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HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on 01.12.2023****Order delivered on 07.12.2023****CRR No.1213 of 2023**

1. Ku. Pooja Chopra, daughter of Santosh Kumar Chopra, aged about 24 years R/o. Ek Batti Paach Rasta, Ward No.17, Dongargarh, P.S. - Dongargarah, District - Rajnandgaon (CG)
2. Kamla @ Golu @ Vickey Chopra, S/o Santosh Kumar Chopra, aged about 32 years R/o. Ek Batti Paach Rasta, Ward No.17, Dongargarh, P.S. Dongargarah, District Rajnandgaon (CG).
3. Ashish Khatod @ Akku Khatod, S/o Ashok Chandra Khatod, aged about 27 years R/o. Ward No.26, Near Bus Stand, Dalli Rajhara, P.S. - Dalli Rajhara, District - Balod (CG)

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station - Dongargarh, District - Rajnandgaon (CG).

---- Respondent

For Applicants : Mr. Nitesh Jain, Advocate
For Respondent : Mr. G.I. Sharan, Govt. Advocate

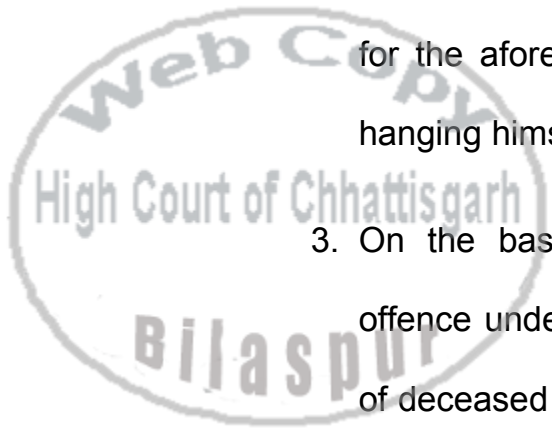
SB: Hon'ble Justice Mr. Parth Prateem Sahu**CAV Order**

1. Applicants have preferred this criminal revision under Section 397 r/w 401 of the Criminal Procedure Code, 1973 (for short 'CrPC') feeling aggrieved by the order dated 13.10.2023 passed in S.T. No.19/2023 by which learned Additional Sessions Judge, Dongargarh, District Rajnandgaon (CG) has framed charge under Section 306 of the Indian Penal Code, 1860 against applicant No.1 and under Section 306/34 against applicant No.2 & 3.
2. Facts leading to filing of present criminal revision are that on 28.1.2023 Police received an intimation regarding unnatural



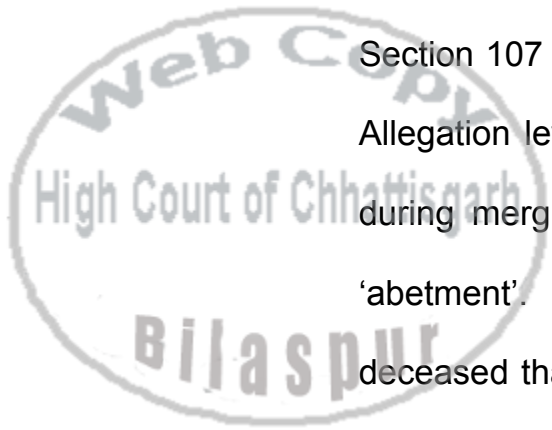
death of deceased Abhishek Naredi, based on which police registered Merg No.3/2023 under Section 174 of CrPC and started inquiry. In the course of inquiry, a suicide note left behind by deceased was seized, in which allegations were made against present applicants. As per contents of suicidal note, deceased and applicant No.1 were in love for about 5 to 7 years, suddenly applicant No.1 broke relation with deceased, refused to marry with him, developed love affair with some other boy and going to marry with him. It is further mentioned that applicant No.2 & 3 herein are threatening him for life and for the aforementioned reasons, he is committing suicide by hanging himself.

3. On the basis of aforesaid suicidal note, Police registered offence under Section 306/34 of IPC against applicants. Body of deceased was sent for post-mortem examination and as per post-mortem report, cause of death was due to asphyxia and death was ante-mortem suicidal in nature. During investigation, said suicidal note was sent to the handwriting expert. After completion of investigation, charge sheet against applicants under Section 306/34 of IPC is filed before the competent Court. The Court below, by impugned order dated 13.10.2023, came to conclusion that *prima facie* charges under Section 306 & 306/34 of IPC is made out against applicants and accordingly framed charge against them. Feeling aggrieved by which, the applicants have preferred this revision.





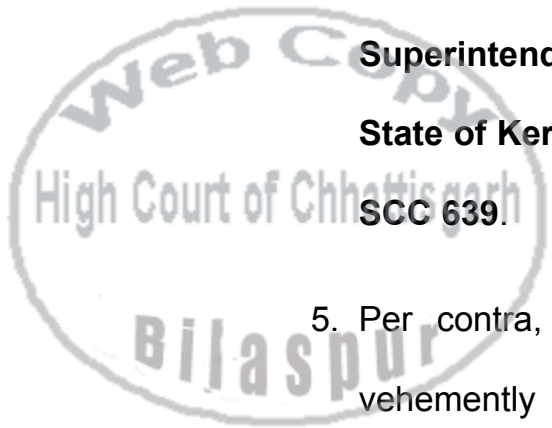
4. Learned counsel for applicants submits that the trial Court erred in framing charge against the applicants under Section 306, 34 of IPC. He submits that in order to frame charge under Section 306 of IPC, it must be specifically alleged and prima facie established on the basis of cogent material on record, that accused committed such acts which compelled the deceased to commit suicide. There is no material on record which *prima facie* established that applicants by doing any positive act, have instigated, aided or provoked the deceased to commit suicide. Ingredients of 'abetment', as defined under Section 107 of IPC, are conspicuously absent in present case. Allegation levelled in alleged suicide note, which is recovered during merg enquiry, does not fulfil essential ingredients of 'abetment'. In the suicide note, it is only mentioned by deceased that he is committing suicide just because applicant No.1 betrayed him in love, developed love affair with some other boy and that applicant Nos.2 & 3 have threatened him for life. No specific instances of instigation or provocation on the part of applicants, which forced him to commit suicide, have been mentioned in suicide note or in FIR nor it is mentioned that applicants were continuously torturing him. In absence any such allegation, it is not possible to find out nexus between alleged abetment and suicide. He submits that in fact, it is the case of love failure and the deceased, who was major and aware of pros & cons of suicide, has committed suicide having come to know that his lover betrayed him by developing love affair with some another boy. Hence, only on the basis of





contents of suicidal note and without there being any positive action proximate to the time of occurrence on the part of applicants herein, which led or compelled the deceased to commit suicide, framing of charge under Section 306/34 of IPC against the applicants is not sustainable and deserves to be quashed. To buttress his submissions, he placed reliance on the decisions in cases of **Swamy Prahaddas v. State of Madhya Pradesh**, reported in **1995 Supp.(3) 438; SC Cheema vs. Vijay Kumar Mahajan**, reported in **(2010) 12 SCC 190; M. Mohan vs. State represented by the Deputy Superintendent of Police**, reported in **(2011) 3 SCC 626; State of Kerala vs. S. Unnikrishnan Nai**, reported in **(2015) 9 SCC 639**.

5. Per contra, learned counsel appearing for the State has vehemently opposed submissions of learned counsel for applicants and submitted that suicide note left by deceased was recovered wherein he has categorically named present applicants and specifically stated that he is committing suicide just because of the present applicants. He submits that getting fed-up from betray by applicant No.1 and threats given by applicants, deceased committed suicide and therefore, the reason for committing suicide by deceased is nothing but instigation or abetment on the part of the applicants. Deceased has committed suicide only for the reason that applicants had created a difficult situation for him, from which he could not come out, therefore, the conduct on the part of



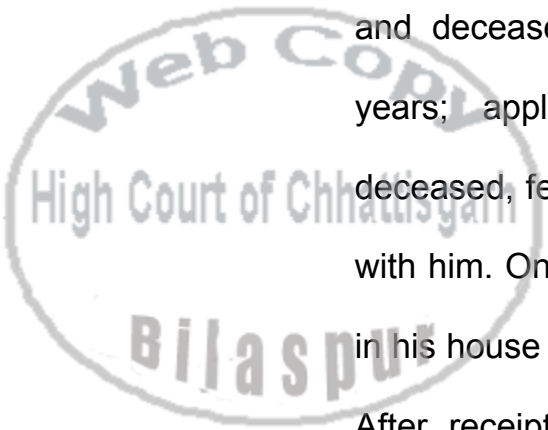


applicants is itself an act of abetting the suicide. Hence, the trial Court has rightly framed the charge under Section 306/34 of IPC against the applicants and prayed for dismissal of revision petition.

6. I have heard learned counsel for both sides and perused the record of the case as well as suicide note left by the deceased. I have also perused impugned order directing framing of charge against applicants.

7. Undisputed facts in the present case are that applicant No.1 and deceased Abhishek Naredi were in love for about 5-7 years; applicant No.1 suddenly broke love affair with deceased, fell into love with another boy and decided to marry with him. On 16.1.2023 deceased Abhishek committed suicide in his house by hanging to a ceiling fan, leaving a suicide note. After receipt of information, uncle of deceased lodged the complaint. Based upon said complaint, Police registered Merg, visited the spot and seized suicide note written by deceased, mentioning names of applicants as the persons because of whom he was frustrated and is committing suicide. FIR was registered against applicants on the basis of contents of this suicidal note. Hence this criminal revision under Section 397/401 of CrPC for quashing of charge.

8. In case of **Amit Kapoor vs. Ramesh Chander**, reported in **(2012) 9 SCC 460**, Hon'ble Supreme Court has laid down the principles to be borne in mind for proper exercise of jurisdiction under Section 397 or 482 CrPC, as the case may be,





particularly in the context of quashing of charge. The principles in **Amit Kapoor's case (supra)** were recently quoted with approval in case of **Manendra Prasad Tiwari v. Amit Kumar Tiwari & another**, reported in **2022 SCC Online SC 1057**. One of the principles on which revisional jurisdiction can be exercised is that if the allegations are patently so absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere. Relevant principles culled out by Hon'ble Supreme Court in aforementioned decision read thus:-

“27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

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27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

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27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of





which the case would end in a conviction; the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

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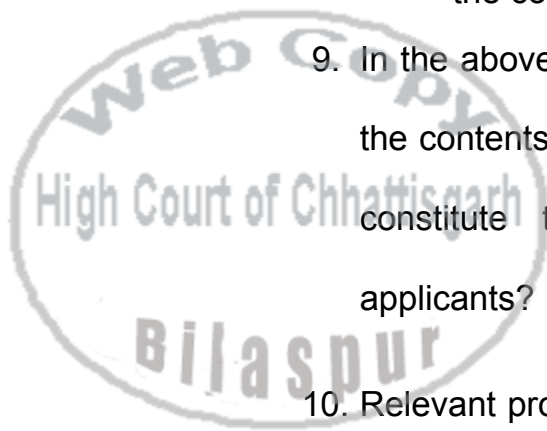
27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised *ex debito justitiae* i.e. to do real and substantial justice for administration of which alone, the courts exist.”

9. In the above position in law, the moot point would be 'whether the contents of suicide note, even if taken to be correct, would constitute the offence of abetment to suicide against applicants?'

10. Relevant provisions of law in the present case are Section 107 of IPC, which defines 'abetment', and Section 306 IPC which provides punishment for 'abetment of suicide'. Section 107 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.”

11. Section 306 of IPC is also extracted below for ready reference:-





“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.”

12. A bare reading of above provision would demonstrate that for an offence under Section 306 of IPC, there are twin requirements, namely, suicide and abetment to commit suicide. Commission of suicide is not made punishable not because the commission of suicide is not culpable, but for the reason that the person culpably responsible would have departed from this world before he can face any indictment. Whereas, abetment of commission of suicide is viewed very seriously by law.

13. In case of **State of West Bengal vs. Orilal Jaiswal**, reported in (1994) 1 SCC 73, the Hon'ble Supreme Court while dealing with acquittal of accused from the charge under Section 306 of IPC, has cautioned as under:-

“17. ...The Court should be extremely careful in assessing the facts and circumstances of each case and 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 the life by committing suicide. If it appears to the court that a 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 in a given society to commit



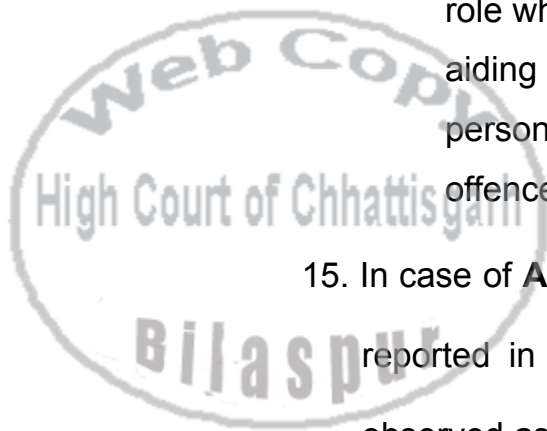
suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

14. In **Randhir Singh & ors vs. State of Punjab**, reported in **(2004) 13 SCC 129** it was held thus:

"12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 of IPC."

15. In case of **Amlendu Pal @ Jhantu vs. State of West Bengal**, reported in **(2010) 1 SCC 707**, the Hon'ble Supreme Court observed as under:-

"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 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 let or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable."

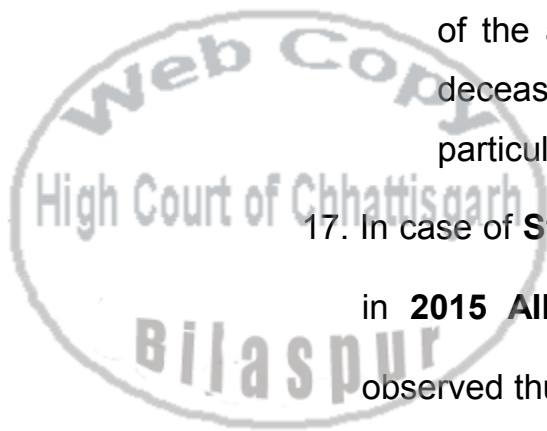
16. In **Madan Mohan Singh vs. State of Gujarat & ors**, reported in **(2010) 8 SCC 628**, the Hon'ble Supreme Court observed thus:-

"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."

17. In case of **State of Kerala vs. S. Unnikrishnan Nair**, reported in **2015 AIR SCW 4814**, the Hon'ble Supreme Court has observed thus:-

"18. Coming to the case at hand, as we have stated earlier, the suicide note really does not state about any continuous conduct of harassment and, in any case, the facts and circumstances are quite different. In such a situation, we are disposed to think that the High Court is justified in quashing the proceeding, for it is an accepted position in law that where no prima facie case is made out against the accused, then the High Court is obliged in law to exercise the jurisdiction under Section 482 of the Code and quash the proceedings. [See *V.P. Shrivastava v. Indian Explosives Limited and others*, (2010) 10 SCC 361]"

18. From the above position of law, it is clear that to constitute abetment within its meaning under Section 107 read with

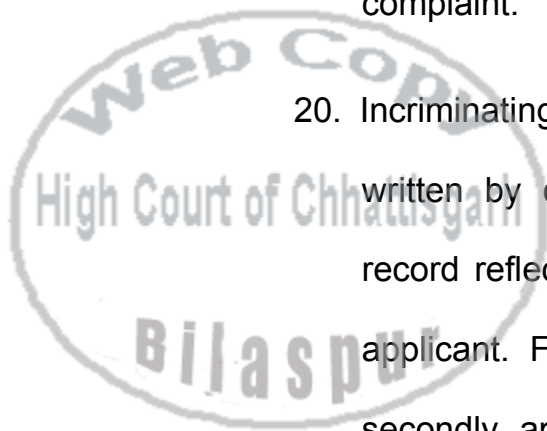




Section 306 of IPC, there should be active suggestion, instigation or encouragement on the part of the accused. Even harassment simpliciter cannot constitute abetment within its meaning under the law.

19. Let us examine the facts of the present case in the light of the above position in law to find out whether the allegations made in suicide note, *prima facie* constitute an offence or allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint.

20. Incriminating evidence against applicants is suicide note written by deceased. Perusal of suicide note available on record reflects that it contains two kinds of allegation against applicant. Firstly, applicant No.1 betrayed him in love; and secondly, applicant No.2 & 3 have given threat of life to him. At the bottom itself the deceased had mentioned that reason for his suicide is applicant No.1, to whom he loved very much and as applicant No.1 betrayed him and brother of applicant No.1 has given him threat of life, he is putting an end to his life. However, there is no mention in the entire suicide note, which is in two pages, about any instigation i.e. continuous harassment and torture or goading or provocation, by applicants to the deceased creating the situation for him to end his life. In simple words, there is nothing in suicide letter to even suggest that the applicants have made such an



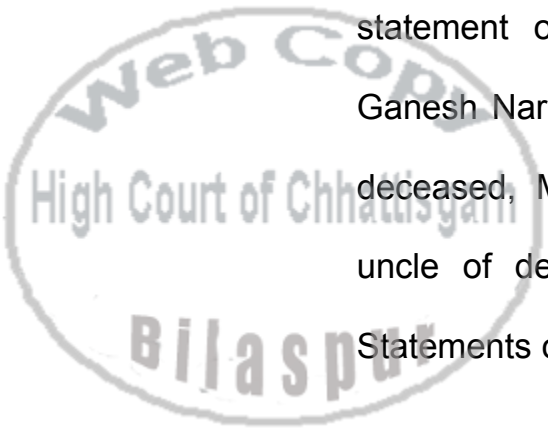


atmosphere around the deceased that there was no option left for him, but to commit suicide.

21. Prima facie it is appearing from suicide note that the deceased was in deep love with applicant No.1, he could not tolerate betrayal in love by applicant, her decision to marry with some other boy, therefore, out of frustration in love, he committed suicide, blaming applicant No.1 as a person or rather a cause which compelled him to take such an extreme step.

22. That apart, in the course of merg enquiry, police recorded statement of some family members of deceased namely Ganesh Naredi, father of deceased, Meera Naredi, mother of deceased, Miss Ayushi, sister of deceased, Sanjay Naredi, uncle of deceased, Rajkumar Naredi, uncle of deceased. Statements of some independent witnesses are also recorded.

23. Ganesh Naredi, father of deceased, has stated that on 16.1.2023 when he along with his wife and daughter was returning to Dongergarh from Gangasagar, on the way in Bilaspur he tried to contact over telephone to his son Abhishek, when he did not answer his call, he contacted one Virendra Agrawal who informed him Abhishek, who was all alone in the house, has committed suicide by hanging himself. He has further stated that his son was having love affair with Puja Chopra (applicant No.1) for about nine years, both the families were aware about their relationship and ready for their marriage. His son Abhishek had also given Rs.5,00,000/- on credit to her for opening a shop. Few months ago, his son





Abhishek came to know that Puja had developed relationship with one Ashish Jain; she also refused to marry with his son and also asked him not to come to her house. Brothers of said Puja also used to ask his son not to come to their house else they would beat him. Due to this, his son was very sad and also went in depression. He has further stated that Puja and her brothers i.e. applicants herein, started torturing his son Abhishek by extending threats to him of dire consequences and implicating him in false case. His son Abhishek committed suicide being fed-up with the torture to which he was subjected by accused persons.

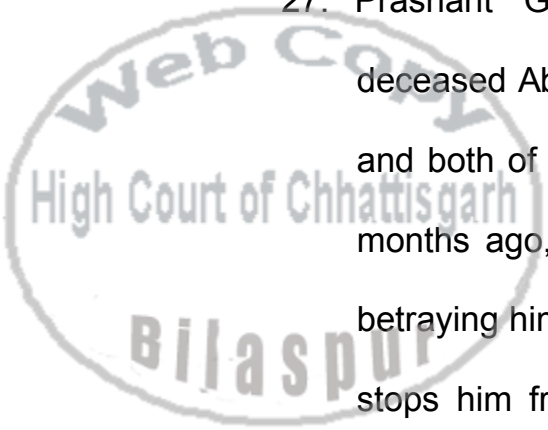
24. Statement of Meera Naredi, mother of deceased, and Ayushi Naredi, sister of deceased, Sanjay Naredi, uncle of deceased, and Rajkumar Naredi, uncle of deceased, are almost identical to that of Ganesh Naredi, father of deceased. They too have stated that Puja Chopra, her brother Kamal Chopra and Ashish Jain, were giving physical and mental torture to the deceased and being fed-up with the same, he committed suicide on 16.1.2023 by hanging himself.

25. Manoj Agrawal, an independent witness, has stated that about love affair of deceased Abhishek and applicant No.1, break-up of relationship by applicant No.1 and entering into relationship with one Ashish Jain, threats of beating by Kamal Chopra, brother of Puja Chopra and threat of false implication by Puja Chopra. He stated that cause of suicide by deceased Abhishek was the torture meted out to him by accused persons.



26. Abhishek Thomas, friend of deceased, has stated that on the fateful day at about 10:30 a.m. he came to know from his friends that deceased Abhishek has committed suicide. He has stated that there was love affair between deceased Abhishek and Puja Sharma, they were deeply in love and wanted to marry each other. He has further stated that about one month prior to incident, deceased Abhishek informed him that after betraying him, Puja got engaged with one Ashish Jain. He was very tensed and stated that he cannot live without Puja.

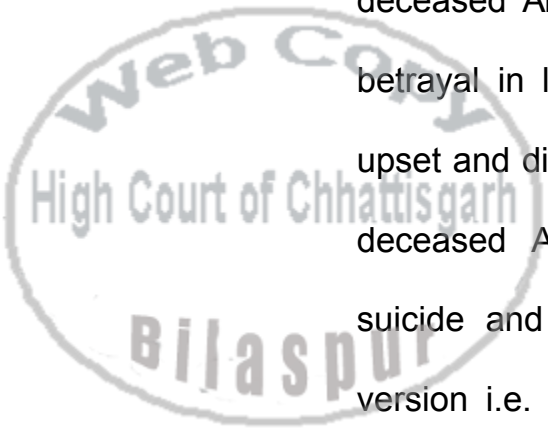
27. Prashant Gabhne, friend of deceased, has stated that deceased Abhishek and Puja were in love for about 6-7 years and both of them wanted to marry with each other. About 6-7 months ago, deceased Abhishek had informed him that after betraying him, Puja is going to marry with one Ashish Jain, she stops him from visiting her home and used to threaten him saying that if he will not return her gifts, photos, videos then she will implicate him in a false case. Deceased Abhishek used to repeatedly say that he would commit suicide. On 15.1.2023 at about 10 & 11:00 p.m. deceased Abhishek informed him that marriage of Puja with Ashish is love marriage and not arranged marriage. Due to all this, Abhishek was very much tensed and sad. At that time also, he was saying that he would die. Getting fed-up with the torture meted out to deceased Abhishek by Puja Chopra, Kamal Chopda and Ashish Jain, he committed suicide.





28. Navneet Agrawal, friend of deceased, has also stated about love affair between Puja Chopra and deceased Abhishek, Puja Chopra betrayed him, having come to know that she had betrayed him, deceased Abhishek began to remain sad and tensed. Ultimately, this witness has also stated that deceased committed suicide due to torture meted out to him by accused persons.

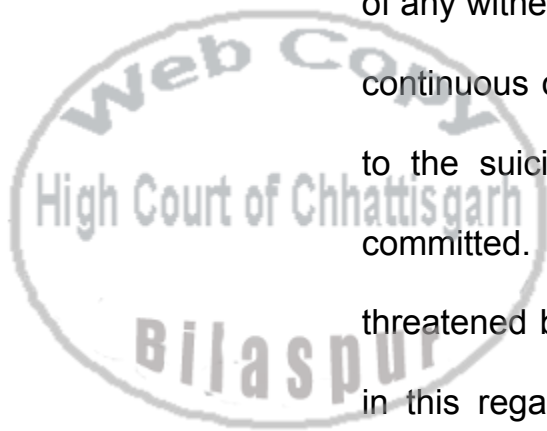
29. Statements of aforementioned witnesses reveal that almost all the witnesses have stated that there was love affair between deceased Abhishek and applicant No.1-Puja Chopra; due to betrayal in love by applicant No.1, deceased Abhishek was upset and disturbed. On several occasions, before his friends deceased Abhishek had expressed his desire to commit suicide and the reason for that is also reflected from his version i.e. betray in love, threats of dire consequence and false implication in a case. Deceased was under depression due to betrayal by applicant No.1 and as such, he was compelled to take drastic step of committing suicide. However, these statements are not sufficient to conclude guilt, if any, of the applicants, firstly for the reason that version of all these witnesses is based on what is stated to them by the deceased, none of the witnesses had deposed that any threat to deceased was given in their presence. Secondly, there is no allegation in their statements that in their presence applicants instigated, conspired or provoked the deceased to commit suicide. Thus, oral evidence of witnesses on the point of





abetment to suicide is hearsay, which is not sufficient to frame a charge against the applicants for abetment of suicide under Section 306 of IPC.

30. True it is that the deceased had written in suicide letter about the threats given by applicants, but, in the opinion of this Court, nature of threats mentioned in the suicide letter written by deceased are not of such an alarming proportion so as to drive a 'normal person' to contemplate suicide. Most importantly, there is no mention in suicide letter or statements of any witness, when such threats were uttered, whether it was continuous or a single incident and whether it was much prior to the suicide or in close proximity when the suicide was committed. Further, if deceased had felt annoyed and threatened by the applicants, he might have lodged complaint in this regard with police, but deceased had not made any complaint to the police with regard to threats given to him by applicants. In the opinion of this Court, suicide letter only expressed a state of anguish of deceased towards applicant No.1 due to her betrayal in love, but it cannot be depicted as expressing anything intentional on the part of applicants that the deceased might commit suicide. This presumption gets strengthened from the statements of some independent witnesses that deceased told them that applicant No.1 had cheated him, she had refused to marry him, he cannot live without her and will commit suicide.



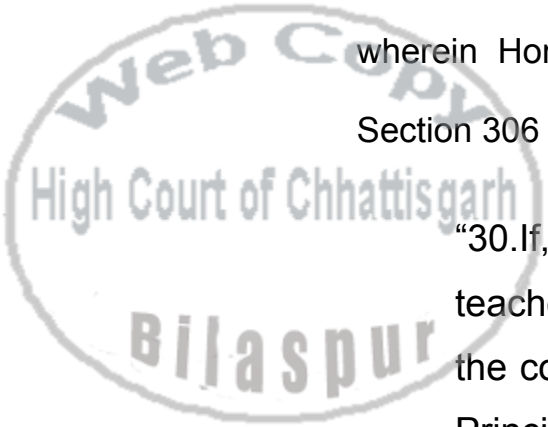


31. If a lover commits suicide due to love failure, if a student commits suicide because of his poor performance in the examination, a client commits suicide because his case is dismissed, the lady, examiner, lawyer respectively cannot be held to have abetted the commission of suicide. For the wrong decision taken by a man of weak or frail mentality, another person cannot be blamed as having abetted his committing suicide. My above view is fortified by the decision of Hon'ble Supreme Court in case of Geo Verghese vs. The State of Rajasthan & anr, reported in 2021 SCC Online SC 873, wherein Hon'ble Supreme Court while quashing FIR under Section 306 of IPC, has observed thus:-

“30.If, a student is simply reprimanded by a teacher for an act of indiscipline and bringing the continued act of indiscipline to the notice of Principal of the institution who conveyed to the parents of the student for the purposes of school discipline and correcting a child, any student who is very emotional or sentimental commits suicide, can the said teacher be held liable for the same and charged and tried for the offence of abetment of suicide under Section 306 IPC.

31. Our answer to the said question is 'No'.”

32. In view of the above, this Court is of the considered view that *prima facie* there is no material available on record to hold that petitioner has committed offence punishable under Section 306/34 of IPC. In absence of any material on record of definite





nature, not imaginary or inferential one, pointing out any such circumstance remotely indicating any such act or intention on the part of applicants herein to abet the commission of suicide by deceased Abhishek Naredi, the trial Court has committed illegality in framing charge under Sections 306, 306/34 of IPC against the applicants respectively.

33. For the foregoing reasons and discussions, this criminal revision is allowed. Impugned order dated 13.10.2023 passed by learned Additional Sessions Judge, Dongergarh in S.T. No.19/2023 whereby charges under Sections 306 & 306/34 of IPC have been framed against applicants herein are quashed and they are accordingly discharged.

(Parth Prateem Sahu)
Judge

