IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

CRIMINAL REVISION No. 1097 of 2025

CNR No.: MPHC030062572025

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay Gupta– Advocate for the petitioner.

Shri Vikram Pippal – Public Prosecutor for the respondent/State.

Shri Mahendra Singh Yadav – Advocate for complainant.

RESERVED ON : 30/09/2026

DELIVERED ON : 13/10/2026

ORDER

1. The present criminal revision has been filed by the petitioner/accused under Sections 397/401 of the Code of Criminal Procedure, 1973 (corresponding to Sections 438/442 of the BNSS) against the order dated 24/02/2025 passed by the learned III Additional District and Sessions Judge, Vidisha (M.P.) in S.T. No. 77/2024, whereby his application for discharge was rejected and charges under Sections 306, 376, 354-D and 354-A of the IPC were framed.

2. The prosecution story, in short, is that on 28/01/2023 at about 04:00 PM, the deceased, daughter of complainant , committed suicide by hanging herself with a dupatta from a ceiling fan on the third floor of her father's house. Initially, a Marg intimation was registered.

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 13-10-2026
18:38:05

During the Marg enquiry, the complainant and family members alleged that the petitioner had continuously harassed and stalked the deceased and sent obscene messages to her. On the basis of the material collected, FIR under Section 306 of the IPC was registered. During further investigation, the vaginal slide report of the deceased indicated the presence of human sperm. On the basis of the aforesaid report and statements of the family members, Sections 376 and 354-D, and subsequently Section 354-A of the IPC, were added in respect of the alleged obscene messages and demand for sexual favours.

2.1 Upon completion of the investigation, the charge-sheet was filed before the learned Trial Court and by the impugned order, the petitioner's application for discharge was rejected and charges for the aforesaid offences have been framed against him. Being aggrieved, the petitioner is before this Court.

3. Learned counsel for the petitioner submits that petitioner, a BAMS doctor and Community Health Officer, has been falsely implicated due to prior animosity. The learned Trial Court erred in mechanically rejecting the discharge application/framing charges without properly appreciating the material on record. The petitioner and the deceased were well acquainted and used to travel together on his motorcycle for their respective duties. The deceased had earlier lodged Crime No.325/2022 against petitioner under Sections 452, 323, 294, 506 Part-II and 354-A of the IPC, in which he was acquitted by the learned JMFC, Vidisha, vide judgment dated 04/11/2022, as the deceased did not support the prosecution case. It is, therefore, argued that the subsequent charges under Sections 354-D and 354-A of the IPC are unwarranted.

3.1 Learned counsel further contends that the deceased was a mature and

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

divorced woman and had left no suicide note indicating any act of abetment on the part of the petitioner, nor was any complaint made against him. It is submitted that, for constituting the offence of abetment, there must be a clear act of instigation or intentional aid, accompanied by the requisite *mens rea* and having a proximate nexus with the suicide, and that the material collected during investigation does not *prima facie* disclose any such act so as to constitute the essential ingredients of Section 306 of the IPC; mere allegations of harassment, quarrel or words uttered in the course of a dispute would not, by themselves, constitute abetment within the meaning of Section 107 of the IPC. Reliance is placed upon **Sanju @ Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371; Pappu Khare v. State of M.P., 2015 (1) MPLJ (Cri.) 562; Lalit Vs. State of M.P., 2018 (1) MPLJ (Cri) 638;** and **Prabhat Kumar Mishra @ Prabhat Mishra v. State of U.P., (2024) 3 SCC 665**.

3.2 Learned counsel further argued that, as regards the offence under Section 376 of the IPC, none of the circumstances/ingredients under Section 375 of the IPC/Section 63 of the BNS is *prima facie* made out. The presence of human sperm in the vaginal slide and matching DNA profile, by themselves, do not establish that the alleged sexual intercourse was against the will or without the consent of the deceased, particularly when the defence case is that the relationship was consensual and there is no prior complaint or whisper about rape in the statement of the father/complainant. In the absence of any allegation by the prosecutrix or supporting material attributing rape to the accused, the DNA report/forensic material, though relevant, may, at the highest, establish a biological linkage, but cannot by itself establish the act of commission of rape by this particular accused without demonstrating its nexus with the

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

alleged act under Section 376 of the IPC. In support thereof, reliance is placed upon State of **Himachal Pradesh v. Sanjay Kumar, 2025 INSC 561**.

3.3 Learned counsel also submits that, at the stage of discharge/framing of charge, the Court is required to examine whether the material on record gives rise to a grave suspicion against the accused. Where the material gives rise only to mere suspicion, the accused is entitled to discharge, whereas a grave suspicion, if not properly explained, would justify framing of the charge. Where two views are reasonably possible, the view favourable to the accused may warrant discharge. It is further submitted that, although the Court is required to independently apply its judicial mind, it cannot conduct a meticulous appreciation of evidence or hold a mini-trial and is not to act as a mere "post office". In support thereof, reliance is placed upon **Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366**; **Dilawar Balu Kurane v. State of Maharashtra, AIR 2002 SC 564**; **Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijja & Others**, **AIR 1990 SC 1962**; and **Ram Prakash Chaddha v. State of U.P., (2024) 10 SCC 651.**

3.4 Lastly, learned counsel contended that the Cyber Cell Report concerning the data, WhatsApp chats, photographs and videos recovered from the seized mobile phone has not yet been produced on record. It is, therefore, argued that the prosecution material is incomplete and the framing of charges at this stage is premature and mechanical. Learned counsel accordingly urged that the petitioner deserves to be discharged from the alleged offences.

4. *Per contra*, learned State counsel, assisted by counsel for respondent No.2/complainant, opposed the prayer and prayed for dismissal of the

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

revision, submitting that at the stage of framing of charge, only a *prima facie* case or grave suspicion is to be seen. The investigation has collected sufficient medical, documentary and oral evidence, including the vaginal slide report indicating the presence of human sperm and the DNA profiling report of RFSL, Bhopal, wherein the DNA profile obtained from the clothes of the deceased matched with the DNA profile obtained from the blood sample of the petitioner. Thus, the DNA report is positive and *prima facie* connects the petitioner with the deceased.

4.1 It is further submitted that the witnesses have alleged repeatedly stalking, obscene messages, and mental and physical harassment by the petitioner, ultimately driving the deceased to commit suicide. It is further submitted that the deceased had submitted an application for transfer dated 28/07/2022, alleging mental torture and threats to her children. The complainant/father of the deceased had also seen the petitioner coming down the stairs of his house immediately before the incident and, thereafter, found the door of his daughter's room closed from inside, which circumstance also raises suspicion regarding the petitioner's involvement. The evidentiary value of such material is to be tested at trial and the pendency of the Cyber Cell report, by itself, does not warrant discharge when the material on record raises sufficient suspicion regarding the petitioner's involvement.

5. Heard learned counsel for the parties and perused the impugned order as well as the other material placed on record.

6. Before dealing with the rival contentions on the merits of the case, it would be appropriate to refer to the relevant provision, i.e., Section 306 of IPC, which is reproduced as under:-

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

> ***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.*

6.1 From a bare reading of the aforesaid provision, it is clear that the offence under Section 306 of IPC is constituted if there is an abetment for the commission of the crime. Parameters of abetment have been stated in section 107 of IPC which defines abetment of a thing 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 or the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of the thing; or*
>
> *Thirdly. - Intentionally aids, by any act or illegal omission, the doing of that thing.*
>
> *Explanation 1. - A person who, by wilful mispresentation, 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.*

6.2 From a plain reading of Section 107 of IPC, it is clear that a person can be said to have abetted the doing of a thing, if he, (i) instigates any person to do that thing; (ii) 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 (iii) intentionally aids by any act or illegal omission, the doing of that thing. Explanation to Section 107 of IPC provide that any willful misrepresentation or willful concealment of a material fact which a

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

person is bound to disclose, may also amount to "abetment". Thus, it is apparent that under all the three situations, direct involvement of the person or persons concerned in the commission of the offence of suicide is essential for establishing the offence under section 306 of IPC.

6.3 As per first clause, a person can be said to have abetted the doing of a thing if he instigates any person to do that thing. The word "instigate" has been explained by the Hon'ble Supreme Court in the case of **Ramesh Kumar v. State of Chhattisgarh**, reported in **(2001) 9 SCC 618**, wherein the Hon'ble Supreme Court held 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, 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. Where the accused had, by his acts or omissions 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 to be inferred.

6.4 Further, the Hon'ble Supreme Court after considering the law laid down in **Ramesh Kumar (supra)** in the case of **Chitresh Kumar Chopra Vs. State (Govt of NCT of Delhi)** reported in (**2009) 16 SCC 605** further explained the word "instigation" and held as under.

> *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 "goading" 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*

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

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.*

19. *As observed in Ramesh Kumar [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:*

    (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.

6.5 The Hon'ble Supreme Court in the case of **Chitresh Kumar Chopra (Supra)** has further held that the question as to what is the cause of the suicide has no easy answer because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of personal meaning they add to each event. Thus, accounting for individual vulnerability to suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, which may either be an attempt for self protection or an escapism from intolerable self.

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

7. Now, it is also appropriate to refer the scope of exercise of power under Sections 227 & 228 of Cr.P.C.

> ***227. Discharge**.- If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.*
>
> ***228. Framing of charge.-** (1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-.....*

7.1 It is settled in law that at the stage of framing of charge, the court is required to assess the material and document on record with a view to find out if the facts emerging therefrom, taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, the court may sift the evidence as it cannot be expected even at the initial stage to accept as gospel truth all that the prosecution states. At the stage of framing of the charge, the court has to consider the material only with a view to find out if there is ground for presuming that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.

7.2 The Hon'ble Supreme Court in the case of **State of Maharashtra v. Som Nath Thapa** reported in **(1996) 4 SCC 659** explained the meaning of the word "presume". It explained the dictionary meaning of the said word, the court observed thus:

> *"32. ... if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused*

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

> *might have [Ed.: The words "might have" were emphasised in the original.] committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has [Ed.: Emphasis in original.] committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage."*

7.3 The Hon'ble Supreme Court in the case of **Amit Kapoor Vs. Ramesh Chander and Another** reported in **(2012) 9 SCC 460** has defined the distinction between section 227 and 228 of Cr.P.C. At the stage of framing of the charge under section 228 of Cr.P.C., the opinion of the court is only tentative in nature and forming of an opinion that the accused is certainly guilty of committing an offence is not permissible in terms of section 228; whereas, at the stage of 227 of Cr.P.C., the court's opinion has to be definite.

8. In the backdrop of the aforesaid legal position, if the facts of the present case are considered, then this Court is of the view that the material available on record, including the statements of the witnesses and other material collected during investigation, discloses that the petitioner was continuously irritating, annoying, stalking, threatening and harassing the deceased. Such conduct was not an isolated or stray incident, but continued over a period of time. The deceased had earlier taken legal action against the petitioner, but even after the compromise, the alleged harassment continued. The material further indicates that the petitioner, on one occasion, entered the deceased's room in a drunken state, quarreled with her, misbehaved with her, assaulted her and broke her mobile phone, and threatened to kill her parents and children, ruin her career and make her obscene videos viral if she did not compromise. He also allegedly intercepted her while she was going to work and contacted

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

her using different mobile numbers despite being blocked, and abused and harassed her. When the deceased had consumed sleeping pills, the petitioner allegedly reached the hospital and created obstruction in her treatment. On account of such conduct, the deceased had even submitted an application seeking her transfer. Most significantly, around the time of the incident, her father/complainant allegedly saw the petitioner coming down the stairs of their house. The aforesaid circumstances, if taken at their face value, discloses a continuous harassment to the deceased and cannot, at this stage, be brushed aside assuming it to be a mere quarrel or isolated act. The cumulative effect of the material on record, therefore, cannot be said to give rise to a mere suspicion only; rather, it raises a grave suspicion regarding the petitioner's involvement and constitutes sufficient ground to proceed against him for the alleged offences.

8.1 Thus, the contention of the petitioner that, in the absence of any suicide note or specific act of instigation or intentional aid having a proximate nexus with the suicide, the ingredients of Section 306 of IPC are not made out, as mere harassment, quarrel or using words in the course of a dispute, without any material indicating instigation or intentional aid, would not constitute abetment under Section 107 of IPC, cannot be accepted at this stage. Mere absence of a suicide note, by itself, cannot justify discharge where the material on record otherwise raises a grave suspicion that the deceased committed suicide, prima facie, due to the aforesaid conduct of the petitioner, which was capable of provoking, urging or encouraging the deceased to do so. At the stage of framing of charge, the Court is not required to record a definite finding regarding the guilt of the accused, but only to ascertain whether the material gives rise

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

to a ground for presuming the commission of the alleged offence. Whether such conduct amounts to instigation or intentional aid within the meaning of Section 107 of IPC, whether the requisite *mens rea* was present, and whether there was a proximate nexus between the alleged conduct and the suicide are matters which require appreciation of evidence during trial. Instigation may be inferred from the conduct of the accused when the material is capable of disclosing the requisite intention to provoke, urge or encourage the deceased to commit suicide.

9. So far as the the contention of the petitioner that the alleged physical relationship was consensual and, therefore, the material relied upon by the prosecution does not make out an offence under Section 376 of IPC, also does not warrant interference at this stage. The prosecution relies upon the vaginal slide report indicating the presence of human sperm, the DNA profiling report and other material collected during investigation. Such material, when considered at the threshold stage, raises a grave suspicion regarding the alleged offence and is sufficient to warrant framing of the charge under Section 376 of IPC. Whether the physical relationship was consensual or against the will of the deceased, and whether the ingredients of Sections 375 and 376 of IPC are ultimately established, are matters requiring appreciation of evidence at trial. To conclusively determine these disputed questions at this stage would amount to conducting a premature "mini-trial", which is not permissible.

10. The contention of the petitioner that the subsequent prosecution under Sections 354-D and 354-A of IPC is unwarranted, particularly in view of earlier acquittal in Crime No.325/2022, does not merit acceptance as the material relied upon by the prosecution consists of the statements of the witnesses alleging that the petitioner continuously stalked and harassed

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

the deceased, repeatedly contacted her and sent obscene messages to her and also alleging that even after the deceased agreed to compromise in the earlier case out of fear, the petitioner continued to stalk and harass her, therefore, she submitted an application for transfer dated 28/07/2022 alleging mental torture and threats to her children. These allegations, at this stage, are sufficient to raise a grave suspicion warranting framing of the charges under Sections 354-D and 354-A of IPC. Whether the alleged conduct ultimately satisfies the statutory ingredients of the said offences is a matter to be determined at trial. The earlier acquittal arose from distinct allegations and, therefore, does not by itself preclude consideration of the present material.

11. The plea that the framing of charges is premature due to non-receipt of the Cyber Cell Report concerning the data, WhatsApp chats, photographs and videos recovered from the seized mobile phone, also does not warrant interference. The absence of the said report, by itself, cannot be a ground for discharge when other material, including witness statements, medical and forensic material and Call Detail Records, is available on record. The evidentiary value of such material is a matter for trial.

12. Thus, in the present case, the material on record admits of two competing factual perspectives. The petitioner relies upon the previous acquittal, absence of a suicide note, alleged consensual relationship and non-receipt of the Cyber Cell Report, whereas the prosecution relies upon the FIR, statements of witnesses alleging stalking, obscene messaging and harassment, and the FSL and DNA reports indicating the presence of human sperm in the vaginal slide of the deceased and matching the DNA profile of the petitioner. At the stage of framing of charge, the revisional Court cannot undertake a comparative appreciation of the probative

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

value of such material or substitute its conclusion/view for that of the learned Trial Court.

13. In view of the aforesaid cumulative analysis, the grievance of the petitioner that the learned Trial Court erred in framing charges under Sections 306, 376, 354-D and 354-A of the IPC does not warrant interference. Without expressing any final opinion on the merits of the case or the correctness of the rival versions, it is noticed that the learned Trial Court had before it various materials, namely: (i) the FIR; (ii) the statements of complainant/father of deceased and other witnesses regarding the petitioner's alleged continuous harassment, stalking and sending of obscene messages; and (iii) the scientific evidence, particularly the FSL and DNA reports indicating the presence of human sperm in the vaginal slide of the deceased and matching the DNA profile of the petitioner. At the threshold stage, the aforesaid material, when considered cumulatively and at its face value, raises a grave suspicion warranting the accused to face trial for the alleged offences.

14. The judgments relied upon by the counsel for the petitioners are distinguishable on facts;, therefore, in view of the peculiar facts and circumstances of the present case, are of no assistance to the petitioner.

15. Accordingly, this Court does not find any illegality in the order of framing the charges. Therefore, the present revision petition, being **sans merit**, is hereby **dismissed**. The impugned order is hereby upheld and confirmed.

16. The observations made herein are confined to the present revision only and shall not be construed as any final opinion on the guilt or innocence

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05

of the accused or the weight, admissibility, or reliability of the evidence. The learned Trial Court shall proceed with the trial on its own merits, uninfluenced by any observations made herein.

17. A copy of this order be sent to the learned Trial Court concerned for information and necessary compliance.

(Pushpendra Yadav)
Judge

(Dubey)

Signature Not Verified
Signed by: SUNEEL DUBEY
Signing time: 17-10-2026
18:38:05