

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 2390 of 2022****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK Sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

RATILAL KALIDAS VARMA

Versus

STATE OF GUJARAT

Appearance:

MR YATIN OZA SENIOR ADVOCATE WITH MS GAYATRI P VYAS(9391) for the Applicant(s) No. 1,2

MR MIG MANSURI(444) for the Respondent(s) No. 2

MR HIMANSHU PATEL APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**Date : 17/03/2023****ORAL JUDGMENT**

1. **RULE.** Mr. Himanshu Patel, learned APP waives service of notice of rule on behalf of the respondent No.1 and Mr. Mig Mansuri, learned Counsel waives service of

notice of rule on behalf of the respondent No.2 - original complainant

2. By way of this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.', for short), the petitioners have prayed for following reliefs:

"7(A) YOUR LORDSHIP may be pleased to admit and allow this application;

(BB) Your Lordship may be pleased to allow this petition by quashing and setting aside the FIR being FIR No. 11192029210365 of 2021 registered with Koth Police Station, Ahmedabad Rural annexed at Annexure A and further be pleased to quash and set aside Criminal Case No. 389 of 2022 pending before Court No.5 learned Additional Civil Judge and Judicial Magistrate First Class, Dholka at Ahmedabad pending at the stage of committal in the interest of justice.

(CC) Pending admission, hearing and till final disposal of the petition this Hon'ble court may be pleased to stay the further proceeding arising out of the FIR as FIR No. 11192029210365 of 2021 registered with Koth Police Station, Ahmedabad Rural annexed at Annexure A and further be pleased to stay the Criminal Case No. 389 of 2022 pending before Court No.5 learned Additional Civil Judge and Judicial Magistrate First Class, Dholka at Ahmedabad pending at the stage of committal in the interest of justice.

(D) YOUR LORDSHIP may be pleased to grant such other and further reliefs that may be deemed, fit and proper in the facts and circumstances of the case."

3. Heard learned Senior Counsel Mr.Yatin Oza, assisted by learned Counsel Ms. Gayatri P. Vyas for the petitioners, learned APP Mr. Himanshu Patel, for

Respondent No.1 - State and learned Counsel Mr.Mig Mansuri for Respondent No.2 - original complainant.

4. With the consent of the learned Counsels appearing for the respective parties, the petition is taken up for final hearing today.

5. It is the case of the petitioners that the deceased Danabhai Mohanbhai Makwana was working as Manager with the petrol-pump namely "Shraddha Petrol-pump" at Loliya of the present petitioners. While working as Manager there was some malpractices and misappropriation was done by the deceased and therefore, the petitioners asked about the complete details of the account with regard to the payment which was received against the sale of the petroleum products to the customers. Though, the deceased has collected the money from the customers, it was not deposited nor it was mentioned in the account and therefore, there is a serious dispute with regard to the account. Therefore, the petitioners have asked the deceased to give the details of the account with regard to the day to day business during his tenure as a Manager, as the petitioners have received the complaint from the persons that they have paid the money long back however, the said amount was not credited. Therefore, the deceased took the unfortunate steps and committed suicide by pouring inflammable material on him.

6. Thereafter, the Respondent No.2, who is the original complainant, registered an First Information Report ('FIR' for short) being I - C.R.No. 11192029210365 of 2021 with Koth Police Station, Ahmedabad Rural for offences under Sections 306 and 114 of the Indian Penal Code ("IPC" for short) against present petitioners stating that the deceased was her husband and working as a Manager with the Petrol-pump of the petitioners for last four years. She further stated that her husband was getting salary of Rs.25,000/- per months. She has stated that the petitioners have pressurized the deceased and made false and frivolous allegations upon the deceased with regard to the account and had threatened the deceased for commission of alleged offence of suicide. As a result of which, her husband had committed suicide by pouring inflammable material on him. He was taken to the civil hospital on 19.8.2021 in 108 Ambulance, where the concerned doctor has declared the husband of the complainant as 'dead' and therefore, she had filed aforesaid complaint on 21.9.2021 against the present petitioners. The said offence was investigated by the jurisdictional police and the chargesheet being chargesheet No. 5 of 2022 came to be filed against accused persons i.e. present petitioners for offence punishable under Section 306 read with Section 114 of the Indian Penal Code.

7. Learned Senior Advocate Mr.Yatin Oza, for the petitioners submitted that the petitioners have not committed any offence as alleged in the FIR. He further submitted that the FIR is false and frivolous and the criminal complaint itself is completely abuse of process of the Court. He further submitted that for the charge of abetment of suicide punishable under Section 306 of IPC, it is necessary that the abetment as described under Section 107 of the IPC should exist, failing which, the FIR under Section 306 of the IPC is liable to be quashed.

7.1 Learned Senior Counsel Mr. Oza, for the petitioners further submitted that in the FIR allegations are made with regard to persistent demand and pressure of credit the amount of petrol and diesel and nothing more. He further submitted that in the absence of any positive act which lead or compel the person to commit suicide summoning / trial under Section 306 of IPC would be unwarranted.

7.2 Learned Senior Advocate Mr.Yatin Oza, for the petitioners has relied upon the decisions of the Honble Supreme Court in the case of ***Geo Varghese vs. State of Rajasthan and another reported in 2021 SCC OnLine SC 873, Madan Mohan Singh vs. State of Gujarat and another reported in (2010) 8 SCC 628, A.K. Chaudhary vs. State of Gujarat reported in***

[2005] 3 GLH 444, Imtiyaz Gafar Supediwala vs. State of Gujarat decision dated 19.10.2010 in Special Criminal Application No.2063 of 2010, Sanjay Kanakmal Agarwal vs. State of Gujarat decision dated 27.6.2022 in Criminal Misc. Application No. 19305 of 2020.

7.3 Relying upon the aforesaid decisions of the Hon'ble Apex Court as well as this Court, learned Senior Counsel for the petitioners submitted that the request of the petitioners may be considered and the FIR and consequential proceedings being chargesheet and Criminal Case No. 389 of 2022 pending before the learned 2nd Additional Senior Civil Judge and A.C.J.M., Court No. 5, Dholka, Ahmedabad may be quashed and set aside.

8. On the other hand, learned APP Mr. Himanshu Patel for the respondent No.1 opposed the application mainly on the ground of alleged proximity and the offence is resultant into the unfortunate act of death of the deceased by commission of suicide. He has further submitted that since the chargesheet has already been filed, now the FIR cannot be quashed. He further contended that there is a serious allegations against the petitioners and the involvement of the petitioners is there and now the chargesheet has already been filed against the present petitioners and therefore, the present petition

may not be entertained. He has therefore, urged that the complaint and other consequential proceedings may not be quashed and present petition may be dismissed.

9. Learned advocate Mr.Mig Mansuri, appearing for the original complainant - Respondent No.2 also vehemently opposed the petition on a ground that because of the pressure of the present petitioners, the husband of the complainant has committed suicide and the complainant has lost her husband untimely. He submitted that with regard to the dispute of account, the petitioners have made false allegations against the deceased and, therefore, they have compelled the deceased to take this harsh step by committing suicide and, therefore, present petition being meritless deserves to be dismissed.

10. I have perused the material available on record, copy of the FIR as well as copy of the chargesheet. Considering the facts of the present case and considering the averments made in the FIR, I am of the opinion that the allegations made in the FIR against the petitioners which cannot attract Section 306 read with Section 114 of IPC. As the dispute is clearly in nature where the persons who are running the petrol pump certainly asked about the account, as they have sold the petroleum products after receiving the amount and if the deceased has not deposited the amount then they can certainly ask the deceased that why he has not credited the amount in

the account. It does not amount to abetment to commit a suicide, more particularly it cannot be attracted the provisions of Sections 114 and 306 of IPC.

11. At this stage, it is appropriate to take into account some of the facts of the statement given by the complainant, wherein she has stated that she is working as Asha Worker in Sarkhej Health Centre for last six years. The complainant has stated that on 17.8.2021 at about 10.00 o'clock in the morning her husband went to Loliya. Thereafter, on 18.8.2021 her paternal uncle namely Mukeshbhai Harilal Solanki, called her that her husband Danji met him and informed him that he will come at home in the evening. Thereafter, at 12.00 o'clock a person of 108 called her and informed her that what is her relation with Danabhai Mohanbhai Makwana? she replied that he is her husband. The said person informed her that they will take her husband in Civil Hospital Sola. Thereafter, she informed her brother namely Jigarbhai Vitthalbhai Prajapati about the said incident and therefore, the complainant along with her son-in-law and her son went to the Civil Hospital Sola. After some time, 108 Ambulance came and she came to know that her husband, for some reason, had enlighten himself by pouring inflammable material upon him. Therefore, he was admitted in ward No. 9-8 and during treatment at 12.30, he was died.

12. It is also appropriate to have a glance of **Section 114 and 306 of the IPC**, which reads as under:-

“Section 114 of IPC reads as thus:-

114. Abettor present when offence is committed. — *Whenever any person, who is absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.*

Section 306 of IPC reads thus:-

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.”*

13. It is true that the deceased has committed suicide by pouring inflammable material upon him and ignited himself and thereby committed suicide but it cannot be said that the said act was done because of the pressure. Further, nothing is found from the charge-sheet papers which indicates that the present petitioners have acted in such a manner that they have instigated the deceased to commit suicide or that they abetted in the crime.

14. In the decision of the Honble Apex Court in case of **A.K. Chaudhary (supra)** relied upon by the learned Senior Counsel for the petitioners, the Hon'ble Apex Court has come to a conclusion that the deceased has

committed some wrong and therefore, the petitioners have asked about this misappropriation with regard to the account for the selling of the petroleum products from the petrol pump and thereafter also there was a sufficient time to think consciously by the deceased before taking the unfortunate steps for commission of the suicide. In the said decision Honble Apex Court has held that:-

“13. In the decision of the Apex Court in case of [Netai Dutta v. State of West Bengal](#), reported in 2005 (2) SCC 659, an employee of a Company was transferred from one place to another and he did not join. Thereafter, he sent a letter of resignation expressing his grievance against stagnancy in salary and unpleasant situation and the Company accepted the resignation. Thereafter the said employee committed suicide and suicide note was found alleging in the note that Netai Dutta and one Paramesh Chatterjee engaged him in several wrong doing, which was alleged as torture and the brother of the deceased filed complaint against Netai Dutta and others under [Section 306](#) of IPC. The learned Single Judge of the High Court of Calcutta declined to quash the complaint. In appeal, however, the Apex Court in SLP, while quashing the complaint, at paragraphs 5 and 6 observed as under:

5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16.2.2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for

the suicide of Pranab Kumar Nag. An offence under [Section 306](#) IPC would stand only if there is an abetment for the commission of the crime. The parameters of the "abetment" have been stated in [Section 107](#) of the Indian Penal Code. [Section 107](#) says that a person abets the doing of a thing, who instigates any person to do that thing; or 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, or the person should have intentionally aided any act or illegal omission. The explanation to [Section 107](#) says that any willful misrepresentation or willful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

(Emphasis supplied)

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any willful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.

The Apex Court thereafter at para 7, inter alia, observed that

7. ... The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the first information report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein.

40. Therefore, merely because F.I.R., is registered of a cognizable offence, but if the allegations in the F.I.R., and other material do not constitute a cognizable

offence, the same would not be sufficient ground for the police to proceed with the investigation, without there being any order of the Magistrate as per [Section 155\(2\)](#) of the Code. In view of the observations made by this Court that the allegations made in the F.I.R., even if they are taken on its face value and as the F.I.R., and other material do not constitute a case for commission of offence, it can be said that the police itself could not have proceeded with the investigation, without there being any order of the Magistrate, in view of the principles laid down by the Apex Court in case of *State of Haryana (supra)*. However, as some of the observations were made, of course, at the stage of anticipatory bail application and at the stage of interim application by this Court in the proceedings of Criminal Misc. Application No. 10273/2004 and in Criminal Misc. Application No. 10553/2004 in Special Criminal Application No. 1176/2004, the action of the police at this stage of further investigation cannot be said as fully unjustified. In any event, in view of the observations made hereinabove that no case is made out for commission of offence for abetment to suicide and/or for offences under the Atrocities Act, no investigation by the police in connection with the FIR would be called for.

46. The death of the deceased and his family is really an unfortunate incident, which may move the sentiments of any person. The death of a person by committing suicide in police custody or jail may stand on different footing. Similarly, if the action is *ex-facie* lacking jurisdiction by the officer against the victim, it may also stand on different footing. But if the action is in purported exercise of the power or if not taken may result into charge of dereliction of duty, such action deserves to be protected against any criminal prosecution. The reference may be made to the recent decision of the Apex Court in case of [S.K. Zutshi and Anr. v. Bimal Debnath and Anr.](#), and also the recent decision of the Apex Court in case of [Jacob Mathew v. State of Punjab and Anr.](#), reported at AIR 2005 SCW, p. 3685, more particularly the observations made at para 30 and 31 for considering general interest of society in the matter of prosecuting the Doctor under [Section 304A](#) of IPC.

Therefore, though sentimentally on account of death of a member belonging to Scheduled Caste and his family one may receive sentiment to punish or to prosecute those who are named by the deceased in the suicidal note, but if such prosecutions are leniently viewed, it may result into creating the situation where no officer would be tempted to discharge his duty for taking action for maintenance of discipline even if such is provided as per the regulations, on a fear or apprehension that the employee against whom the action is to be taken may put an end to his life by sentimentally reacting to such departmental action. It may equally leave room to the employee against whom the departmental action is to be taken by the higher officer, by giving threat of putting end to the life and thereby to create a fear in the mind of the higher officer and to create an atmosphere of no disciplinary action against such employee by such higher officer, though legally such higher officer is required to take action. As such, similar position may prevail even in any other situation where law is to be enforced by exercising the power. If such prosecutions are leniently viewed it may result into creating a situation of hampering the enforcement of law, rules and regulations, which has to prevail in all circumstances above all personal sentiments, otherwise it may seriously damage the maintenance of standard of efficiency, the expected quality of the work, maintenance of discipline in all organizations, may be private, government or semi-government, and above all the general interest of the nation at large.

50. The aforesaid takes me to examine the aspects as to whether in such circumstances law provides for remedy or remedial measure or not ? As per the complainant the deceased has put an end to life due to the departmental action of suspension and of inaction in revocation of suspension order and of issuing the charge-sheet and contemplating to hold departmental inquiry, whereas as per the accused officers the action is taken in discharge of the official duty and had the action not taken, the officers could have been charged with the derelictions of duty. Though in view of the observations made hereinabove, it may not amount to offence but the fact

remains that there is a loss of life of the deceased, who was an employee of Life Insurance Corporation of India. The remedial measures under the Civil Law and Criminal Law are different. The different yardstick and the criteria prevails for commission of offence, prosecution and for imposing punishment upon a person when offence is committed but when even no offence is committed and in a case where the family members of the deceased are visited with the consequences to loss of life, it cannot be said that there is no remedy provided under the law. Under such circumstances, there is a remedy provided as per the Civil Law for compensating to the death of the deceased. The principles of vicarious liability may also apply if ultimately it is proved that the loss of life is due to inaction by the specified officers of LIC and not due to abnormal sentimental reaction of the deceased to the departmental proceedings. As such, even for finding the aforesaid aspects, full fledged opportunity is required to be given to both the sides namely; the relatives of the deceased may prove that the loss of life is due to inaction or so-called purported exercise of the power and the officers and also LIC itself may prove their defence that the so-called action for suicide and the loss of life is due to abnormal psychological reaction by the deceased to the departmental proceedings. All such aspects, if ultimately proved to the extent that the loss of life of the deceased is on account of any negligence in discharge of duty by the officers concerned of LIC, the dependent members of the deceased may get appropriate compensation. Therefore, there is a remedial measure provided under Civil Law for compensating to the loss of life to the deceased to the dependent members of the deceased. Since there is neither prayer, nor all parties to the proceedings, more particularly LIC is before the Court, I find it proper to leave the matter at that stage, leaving the parties to resort to appropriate remedy under Civil Law for compensation etc., due to loss of life to the deceased, as may be permissible in law.

51. In view of the aforesaid observations and discussions, I find it proper to pass final order to quash

the impugned complaint vide C.R. No. I-498 of 2004 of Sabarmati Police Station hence ordered accordingly. All the petitions are allowed to the aforesaid extent. Rule made absolute accordingly.”

14.1 In the decision in case of **Geo Varghese (supra)** relied upon by learned Senior Counsel for the petitioners, the Hon'ble Apex Court has observed thus:-

“34. All these facts have been clearly ignored by the High Court while mechanically dismissing the petition under [Section 482](#) CrPC on the ground that FIR discloses the commission of a cognizable offence.

41. In the absence of any material on record even, prima-facie, in the FIR or statement of the complainant, pointing out any such circumstances showing any such act or intention that he intended to bring about the suicide of his student, it would be absurd to even think that the appellant had any intention to place the deceased in such circumstances that there was no option available to him except to commit suicide.

42. In the absence of any specific allegation and material of definite nature, not imaginary or inferential one, it would be travesty of justice, to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience and the appellant who is a teacher would certainly suffer great prejudice, if he has to face prosecution on absurd allegations of irrelevant nature.

43. Bearing in mind the factual aspects of the case delineated herein above and the legal principles enunciated by a series of pronouncements of this Court discussed herein above, we are of the view that High Court was not justified in dismissing the application under [section 482](#) CrPC for quashing the First Information Report in exercise of its inherent jurisdiction.”

14.2 In the decision in case of **Madan Mohan Singh (supra)**, relied upon by learned Senior Counsel for the petitioners, the Hon'ble Apex Court has observed that:-

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

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

16. Insofar as Section 294(b) IPC is concerned, we could not find a single word in the FIR or even in the so-called

suicide note. Insofar as Section 306 IPC is concerned, even at the cost of repetition, we may say that merely because a person had a grudge against his superior officer and committed suicide on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge 10 under Section 306 IPC. It will still fall short of a proper allegation. It would have to be objectively seen whether the allegations made could reasonably be viewed as proper allegations against the appellant/accused to the effect that he had intended or engineered the suicide of the concerned person by his acts, words etc. When we put the present FIR on this test, it falls short.

17. We have already explained that the baseless and irrelevant allegations could not be used as a basis for prosecution for a serious offence under Section 306 IPC. Similarly, we have already considered Section 294 (b) IPC also. We have not been able to find anything. Under such circumstances, where the FIR itself does not have any material or is not capable of being viewed as having material for offence under Sections 306 and 294(b) IPC, as per the law laid down by this Court in State of Haryana & Ors. Vs. Bhajan Lal, it would be only proper to quash the FIR and the further proceedings.

18. For all these reasons, we are of the clear opinion that the High Court erred in not quashing the proceedings. Allowing this appeal, we set aside the order of the High Court and allowing the petition 11 under Section 482 Cr.P.C. filed by the appellant/accused, the questioned proceedings are quashed.”

14.3 In the decision in case of **Sanjay Kanamal Agarwal (supra)**, relied upon by learned Senior Counsel for the petitioners, this Court has observed that:-

“9. The aforesaid incidents, as stated in the FIR and bare reading of the FIR as well as statement of owners

of the firm viz. Ramesh Sudani, if are considered together, it would make it clear that what had happened on 23.06.2020 was that the deceased person was scolded by the employer since she was found at some other office during the office hours and just with a view to maintain office discipline, if the applicants scolded the deceased, it cannot be said to be instigation to commit suicide. Further, even after the incident, the deceased resigned online and thereafter she committed suicide after a week and complaint was filed after more than a week thereafter. Had the applicants been instrumental in suicide of the deceased person, in that case, the deceased would have taken that drastic action immediately. Further, there is no suicide note from the deceased person as it was stated by learned Additional Public Prosecutor Ms. Mehta upon the inquiry from this Court. Not only that, had the incident dtd.23.06.2020 have any bearing with the suicide of the deceased with the applicants, the deceased either could have written a suicide note or at least she could have intimated about the same to her parents. In the instant case, the deceased committed suicide on 30.06.2020 whereas the father of the deceased lodged the complaint on 09.07.2020. Further, this Court has also considered the judgment cited by learned senior advocate Mr.Nanavati in the case of *Vaijnath Knodiba Khandke vs. State of Maharashtra* and another reported in (2018) 7 SCC 781 wherein in paras:4 to 8, Honourable the Supreme Court has observed as under:

“4. In this appeal, we heard Mr. Shankar Chillarge, learned Advocate for the appellant and Ms. Deepa M. Kulkarni, learned Advocate for the State.

5. In *Madan Mohan Singh v. State of Gujarat and another*¹ the deceased was a driver who had undergone a bypass surgery and was advised against performing any stressful duties. The accused was a superior officer (2010) 8 SCC 628 who had rebuked the deceased harshly and threatened to suspend him when the deceased had failed to comply with his directions. The deceased thereafter committed suicide and left behind a suicide note stating that the accused was solely

responsible for his death. In these facts, this Court held that there must be allegations to the effect that the accused had either instigated the deceased in some way to commit suicide or had engaged with some other person in conspiracy to do so or that the accused had in some way aided any act or illegal omission to bring about the suicide. The prayer for quashing preferred by the accused was accepted by this Court and the proceedings were quashed.

6. At the same time the facts in Praveen Pradhan v. State of Uttaranchal and another show that a junior officer was allegedly compelled by the superior to indulge in several wrongful practices at the work place; the junior officer was not comfortable in complying with such orders, as a result of which the junior officer was harassed and insulted on regular intervals and disgraced in front of the staff of the entire factory and rebuked with comments such as "had there been any other person in his place he would have died by hanging himself." The junior officer committed suicide leaving behind a note detailing all the incidents and (2012) 9 SCC 734 asserting against his superior. In these circumstances prayer for quashing was rejected by this Court.

7. In the backdrop of these two lines of cases, we have gone through the material on record. There is no suicide note left behind by the deceased and the only material on record is in the form of assertions made by his wife in her reporting to the police. It is true that if a situation is created deliberately so as to drive a person to commit suicide, there would be room for attracting Section 306 IPC. However, the facts on record in the present case are completely inadequate and insufficient. As a superior officer, if some work was assigned by the applicant to the deceased, merely on that count it cannot be said that there was any guilty mind or criminal intent. The exigencies of work and the situation may call for certain action on part of a superior including stopping of salary of a junior officer for a month.

That action simplicitor cannot be considered to be a pointer against such superior officer. The allegations in the FIR are completely inadequate and do not satisfy the requirements under Section 306 IPC. In our view, the facts in the present case stand on a footing better than that in Madan Mohan Singh (supra) and there is absolutely no room for invoking provisions of Section 306 IPC. We are of the firm view that the interest of justice demands that the proceedings initiated against the appellant are required to be quashed.

8. We, therefore, allow this appeal and quash criminal case lodged in pursuance of FIR No.268 of 2017 registered with Police Station MIDC, CIDCO, Aurangabad."

10. In view of the aforesaid observations made by Honourable the Supreme Court, more particularly, when Honourable the Supreme Court has categorically observed that if some work is assigned by the employer to employee, merely on that count it cannot be said that there was any guilty mind or criminal intent. In the instant case also, what is alleged in the FIR itself is that the present applicants have threatened the deceased to take legal action against her and to see that her license of Chartered Accountant is cancelled. If an employer on finding the employee breaching the discipline of office, asks the employee that legal action would be taken against concerned employee and if after few days, the concerned employee commits suicide, it cannot be said that the threat to take legal action was given with a criminal intent to instigate the employee to commit suicide. When an employee is scolded just with a view to maintain office discipline and out of fear or being hypersensitive, if an employee commits suicide, that would not constitute an offence attracting provisions of Section 306 of Indian Penal Code as the action taken by the employer was in good faith to maintain office discipline. If such bona fide action is registered as an offence under Section 306 of Indian Penal Code and employer is prosecuted then it would pose threat to most of the employers and office discipline will not be maintained in the offices as the employers would remain

under threat that if any drastic action is taken by an employee, in that case, for no reason, an employer would be prosecuted under criminal law. Further, in absence of any suicide note which would indicate that the petitioners had played any role in the suicide of the deceased, merely on the basis of suspicion, the petitioners cannot be prosecuted under Section 306 of the Indian Penal Code as such there is no material against the petitioner to implicate them under Section 306 of the Indian Penal Code.

11. In view of the aforesaid discussion, when there is no material against the present applicants to indicate that they have either instigated deceased or abetted the deceased to commit suicide, present FIR is required to be quashed and set aside with all consequential proceedings arising out of the same.

12. Resultantly, the impugned FIR I - C.R.No. 11210008200908 registered with Sarthana Police Station, Surat City is hereby quashed. Consequentially, the Criminal Case No.929 of 2021 arising out of the said FIR pending before the learned 3rd Additional District Judge, Surat is hereby quashed."

15. Considering the peculiar facts and circumstances of the present case, it cannot be said that the present petitioners have abetted in the crime in question and for that the deceased took the ultimate steps by committing suicide. If the person who is sentimental and if he takes some ultimate steps which does not amount to abetting the commission of crime in question and therefore, the ingredients of offence under Section 114 read with Section 306 of IPC is not made out.

16. In view of the aforesaid discussion, when there is no material against the present petitioners to indicate that they have either instigated deceased or abetted the deceased to commit suicide, present FIR is required to be quashed and set aside with all consequential proceedings arising out of the same.

17. Resultantly, the impugned FIR being I - C.R.No. 11192029210365 of 2021 registered with Koth Police Station, Ahmedabad Rural and consequential proceedings being chargesheet and Criminal Case No. 389 of 2022 pending before the learned 2nd Additional Senior Civil Judge and A.C.J.M., Court No. 5, Dholka, Ahmedabad are hereby quashed and set aside. Present petition is hereby allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

Direct service is permitted.

(HEMANT M. PRACHCHAK,J)

SURESH SOLANKI

WEB COPY