



2026:DHC:5810



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: July 10, 2026*  
*Pronounced on: July 22, 2026*

+ **CRL.REV.P. 1268/2024, CRL.M.A. 33349/2024**

**GULSHAN KUMAR**

**...Petitioner**

Through: Mr. Sahil Malik, Mr. Aditya Jain,  
Mr. Shivang and Ms. Tanisha Malik,  
Adv.

Versus

**THE STATE (GOVT OF NCT OF DELHI)**

**...Respondent**

Through: Mr. Satish Kumar, APP with Ms.  
Upasna Bakshi, Ms. Divya Bakshi,  
Advocates  
Mr. Sagar Kakkar, Adv. for  
Complainant with Complainant in  
person (through VC)

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

### **J U D G M E N T**

1. By virtue of the present petition under *Section 397* of the Code of Criminal Procedure, 1973<sup>1</sup>, the petitioner seeks setting aside of the order dated 11.09.2024<sup>2</sup> passed by the learned ASJ-02, North District, Rohini Courts, Delhi<sup>3</sup> framing charges against him under *Sections 306/34* of the Indian Penal Code, 1860<sup>4</sup> in proceedings arising out of FIR No.463/2011 dated 15.11.2011 registered at PS: K.N. Katju Marg.

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<sup>1</sup> Hereinafter referred to as '*CrPC*'

<sup>2</sup> Hereinafter referred to as '*impugned order*'

<sup>3</sup> Hereinafter referred to as '*Trial Court*'

<sup>4</sup> Hereinafter referred to as '*IPC*'



2026:DHC:5810



2. *Succinctly put*, an FIR was registered pursuant to application dated 01.09.2011 under *Section 156(3)* CrPC made by the complainant to the effect that his deceased father<sup>5</sup>, whose dead body was discovered floating inside Haiderpur Water Treatment Plant on 12.07.2011 at about 01:55 PM, had committed suicide due to harassment at the hands of various known and unknown persons for recovery of certain *monies* they had lent to the deceased, *albeit* the petitioner was not named therein.

3. During the course of investigation, one Suicide Note<sup>6</sup> was also received by the reader at PS: K.N. Katju Marg, as per which, the petitioner and one Kashmiri Lal (since deceased) financed vehicle bearing No.DL1M0175 for the deceased, and in the process of demanding back the said amount, took possession of the said vehicle and returned the same only after forcing him to transfer a certain portion of land in favour of one Acche Lal for *Rs.5 lacs*. Further, when the deceased demanded the said amount from them after a lapse of *two months*, they did not give him any money and rather demanded repayment of the initial loan as also threatened to sell his vehicle to recover their *money*. There were further certain allegations therein against one Arun Kumar who had also allegedly lent money to the deceased and was demanding back the same.

4. After filing of the Chargesheet on 26.04.2016, Supplementary Chargesheet was filed *two years* later on 02.12.2018, and upon issuance of summons, the learned Trial Court passed the impugned order framing charges against the petitioner and Kashmiri Lal since there were allegations against them of having threatened the deceased in the Suicide Note,

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<sup>5</sup> Hereinafter referred to as '*deceased*'

<sup>6</sup> Hereinafter referred to as '*Suicide Note*'



2026:DHC:5810



whereon the signatures of the deceased had been verified as per the Forensic Science Laboratory Report dated 04.05.2016<sup>7</sup>. However, by the very same impugned order, the other accused were discharged as well.

5. In these facts, challenging the impugned order before this Court, learned counsel for petitioner primarily submitted that the impugned order has been passed erroneously as there is nothing on record to implicate the petitioner, moreover, since he was neither named in the initial complaint filed by the complainant and the resultant FIR nor in the original Chargesheet but was mentioned for the very first time in the Supplementary Chargesheet, that too in *Column 12* only as a '*suspect*'. In fact, Arun Kumar, who was arrayed as the only '*accused*' in the Supplementary Chargesheet and against whom the wife of the deceased had allegedly filed a complaint about *one week* prior to the incident for molestation and harassment, has been discharged along with his employees by the learned Trial Court.

6. *Qua* the materials on record, learned counsel submitted that the same are wholly unreliable since the Post-Mortem Report dated 13.07.2011<sup>8</sup> is inconclusive as to the cause of death and records other injuries on the body of the deceased, as well as the Suicide Note was recovered under mysterious circumstances much later than the discovery of the dead body of the deceased, and though the signatures thereon were verified, as per the FSL Report, the contents thereof could not be verified.

7. Even otherwise, learned counsel submitted that the contents of the Suicide Note do not disclose any element of offences under *Sections*

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<sup>7</sup> Hereinafter referred to as '*FSL Report*'

<sup>8</sup> Hereinafter referred to as '*PM Report*'



2026:DHC:5810



306/34 IPC *qua* the petitioner since there is nothing barring vague allegations therein. *Qua* the allegedly forced transfer of land in which the petitioner is said to be involved, the complainant himself was also a witness, as also no complaint, FIR or any other steps were taken by the deceased or the complainant therefor. As such, relying upon the decisions of the Hon'ble Supreme Court in *Mahendra Awase v. State of Madhya Pradesh*<sup>9</sup>, *Gangula Mohan Reddy v. State of Andhra Pradesh*<sup>10</sup>, *S.S. Chheena v. Vijay Kumar Mahajan & Anr.*<sup>11</sup> and *Sanju @ Sanjay Singh Sengar v. State of Madhya Pradesh*<sup>12</sup> as also of this Court in *Ajit Singh v. State (Govt. of NCT of Delhi)*<sup>13</sup> and *Prashant Manchanda vs. Lt. Governor of Delhi*<sup>14</sup>, the learned counsel submitted that there was nothing attributable to the petitioner which could show any act or intention to abet the deceased to commit suicide in terms of *Section 306/34 IPC*.

8. Based on the above, learned counsel for the petitioner submitted that the impugned order is bad in law and liable to be set aside.

9. On the other hand, both learned APP and learned counsel for complainant supported the impugned order and submitted that it does not suffer from any errors. They submitted that the signatures on the Suicide Note are matching with those of the deceased as per the FSL Report and it is too early for the petitioner to contest the authenticity of the contents. They further submitted that since there are allegations against the petitioner and Kashmiri Lal of threatening the deceased and using force to get him

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<sup>9</sup> (2025) 4 SCC 801

<sup>10</sup> (2010) 1 SCC 750

<sup>11</sup> (2010) 12 SCC 190

<sup>12</sup> (2002) 5 SCC 371

<sup>13</sup> I (2010) DLT (Crl.) 237

<sup>14</sup> 2007 (95) DRJ 449



transferred his land, *prima facie*, offences under *Section 306/34 IPC* are made out against them, for which trial is required.

10. This Court has heard learned counsels for the parties and the learned APP, as also carefully perused the pleadings and documents on record as well as the judgements cited at Bar.

11. At the outset this Court notes that under the existing circumstances, it is imperative to give due weightage to the provisions of *Section 107*<sup>15</sup> IPC while dealing with an offence of abetment of suicide under *Section 306*<sup>16</sup> IPC. While dealing with the same, it is now settled by a long line of judicial precedents that an accused is required to have played an *active role* in commission of suicide of the deceased, either by instigation compelling the said deceased to end the life or by conspiring with others to ensure that the deceased commits suicide or by acting in a way which directly results in the suicide<sup>17</sup>. For this, mere allegations without any specific, direct or indirect, act(s) coupled with clear *mens rea* may itself not be enough<sup>18</sup>. Further, instigation should be such which involves a positive mental process involving intentional provoking, inciting, goading, urging, forwarding or encouraging commission of suicide<sup>19</sup> or committing acts or

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<sup>15</sup> '**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.

(xxx xxx xxx)'

<sup>16</sup> '**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'

<sup>17</sup> *Prabhu vs. State*: Order dated 30.01.2024 passed by the Hon'ble Supreme Court in SLP (Crl.) No.39981/2022

<sup>18</sup> *Mahendra Awase (supra)*

<sup>19</sup> *Gangula Mohan Reddy (supra)*



omissions proximal to the time of occurrence which would have left the deceased with no other alternative but to put an end to life<sup>20</sup>.

12. Therefore, while framing of charges it is necessary for a Court to take into consideration each of the above. Further, at the same time as per settled position of law a Court is not required to undertake a mini-trial by weighing and balancing the evidence. Also, framing of a charge is independent of the final outcome, which may lead to conviction of an accused. However, sifting of evidence, if required, may be adverted to by the Court<sup>21,22</sup>. It is also to be kept in mind that where the ingredients of an offence are not made out even from the case of the prosecution as reflected in the materials on record, the Court is not obligated to frame the charge<sup>23,24</sup>.

13. The Hon'ble Supreme Court, while specifically dealing with respect to charges under *Section 306* IPC, repeatedly held that it is not just or fair to put any individual through the rigmarole of a criminal trial in the absence of any credible material against him<sup>25</sup>. In fact, the Hon'ble Supreme Court has recently reiterated that a Court ought not to frame charges under *Section 306* IPC casually or only to play safe without testing the same against the threshold as contemplated therein<sup>26</sup>.

14. Applying the aforesaid to the facts of the present case, this Court finds note that the petitioner was neither named by the complainant in his initial complaint nor were there any prior complaint(s) filed against him by

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<sup>20</sup> *Amalendu Pal vs. State of W.B.*: (2010) 1 SCC 707

<sup>21</sup> *State of Rajasthan vs. Ashok Kumar Kashyap*: (2021) 11 SCC 191

<sup>22</sup> *P. Vijayan vs. State of Kerala*: (2010) 2 SCC 398

<sup>23</sup> *Shashikant Sharma & Ors. vs. State of Uttar Pradesh & Anr.*: 2023 SCC OnLine SC 1599

<sup>24</sup> *Suresh @ Pappu Bhudharmal Kalani vs. State of Maharashtra*: (1998) 7 SCC 337

<sup>25</sup> *S.S. Chhena (supra)*

<sup>26</sup> *Mahendra Awase (supra)*



the deceased or any members of his family at any stage whatsoever. The petitioner also did not even figure in the original Chargesheet. It is an admitted position that the only material on the basis of which the applicant was placed in the Supplementary Chargesheet, that too in *Column 12*, is the Suicide Note, which was allegedly received at the Police Station much later after recovery of the dead body of the deceased. In fact, it is under these circumstances that the learned Trial Court passed the impugned order framing charges under *Section 306 IPC* qua the petitioner, relevant portions thereof are reproduced as under:

*“16. Coming to the present case there was a positive act and role played by the accused persons Gulshan Kumar and Kashmiri Lal as can be discerned prima facie from the suicide note itself to instigate the deceased and the deceased seeing no other option was pushed to such a position that he ended his life as is evident from suicide note itself. There were constant threats which were being extended by them, as discussed earlier.*

*17. However, as regards other accused Arun Kumar and his staff members Heera, Sunny and Amrit Kaur, they were merely doing their job of seeking repayment of loan and that act by itself cannot be deemed to be an instigation to commit suicide nor their act can be deemed to be in close proximity. On the contrary if they wanted to recover the loan advanced, for the said purpose, at least, they would want that the deceased should live and repay the loan. The mensrea (sic) to do an act with an intention that the deceased ends his life cannot be attributed to the staff members or the financier, in the absence of any allegation of threat or use of unlawful means by them made by the deceased himself. Their acts cannot be the propelling causative factor. As regards the supplementary statement recorded of the son of the deceased, it is pertinent to mention that it was recorded after 07 years of*



*the demise and their names do not find mention in the suicide note written by the deceased.*

18. *However, in view of specific allegations of threat and use of unlawful means and putting pressure upon the deceased by accused Kashmiri Lai and Gulshan Kumar and from the aforesaid discussion and the case laws as above, prima facie an offence U/s 306 read with Section 34 IPC is made out against accused Gulshan Kumar and Kashmiri Lai and it is directed that the charge be framed accordingly.'*

*[Emphasis supplied]*

15. The above, *alas*, does not fit well in the contours required for framing of a charge against anyone like the petitioner for an offence under *Section 306 IPC*, particularly, since though the learned Trial Court has held therein that the petitioner played a “*positive act and role*” to “*instigate*” the deceased leaving him “*no other option*” but to end his life. This, though, there is silence about any specific act(s) or omission by the petitioner, neither proximal to/ directly or indirectly which resulted in the incident, or which showed any intention on the part of the petitioner that led the deceased to commit suicide. From the facts on record there was, *admittedly*, nothing on record to show any mindful instigation, provocation, incitement, goading, encouragement or like by the petitioner or that the deceased was harbouring suicidal thoughts, i.e. there was thus nothing of such a magnitude on record which could have prompted the deceased to end his life and/ or which could be attributable to the petitioner.

16. In such a scenario, for the learned Trial Court to draw a conclusion that the deceased had no choice but to commit suicide is far-fetched. The same, viewed in the background of there being no whisper of any complaint or any recourse to legal remedies taken by the deceased against the so-called threats, even when they were barely *two months* before the



2026:DHC:5810



incident, casts a suspicion about framing of charges under *Section 306 IPC qua* the petitioner. This, when the only ‘*accused*’ Arun Kumar, as per the Supplementary Chargesheet, against whom a complaint had also been filed by the wife of the deceased alleging molestation and harassment *one week* prior to the incident, was discharged on the ground of absence of *mens rea* by the learned Trial Court.

17. Based on the aforesaid analysis and reasonings, framing of a charge *qua* the petitioner for an offence under *Section 306 IPC* is not called for, particularly, since there were/ are no sufficient grounds for framing charges *qua* the petitioner for want of any specific, direct or indirect, proximal act(s)/ omission(s) with any intention or mental element of instigation to bring the same within the ambit of *Section 306 IPC*.

18. Accordingly, the present petition is allowed and the impugned order dated 11.09.2024 passed by the learned ASJ-02, North District, Rohini Courts, Delhi in the proceedings arising out of FIR No.463/2011 dated 15.11.2011 registered at PS: K. N. Katju Marg framing charges for the offence under *Section 306 IPC qua* the petitioner is set aside. Resultantly, the petitioner is discharged of the offences under *Sections 306/34 IPC* arising out of FIR No.463/2011 dated 15.11.2011 registered at PS: K. N. Katju Marg.

19. The petition is accordingly disposed of in the above terms.

**SAURABH BANERJEE, J.**

**JULY 22, 2026/So**