above. A person is said to abet the commission of suicide when a person instigates any person to do that thing as stated in clause Firstly or to do anything as stated in clauses Secondly or Thirdly of Section 107 IPC. Section 109 IPC provides that if the act abetted is committed pursuant to and in consequence of abetment then the offender is to be punished with the punishment provided for the original offence. Learned counsel for the respondent State, however, clearly stated before us that it would be a case where clause Thirdly of Section 107 IPC only would be attracted. According to him, a case of abetment of suicide is made out as provided for under Section 107 IPC."*

(Emphasis supplied)

A decade later, the Apex Court in the case of **GURCHARAN SINGH v. STATE OF PUNJAB**⁵ has held as follows:

"....

13. Section 107 IPC defines "abetment" and in this case, the following part of the section will bear consideration:

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

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

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing."

14. The definition quoted above makes it clear that whenever a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted in doing that thing.

15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Section 107 IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous. **However, what transpires in the present matter is that both the trial court as well as the High Court never examined whether the appellant had the mens rea for the crime he is held to have committed.** The conviction of the appellant by the trial court as well as the High Court on the theory that the woman with two young kids might have committed suicide possibly because of the harassment faced by her in the matrimonial house is not at all borne out by the evidence in the case.

⁵ (2020) 10 SCC 200

Testimonies of the PWs do not show that the wife was unhappy because of the appellant and she was forced to take such a step on his account."

(Emphasis supplied)

The Apex Court in the case of **KANCHAN SHARMA v. STATE OF UTTAR PRADESH**⁶ holds as follows:

"....

8. *Having heard the learned counsel on both sides, we have perused the impugned order [Kanchan Sharma v. State of U.P., 2019 SCC OnLine All 6917] and other material placed on record. Except the self-serving statements of the complainant and other witnesses stating that the deceased was in love with the appellant, there is no other material to show that the appellant was maintaining any relation with the deceased. From the material placed on record it is clear that on the date of incident on 4-5-2018 the deceased went to the house of the appellant and consumed poison by taking out from a small bottle which he had carried in his pocket. Merely because he consumed poison in front of the house of the appellant, that itself will not indicate any relation of the appellant with the deceased.*

9. *"Abetment" involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306IPC. To proceed against any person for the offence under Section 306IPC it 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.*

10. *There is nothing on record to show that the appellant was maintaining relation with the deceased and further there is*

⁶ 2021 SCC OnLine SC 737

absolutely no material to allege that the appellant abetted for suicide of the deceased within the meaning of Section 306IPC.

11. *Even with regard to offence alleged under Section 3(2)(v) of the Act it is to be noticed that except vague and bald statement that the appellant and other family members abused the deceased by uttering casteist words but there is nothing on record to show to attract any of the ingredients for the alleged offence also.*

12. *This Court in Chitresh Kumar Chopra v. State (NCT of Delhi) [Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with the aspect of abetment. In the said case this Court has opined that there should be an intention to provoke, incite or encourage the doing of an act by the accused. Besides, the judgment also observed that each person's suicidability pattern is different from the other and each person has his own idea of self-esteem and self-respect. In the said judgment it is held that it is impossible to lay down any straitjacket formula dealing with the cases of suicide and each case has to be decided on the basis of its own facts and circumstances.*

13. *In Amalendu Pal v. State of W.B. [Amalendu Pal v. State of W.B., (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] in order to bring a case within the purview of Section 306IPC this Court has held as under : (SCC p. 712, paras 12-13)*

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306IPC is not sustainable.

13. In order to bring a case within the purview of Section 306IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306IPC.”

The Apex Court later in **DAXABEN v. STATE OF GUJARAT**⁷ has held as follows:

“ ”

8. Section 306 of the IPC reads:

“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.”

9. As argued by Ms. Shenoy, learned Senior Counsel appearing on behalf of the Respondents, *what is required to constitute alleged abetment of suicide under Section 306 of the IPC is that there must be an allegation of either direct or indirect act of incitement to the commission of the offence of suicide.*

(Emphasis supplied)

In its latest judgment rendered on March 1, 2024 the Apex Court in the case of **KUMAR v. STATE OF KARNATAKA**⁸ has held as follows:

⁷ 2022 SCC OnLine SC 936

"... .."

3. Case of the prosecution is that the appellant was earlier residing in the house of the deceased as a tenant though on the date of the incident he was residing elsewhere as the term of the lease agreement had expired. On 05.07.2000 at about 09:00 AM, the deceased was returning home after dropping the children of her sister in the school. When she had reached near the Canara Bank, the appellant was waiting there and teased her to marry him. The deceased refused to respond. Appellant threatened her that if she did not agree to marry him, he would destroy the family of her sisters, outrage their modesty and would kill them. After she reached home, she informed her sisters about the above incident over telephone. Thereafter, she consumed poison in the house. The neighbours saw through the window of the house the deceased lying on the floor in a painful condition. They got the door of the house opened. The deceased was suffering from pain due to consumption of poison. In the meanwhile, one of her sisters and her husband came to the house. All of them took the deceased to the Nirmala Devi Hospital whereafter she was shifted to the Mission Hospital. Ultimately, she died on 06.07.2000 at 07:30 PM.

... ..

60. In India attempt to commit suicide is an offence under Section 309 IPC. This section provides that whoever attempts to commit suicide and does any act towards the commission of such offence, he shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both. But once the suicide is carried out i.e., the offence is complete, then obviously such a person would be beyond the reach of the law; question of penalising him would not arise. In such a case, whoever abets the commission of such suicide would be penalised under Section 306 IPC. Section 306 IPC reads as under:

306. Abetment of suicide- if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a

⁸2024 SCC OnLine SC 216

term which may extend to ten years, and shall also be liable to fine.

61. *Thus, as per Section 306 of IPC, if any person commits suicide, then 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.*

62. *The crucial word in Section 306 of IPC is 'abets'. 'Abetment' is defined in Section 107 of IPC. Section 107 of IPC reads thus:*

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

First-Instigates any person to do that thing; or

Secondly-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

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.

63. *From a reading of Section 107 IPC what is deducible is that a person would be abetting the doing of a thing if he instigates any person to do that thing or if he encourages with one or more person or persons in any conspiracy for doing that thing or if he intentionally aids by any act or illegal omission doing of that thing. Explanation 1 clarifies that even if a person by way of wilful misrepresentation or concealment of a material fact which he is otherwise 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. Similarly, it is clarified by way of Explanation-2 that whoever does anything in order to facilitate the commission of an act, either prior to or at the time of commission of the act, is said to aid the doing of that act.

64. *Suicide is distinguishable from homicide inasmuch as it amounts to killing of self. This Court in M. Mohan v. State¹ went into the meaning of the word suicide and held as under:*

37. The word "suicide" in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. "Sui" means "self" and "cide" means "killing", thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

65. *In Ramesh Kumar v. State of Chhattisgarh², this Court delved into the meaning of the word 'instigate' or 'instigation' and held as under:*

20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

66. *Thus, this Court held that to 'instigate' means to goad, urge, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the*

consequence. But, a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused by his act or omission or by his continued course of conduct creates a situation that the deceased is left with no other option except to commit suicide, then instigation may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

67. *Again in the case of Chitresh Kumar Chopra v. State³, this Court elaborated further and observed that to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by 'goad' or 'urging forward'. This Court held as follows:*

17. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action; provoke to action or reaction" (see Concise Oxford English Dictionary); "to keep irritating or annoying somebody until he reacts" (see Oxford Advanced Learner's Dictionary, 7th Edn.).

18. Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter.

68. *Thus, this Court has held that in order to prove that the accused had abetted the commission of suicide by a person, the following has to be established:*

- (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and*
- (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in*

the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

69. *In Amalendu Pal alias Jhantu v. State of West Bengal⁴, this Court after referring to some of the previous decisions held that it has been the consistent view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative to put an end to her life. It must be borne in mind that in a case of alleged abetment of suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 IPC would not be sustainable. Thereafter, this Court held as under:*

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

70. *Similar is the view expressed by this court in Ude Singh (supra).*

71. *In Rajesh v. State of Haryana⁵, this Court after referring to Sections 306 and 107 of the IPC held as follows:*

9. Conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide. In order to bring a case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence,

the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

72. *Reverting back to the decision in M. Mohan (supra), this Court observed that abetment would involve 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. Delineating the intention of the legislature and having regard to the ratio of the cases decided by this Court, it was concluded that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It would also require an active act or direct act which led the deceased to commit suicide seeing no other option and that this act of the accused must have been intended to push the deceased into such a position that he committed suicide.*

73. *Sounding a note of caution, this Court in State of West Bengal v. Orilal Jaiswal observed that the court should be extremely careful in assessing the facts and circumstances of each case as well as the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it transpires to the court that the victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.*

...

...

...

80. *Human mind is an enigma. It is well nigh impossible to unravel the mystery of the human mind. There can be myriad reasons for a man or a woman to commit or attempt to commit suicide: it may be a case of*

failure to achieve academic excellence, oppressive environment in college or hostel, particularly for students belonging to the marginalized sections, joblessness, financial difficulties, disappointment in love or marriage, acute or chronic ailments, depression, so on and so forth. Therefore, it may not always be the case that someone has to abet commission of suicide. Circumstances surrounding the deceased in which he finds himself are relevant."

(Emphasis supplied)

The Apex Court in the case of **KUMAR** (*supra*) considers the entire spectrum of law and holds that human mind is an enigma. There can be myriad reasons for a man or woman or anyone to commit or attempt to commit suicide. Circumstances surrounding the deceased in which he finds himself is relevant.

14. If the facts obtaining in the case at hand, the complaint, the summary of the charge sheet are all considered on the touchstone of the principles laid down by the Apex Court what would unmistakably emerge is that the petitioner, the sole accused, husband of the lady with whom the deceased Father had certain relationship and had blunt out his anger and had uttered words 'go and hang yourself' cannot mean that it would become the ingredients of Section 107 of the IPC for it to become an offence under Section 306 of the IPC - abetment to suicide. The complaint

registered against the petitioner is by the Circle Inspector. It is undoubtedly a well drafted complaint to contend that it is the acts of the petitioner threatening the Father, the Father has committed suicide. The same goes with the summary of the charge sheet. The Apex Court in the case of **MAHMOOD ALI V. STATE OF U.P**⁹ has held as follows:

"13. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its

⁹ 2023 SCC OnLine SC 950

jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

(Emphasis supplied)

The Apex Court holds that the Courts exercising jurisdiction under Section 482 of the Cr.P.C. or even extraordinary jurisdiction under Article 226 of the Constitution of India should read between the lines, looking to attending circumstances, emerging from the record and with due care and circumspection try to analyze the complaint. The Apex Court further holds that this Court need not restrict itself only to the stage of the case, but is empowered to take into consideration, overall circumstances leading to the initiation and materials collected in the course of the investigation.

15. In the light of the law laid down by the Apex Court (*supra*), and on an analysis of the well crafted complaint and summary of the charge sheet, this Court is of the considered view

that permitting further proceedings despite a charge sheet being filed against the petitioner would undoubtedly lead the proceeding to become an abuse of the process of law, and result in patent injustice. It is in these circumstances, the Apex Court in the case of ***STATE OF HARYANA v. BHAJAN LAL***¹⁰ has clearly held that such cases should be nipped in exercise of its jurisdiction under Section 482 of the Cr.P.C. The reason for the deceased to commit suicide in the case at hand may be myriad, one of which could be the factum of him having illicit relationship with the wife of the petitioner, despite being the Father and Priest of a Church. **It is trite that human mind is an enigma and the task of unraveling the mystery of human mind can never be accomplished.**

16. For the aforesaid reasons, the following:

ORDER

(i) Criminal Petition is allowed.

¹⁰ 1992 Supp (1) SCC 335

- (ii) Proceedings in S.C.No.38 of 2021 pending before the Principal District & Sessions Judge, Udupi District, Udupi arising out of Charge sheet dated 09-09-2021 in Crime No.29 of 2020 stand quashed.

**Sd/-
JUDGE**

bkp
CT:MJ