IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 17974 of 2020

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No

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YUSUBHA @ YASHWANTSINH RAGHUBHA RANA & ORS.
Versus
STATE OF GUJARAT & ANR.

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Appearance:
JEET Y RAJYAGURU(8039) for the Applicant(s) No. 1,2,3,4,5,6
MR. UTPAL R DAVE(6531) for the Applicant(s) No. 1,2,3,4,5,6
DHWANI P LAKHANI(8222) for the Respondent(s) No. 2
MILAN R MARUTI(7338) for the Respondent(s) No. 2
MR PM LAKHANI(1326) for the Respondent(s) No. 2
MRS R P LAKHANI(3811) for the Respondent(s) No. 2
ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 07/07/2026

ORAL JUDGMENT

1. By way of the present petition, the petitioners are before this Court for quashing and setting aside the impugned FIR being CR No. 11198001201657 of 2020, registered on 28.10.2020 with Nilambaug Police Station, District Bhavnagar, for the offences punishable under Sections 306, 406, 120B, 323, 504, 506(2), and 114 of the IPC.

2. The case as narrated in the FIR is to the effect that:-

2.1 The Original Informant namely Narendrasinh Bahadursinh Jadeja, aged about 68, occupation: Retired Deputy Superintendent of Police and agriculture, residing at Vijayraj Nagar, Plot No. 629, Bhavnagar-3, and currently residing at Kalmedhda, Taluka Kalavad (Shitala), District: Jamnagar, Mob: 9978407064 has stated that on 01/10/2020, in an FIR being C.R. No. I-11198001201479/2020 came to be registered with Nilambaug Police Station under Section 302 of IPC and A.D. No. 49/2020 under CrPC Section 174, he had recorded his statement. In that statement, he stated that his son Pradyumansinh @ Pruthvirajsinh, in his own handwriting in a suicide note, mentioned that he took the step because of his brother-in-law Yashubha.

2.2 It is alleged in the FIR that, firstly, the Informant came to know about his son **Pradyumansinh @ Pruthvirajsinh's** brother-in-law, **Yashubha @ Yashwantsinh Radhubha Rana**, through his son. The Informant has stated that his son informed him of what he had learnt from his wife, Binaba. According to the complainant, his son told him that his brother-in-law, Yashubha @ Yashwantsinh Radhubha Rana, originally from Bhadvana and presently residing at Bhavnagar, and his father-in-law, Vanrajsinh Natubha Gohil, residing at Jaliya, were maternal cousins. It is further alleged that Yashubha @ Yashwantsinh Radhubha Rana frequently visited his aunt's house at Jaliya, where he developed an illicit relationship with Minaba, the elder daughter of his maternal cousin, Vanrajsinh Natubha Gohil. It is alleged that, within the family relationship, Yashubha and Minaba stood in the relationship of uncle and niece, but on account of the said illicit relationship, Vanrajsinh Natubha Gohil was compelled to solemnize the marriage of his elder daughter, Minaba, with Yashubha @ Yashwantsinh Radhubha Rana. It is further alleged that, after the marriage, Minaba eloped with another person to Abu, Rajasthan, and thereafter Pruthvirajsinh, along with his brother-in-law Yashubha @ Yashwantsinh Radhubha Rana and his wife's brother, searched for her at Abu and brought her back from the Prajapita Brahmakumari Ashram. It is further alleged that Yashubha @ Yashwantsinh Radhubha Rana was initially residing with his parents at Vallabhipur, but due to pressure from Minaba, her father Vanrajsinh, and their family members and relatives, Minaba and Yashubha shifted their residence from Vallabhipur to Bhavnagar. The Informant has further alleged that although Yashubha's native village is Bhadvana in Surendranagar District, his parents have been residing at Vallabhipur for several years. It is further alleged that Yashubha @ Yashwantsinh Radhubha Rana has one son, Yagnadipsinh, and one daughter, Rutikaba, who reside with him at Bhavnagar, while his parents continue to reside at Vallabhipur. It is lastly alleged that Yashubha @ Yashwantsinh is the only son of his parents.

2.3 It is further alleged in the FIR that the Informant has two children, namely, a son, Pruthvirajsinh @ Pradyumansinh, and a daughter, Bhagvatiba, whose marriages were solemnized at Bhavnagar on 15/02/2002 and 17/02/2002 respectively. It is alleged that Pruthvirajsinh @ Pradyumansinh had two daughters, namely, Nandiniba and Yashashviba. The Informant has further alleged that, before the birth of the two daughters, he and his elder brother had organized a Saptah (prayer) with the hope that Pruthvirajsinh would be blessed with a son. It is further alleged that, as Pruthvirajsinh had only two daughters, the Informant and his elder brother repeatedly advised him to make efforts to have a son, but he did not agree. According to the Informant, about two to three years prior to the FIR, he had also requested Pruthvirajsinh's close friends, Jasbir Chaudhary and Dilipbhai Kubavat, who runs a garage, to persuade him in that regard. However, it is alleged that Pruthvirajsinh told his friends that both his daughters were equal to sons in every respect and that he did not wish to have a third child. It is further alleged that he stated that he would not make any effort merely for the purpose of having a son and that, if anyone continued to raise the issue of having a son, he would sever his relationship with such person.

2.4 It is further alleged in the FIR that, while opening and checking the cupboards in the Informant's house situated at Vijayrajnagar, Plot No. 621, Bhavnagar, he found the key of a cupboard which had earlier gone missing. It is alleged that the said cupboard contained the personal belongings of Pruthvirajsinh and his wife, Binaba. According to the Informant, inside the cupboard he found a box containing a file consisting of nine pages, the contents whereof are as follows:

(1) First Page: It is alleged that the first page contains a note requesting that the file be handed over to the Informant, Shri Narendrasinh B. Jadeja (Retired Dy.S.P.), mentioning mobile numbers 9978407064 and 7990365526, and also mentioning the Informant's wife, Mrs. Taraba N. Jadeja (Mobile No. 9825039954), stating that both of them were presently residing at their native village, Kalamedhda.

(2) Second Page: It is alleged that the second page contains details of the phone numbers of V.K. Enterprise and all the transactions in the account of Maa Enterprise from the commencement of the business up to 16/09/2020, showing that

the accounts between both partners remained unsettled and further stating that the cheque book and ATM card of Maa Enterprise were in the possession of Yashubha.

(3) Third Page: It is alleged that the third page contains a list of receivables of Maa Enterprise, which include ₹2,50,000/- from Rajbha Mahadev Enterprise; ₹3,00,000/- from Rajbha Om Construction; ₹2,50,000/- receivable from the Executive Engineer, Talaja-Palitana; ₹34,34,440/- from V.K. Enterprise; ₹19,34,580/- from Jaydeep, totalling ₹61,67,020/- receivable by Maa Enterprise. It is further alleged that ₹71,800/- was receivable in cash from Ghazni Traders, Talaja, the cement supplier.

(4) Fourth Page: It is alleged that the fourth page contains a list of the assets purchased in partnership for Maa Enterprise, namely, a Bolero vehicle, an Eicher truck, a vibrator, a laptop and a thermo-plant machine. The values of the said articles are stated therein. However, it is alleged that the value of the welding machine and cutter machine has not been mentioned. The total value of the assets is shown as ₹8,05,000/-, with a note that Pruthvirajsinh and Yashubha each had a 50% share therein.

(5) Fifth Page: It is alleged that the fifth page contains a list of the amounts receivable by Yashubha from Maa Enterprise, showing a cash amount of ₹3,00,000/- and personal withdrawals of Yashubha amounting to ₹8,07,871/-.

(6) Sixth Page: It is alleged that the sixth page contains a list of the amounts receivable by Pruthviraj from Maa Enterprise, showing investment of ₹5,00,000/-, expenditure of ₹5,55,687/- (the details whereof are stated to be mentioned on the reverse side), and gold loan instalments recoverable from Maa Enterprise as personal funds amounting to ₹3,36,912/-, making a total recoverable amount of ₹13,92,599/-. It is further alleged that the page below contains details of cash transactions and also records that Pruthviraj had made personal withdrawals from Maa Enterprise amounting to ₹8,19,000/-, along with other particulars.

(7) Seventh Page: It is alleged that the seventh page records the following transactions: ₹2,10,000/- deposited by cheque into Maa Enterprise; ₹40,000/- transferred through ATM on 19/01/2018; ₹58,387/- dated 19/01/2018 towards Palitana Vavdi expenses; ₹1,20,000/- towards Manali expenses; and ₹1,27,300/- towards interest on two gold loans. The total expenditure is shown as ₹5,55,687/-. It is further alleged that the page also contains

details regarding the gold loans obtained and subsequently repaid.

(8) Eighth Page: It is alleged that the eighth page contains the following note:

> "*Respected Father, I am leaving these accounts so that you may know how much amount is actually receivable by me. Yashubha has cheated me and has dissolved our partnership. He has now entered into a partnership with Digvijaysinh (Bhaylubha) of Trapaj. Rajbha, the brother of Bhaylubha, is also a partner therein. Henceforth, Yashubha and Rajbha will carry on the business in partnership and Bhaylubha will make the investment.*
>
> *Kindly get our partnership firm* '*Maa Enterprise*' *dissolved, since it is registered at our residential address. Until all accounts are finally settled, kindly get the bank account of Maa Enterprise frozen; otherwise, as Yashubha is in possession of the cheque book, ATM card and internet banking facility, he may carry out transactions at any time.*
>
> *Please forgive me. I could not do anything for you. All our relatives have betrayed us and today Yashubha has also joined them.*
>
> *— Your unworthy son, Pruthviraj.*"

(9) Ninth Page: It is alleged that the ninth page contains a note stating that all documents, the key of the bank locker, the licence of the revolver and other articles were kept in the lower cupboard adjacent to the television in his room. The aforesaid file comprising pages 1 to 9 was entirely written by my son Pruthvirajsinh @ Pradhyumansinh in his own handwriting. The Informant had well acquainted with his handwriting. The Informant had earlier produced before you his diary containing his handwriting for comparison with the handwriting appearing in the suicide note.

2.5 It is further alleged in the FIR that, upon comparing the aforesaid nine-page handwritten file of Pruthvirajsinh @ Pradhyumansinh with the handwritten documents consisting of pages 1 to 4 submitted by Yashubha @ Yashwantsinh Radhubha

Rana, the following facts are revealed:

2.5.1 It is alleged that, in his written statement, Yashubha has shown that his withdrawals from 01/04/2019 till date amounted only to ₹2,20,000/-. However, in the accounts prepared by Pruthvirajsinh @ Pradhyumansinh, the personal withdrawals of Yashubha are shown as ₹8,07,871/-. It is alleged that, thus, Yashubha has understated his withdrawals by ₹5,87,871/-, thereby committing criminal breach of trust and cheating.

2.5.2 It is further alleged that, according to the accounts of Pruthvirajsinh @ Pradhyumansinh, the amount recoverable by him from Maa Enterprise was calculated as follows: Cash investment – ₹5,00,000/-; Expenditure – ₹5,55,687/-; other expenditure as per accounts; Gold loan instalments – ₹3,36,912/-. Thus, it is alleged that the total amount recoverable by Pruthviraj came to ₹13,92,599/-. After deducting his own withdrawals of ₹8,19,000/-, it is alleged that an amount of ₹5,73,599/- still remained payable to Pruthviraj by Maa Enterprise. However, it is further alleged that Yashubha @ Yashubha Rana, after showing withdrawals of ₹8,92,414/- and further deducting ₹3,40,474/- towards the gold loan installments allegedly paid by Pruthvirajsinh, has shown only ₹5,52,240/- as being receivable by Pruthvirajsinh. It is alleged that, thus, whereas Pruthvirajsinh was actually entitled to recover ₹5,73,599/- from Maa Enterprise, Yashubha @ Yashvantsinh Rana failed to account for the sum of ₹5,52,599/-, thereby cheating Pruthvirajsinh and committing criminal breach of trust. It is further alleged that, upon comparing the respective accounts of Pruthvirajsinh @ Pradhyumansinh and

Yashubha @ Yashvantsinh Radhubha Rana, it clearly appears that Yashubha @ Yashvantsinh Radhubha Rana cheated Pruthvirajsinh and committed criminal breach of trust, thereby dishonestly causing a wrongful loss of ₹11,40,470/-.

2.6 It is further alleged that, apart from the aforesaid discrepancies, Yashubha @ Yashwantsinh Radhubha Rana himself prepared and produced a statement showing the liabilities of Maa Enterprise. It is alleged that, in the said statement, he showed that a sum of ₹2,00,000/- in cash and ₹2,06,000/- was payable to Arvindbhai Rana. However, it is further alleged that, when inquiries were made with Shri Viralsinh R. Vala, Accountant, who had been filing the Income Tax Returns of Maa Enterprise and whose office is situated at Plant-205, Atabhai Road, Bhavnagar (Mobile No. 9067157557), it was revealed that no such liability was reflected either in the books of accounts or in the account statements of Maa Enterprise. It is therefore alleged that Yashubha falsely showed a liability of ₹2,06,000/-, thereby committing criminal breach of trust and cheating.

2.7 It is further alleged that the father of Yashubha, namely Radhubha Rana, had advanced the following amounts to Maa Enterprise by cheque: ₹10,00,000/- on 18/01/2018; ₹1,00,000/- on 20/03/2018; and ₹1,00,000/- on 04/11/2018, totalling ₹12,00,000/-. It is further alleged that the said Accountant Shri Viralsinh Vala, who had filed the Income Tax Returns, informed that there was no mention whatsoever of any interest liability. However, it is alleged that Yashubha subsequently showed an amount of ₹1,62,000/- as interest calculated at the rate of 1.5% from 10/19 onwards. It is alleged that this amount was falsely shown by him and, by inflating the liability by ₹1,62,000/-, Yashubha cheated Pruthvirajsinh @ Pradhyumansinh and committed criminal breach of trust.

2.8 It is further alleged that it is shown in the accounts that Maa Enterprise was liable to pay ₹28,72,012/- to Bhaylubha of Trapaj. However, it is alleged that when the Accountant Shri Viralsinh Vala, who had filed the Income Tax Returns of Maa Enterprise, was personally contacted and inquired as to who Bhaylubha of Trapaj was, he expressed his ignorance. It is further alleged that thereafter Shri Viralsinh Vala telephoned Yashubha and sought clarification regarding Bhaylubha of Trapaj. It is alleged that Yashubha disclosed the relevant names, after which Shri Viralsinh Vala verified the ledger accounts and found that the investments in Maa Enterprise were as follows: Chetansinh Aniruddhsinh Gohil – ₹8,85,000/-; and Rajendrasinh Aniruddhsinh Gohil of Trapaj – ₹9,65,000/-, totalling ₹18,50,000/-. It is therefore alleged that Yashubha falsely inflated the liability by ₹10,22,012/-, thereby cheating Pruthvirajsinh @ Pradhyumansinh Narendrasinh Jadeja and committing criminal breach of trust.

2.9 It is further alleged in the FIR that Yashubha alias Yashwantsinh Radhubha Rana used to live in Vallabhipur with his parents, but due to pressure from Minaba, her father Vanrajsinh, and their family members and relatives, Minaba and Yashubha shifted from Vallabhipur to Bhavnagar. It is alleged that the Informant’s son had two children, namely Nandiniba and Yashashviba, and that various disputes and family pressures arose in this context.

2.10 It is further alleged that, when Maa Enterprise had newly commenced its business, it required financial investment. At the request of the Informant's son Pruthvirajsinh @ Pradyumansinh, the Informant advanced to Yashubha @ Yashwantsinh Radhubha Rana a sum of ₹8,00,000/- in the year 2017 and ₹12,00,000/- in the year 2018, thereby totalling ₹20,00,000/-. It is alleged that the said amount was paid from the Informant's agricultural income and personal savings. However, it is alleged that Yashubha has not reflected or acknowledged the said amount in any account, with the intention to misappropriate the same, thereby cheating both the Informant and Pruthvirajsinh @ Pradhyumansinh and committing criminal breach of trust.

2.11 It is further alleged that, thus, ₹2,06,000/- shown in the name of Arvindbhai, ₹1,62,000/- shown as interest payable to Radhubha Rana, ₹10,22,012/- shown as payable to Bhaylubha of Trapaj i.e. Chetansinh Aniruddhsinh Gohil and Rajendrasinh Aniruddhsinh Gohil, the Informant's investment of ₹20,00,000/-, and the amount of ₹11,40,470/- found payable to Pruthvirajsinh as per his handwritten accounts, together aggregate to ₹45,30,482/-. It is alleged that by dishonestly misappropriating the aforesaid amount of ₹45,30,482/-, Yashubha @ Yashwantsinh Radhubha Rana cheated the Informant's son Pruthvirajsinh @ Pradhyumansinh, committed criminal breach of trust, and thereby drove him to commit suicide.

2.12 It is further alleged that thereafter, on 13/07/2020, the Informant and his wife came from Kalamedhda to Bhavnagar since the Informant's Fixed Deposit was maturing on 15/07/2020 and two ICICI insurance premiums of ₹50,000/- each were to be paid. It is alleged that they stayed at Vijayrajnagar, Bhavnagar, for about five to six days. During this period, it is alleged that the Informant's son Pruthvirajsinh @ Pradhyumansinh, in complete privacy and confidence, informed him that Yashubha @ Yashwantsinh Radhubha Rana and his wife Minaba had been continuously harassing him and his wife Binaba for the preceding three months, exerting pressure for engagement of their daughter Yashasviba with their son Yagnadipsinh and also demanding execution of a will bequeathing half of the property in their favour. It is further alleged that similar pressure and threats were also exerted by Radhubha Rana and his wife when the Informant's son visited Vallabhipur, and also when Yashubha and his family visited Bhavnagar.

2.13 It is further alleged that the Informant's son was threatened that if such engagement and will were not executed, they would not be allowed to live peacefully, and that they would be socially isolated. It is further alleged that Yashubha, Minaba, and their children also harassed the Informant's granddaughters Nandiniba and Yashashviba by abusing, assaulting, and threatening them. It is further alleged that Binaba also conveyed similar facts to the Informant's wife Taraba at Kalmedhda.

2.14 It is further alleged that the delay in lodging the FIR occurred because the ATM card, cheque book, and account records of Maa Enterprise were in the possession of Yashubha, and that it was necessary to first initiate steps to freeze the bank account and obtain account information. It is further alleged that further procedural work regarding GST records and account changes was pending, and therefore immediate FIR was not lodged, reserving the right to file the same later.

2.15 It is further alleged that thereafter, a coconut, lemon, and black threads were found from the cupboard of Pruthvirajsinh, which the Informant believes were used in black magic or vashikaran by Yashubha and Minaba, thereby influencing the deceased to commit suicide.

2.16 It is further alleged that the Informant, being a retired police officer (PSI retired as Dy.S.P.), cannot comprehend the extent of torture inflicted upon his son, due to which he committed suicide. It is further alleged that the accused persons, in collusion, subjected the deceased and his wife to mental and physical harassment and thereby abetted the commission of suicide.

2.17 It is further alleged that all the accused persons, namely Yashubha @ Yashwantsinh Radhubha Rana, Minaba, Rutikaba, Yagnadipsinh, Radhubha Rana, and his wife, acted in furtherance of common intention and criminal conspiracy, and therefore the Informant prays for action against them under Sections 306, 406, 120(B), 323, 504, 506(2), and 114 of the IPC.

3. Learned Senior Counsel Mr. Harshil Tolia, with Mr. Utpal R. Dave, Jayesh Dave, and Miss Harshvi Tolia, would submit that the FIR was lodged after a delay of 42 days by the complainant, respondent No. 2 herein, on the basis of the incident of suicide committed by his son. However, he has not given any cogent reasons for such delayed registration of the FIR, more particularly when the complainant himself is a retired Deputy Superintendent

of Police.

3.1 Learned Senior Counsel would further submit that petitioner Nos. 3 and 4 are minors; however, they are dragged into the criminal litigation to pressurize the petitioners' family.

3.2 Learned Senior Counsel would further submit that the FIR is completely silent as to how the acts of the accused persons would amount to instigating the deceased to commit suicide or having created a situation where the deceased had no other option but to commit suicide. In the absence of such acts attributed directly to the petitioners, the present FIR is required to be quashed.

3.3 Learned Senior Counsel would further submit that the deceased himself had filed all the income tax returns of the partnership concern "Maa Enterprise" under his digital signature since the year 2017-18, for which the deceased had never raised any objections against such financial statements, and the income tax returns were also processed by the department. The learned Senior Counsel has thus argued that the entire case of the prosecution is false and fabricated on the face of it.

3.4 Learned Senior Counsel would further submit that petitioner Nos. 5 and 6 are residing separately at Vallabhipur, a taluka place in Bhavnagar, away from Bhavnagar City. They are falsely dragged into the crime in question only because they are the parents of petitioner No. 1. Learned advocate would further submit that, even if the allegations in the FIR are taken on their face value, they would, at the best, point to some financial dispute of a civil nature between the partners and family skirmishes.

3.5 Further, it is argued that the deceased and the petitioners were residing separately. Therefore, no crime as alleged has been committed by them. Further, the lodging of the FIR, on the face of it, appears to be an abuse and misuse of the process of law. Learned advocate would further submit that no ingredients of Section 406 of the IPC are satisfied, inasmuch as there is no entrustment or ingredient of any fraudulent action or even any intention emerging from the entire allegations made in the FIR. Therefore, the FIR, having been lodged out of vengeance and with ill motive, more particularly when respondent No. 2, the complainant, is a retired high-ranking police officer, reflects that he has used his influence to ensure that the petitioners are harassed in all possible ways.

3.6 Learned Senior Counsel would further submit that, even assuming for the moment that there was some partnership dispute with regard to some financial transaction, such allegations are not substantiated from a reading of the FIR or the suicide note, more particularly when the deceased had neither initiated any civil proceedings nor given any notice. However, because of some misconception or presumption at which the deceased had arrived, he took the drastic step. Further, even if the suicide note containing the accounts of the partnership is presumed to have been written by the deceased, there is nothing to indicate that there was any dispute with regard to the accounts.

3.7 Learned Senior Counsel would further submit that the entire FIR is based on hearsay evidence, and the words allegedly spoken by the deceased before his death are narrated in the FIR lodged immediately after the incident by the brother-in-law of the deceased on 16.09.2020, wherein it is stated that the deceased had killed his entire family and his pet. However, in the said FIR, none of the names of the present accused have been stated or narrated by the deceased.

3.8 Learned Senior Counsel would further submit that there is no proximity between the suicide committed by the deceased and the alleged act connecting the present petitioners, inasmuch as what emerges from the accounts alleged to have been written by the deceased is only that he was required to receive some money from the partnership and nothing beyond that. Under the circumstances, it is argued that this can never be termed as abetment to commit suicide against another partner.

3.9 Learned Senior Counsel would further submit that the deceased had never informed the complainant about any dispute or any other dispute prior to the incident, and it is for the first time that the father of the complainant has made allegations by interpreting the accounts jotted down by the deceased, which are termed as the suicide note. By no stretch of imagination would the same attract the ingredients of abetment to commit suicide.

3.10 Learned Senior Counsel for the petitioners lastly would submit that one of the allegations in the FIR with regard to petitioner Nos. 3 and 4, who are the minor daughter and son of petitioner No. 1, is that they were abusing the daughters of the deceased, who are their cousin sisters. It is further alleged that petitioner Nos. 1 and 2 were pressurizing the deceased to get his daughter married to petitioner No. 4, a minor boy aged 12 years. It is also alleged that they were pressurizing the deceased to execute a will parting half of his share in favour of petitioner No. 4 and the daughter of the deceased. It is further alleged that, whenever they visited the place of the deceased, they used to pressurize him, as narrated by the deceased to the complainant.

3.11 Learned Senior Counsel would further submit that it is alleged that the petitioners had indulged in some occult processes which led the deceased to commit suicide before terminating his entire family with a gun. However, except for the bare allegations in the FIR with regard to the performance of occult processes, there is no other evidence supporting such allegations. The allegations are completely unconnected with the incident and are based only on hearsay statements, with a view to ensure that the petitioners are brought to their knees based on the said allegations. Thus, it is argued that the present petition be allowed.

4. Per contra, learned APP for the respondent State and learned advocate Mr. P. M. Lakhani for the original complainant would submit that it is an undisputed fact that the deceased had committed suicide after killing his family and that, thereafter, the complainant found the suicide note. More particularly, when prima facie allegations from the FIR and the suicide note surface on record, pursuant to which a chargesheet has also been filed, it is argued that it cannot be said that no case is made out.

4.1 It is further added that, since the chargesheet has been filed, the petitioners have an alternative efficacious remedy of preferring a discharge application, since the scope of exercising powers under Section 482 of the CrPC is very narrow. Having made a prima facie case, the present petition deserves to be dismissed.

4.2 It is further submitted that the contention raised by the learned advocate for the petitioners requires a full-fledged trial and can be tested only on the basis of the evidence led before the trial Court. Once there are statements of witnesses alleging that offences have been committed under Sections 506(2), 504, and 323, and also with regard to how the petitioners were pressurizing the deceased for the marriage and for executing a will in favour of petitioner No. 4 and the daughter of the deceased, the question as to whether those offences are attracted or not cannot be decided by conducting a mini trial. Thus, it is argued that the present petition be rejected.

4.3 Learned advocate for the complainant has not pressed any other grounds except those stated hereinabove.

5. Heard Learned Advocates for the respective parties. At the outset, the provisions of Sections 107 and 306 of the IPC are required to be considered.

> "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.
>
> *107. Abetment of a thing-A person abets the*

doing of a thing, who-

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

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

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

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

Explanation 2.- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act."

Thus, from a reading of the aforesaid sections, to sustain a charge under Section 306 of the IPC, it must necessarily be proved that the accused person has contributed to the suicide of the deceased by some direct or indirect act. Further, to prove such contribution or involvement, one of the three conditions outlined in Section 107 of the IPC has to be satisfied. To attract the offence of abetment to suicide, there has to be some direct or indirect act of instigation or incitement to suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Not only that, such instigation or incitement should also reveal a clear mens rea to abet the commission of suicide. It should thereby put the victim in such a position that he would have no other option but to commit suicide. What has to be seen from the facts of the case is whether an individual in similar circumstances in a given society could commit suicide. Thus, there is no straitjacket formula in dealing with cases of abetment, and each case has to be decided on the basis of its own facts and circumstances.

5.1 Since each person reacts differently to the same provocation, depending on a variety of factors, the element of mens rea cannot simply be presumed or inferred; instead, it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the IPC, that is, the deliberate and conspicuous intention to provoke or contribute to the act of suicide, would remain unfulfilled and consequently unsatisfied.

5.2 Thus, from the series of judgments of the Hon’ble Supreme Court and this High Court, what is therefore evident is that the positive act of instigation becomes a crucial element of abetment. In order to satisfy the requirement of instigation, though it is not necessary that the actual words must be used to that effect, or that what constitutes instigation must necessarily and specifically be suggestive of the consequence, a reasonable certainty to incite the consequence must be capable of being spelt out. Thus, even if some act, direct or indirect, has been committed by the accused without intending the consequences to actually follow, it cannot be said to amount to instigation.

5.3 On the aforementioned settled principles of law, if the facts of the case are tested, what is being alleged against the present petitioners is with regard to the unpaid amount of the partnership between the deceased and petitioner No. 1. From reading of the entire FIR, the inference has been drawn by the complainant, who is the father of the deceased (retired DYSP), who has lodged the FIR after a delay of 42 days, without stating any reasons for such delay. Also, on reading of the suicide note, which has been reproduced in the FIR itself, what has been alleged by the deceased is that petitioner Nos. 3 and 4 abused the daughter of the deceased (who is the cousin sister of petitioner Nos. 3 and 4), and that petitioner Nos. 1 and 2 were pressurizing the deceased to get his daughter married to petitioner No. 4, a minor boy aged 12 years, and further pressurizing the deceased to execute a will so as to part with half of his share in favour of petitioner No. 4 and the daughter of the deceased. This in any way cannot be termed as instigation or incitement or a demand having any proximate nexus with the commission of suicide. The factum of general allegations without any specific instances, date, time, or place, and the lodging of an FIR at a belated stage for reasons best known to the informant, shows that there is no link or proximity between the alleged acts of the petitioners and the act of suicide so as to form a chain of causation connecting the alleged instigation to the suicide. There are no specific averments as to when such demands of marriage, execution of will, or pressure regarding accounts were made, including by petitioner No. 1. Vague and omnibus allegations are made without specific particulars of date, time, and place, that too after 42 days of the suicide. Further, the claim that the deceased was entitled to certain amounts from the partnership can be examined only if there is supporting evidence of such legitimate dues. Merely jotting down something on a piece of paper by the deceased and alleging that petitioner No. 1 has joined in betraying other relatives, without any specific instance of betrayal, would fall short of constituting abetment or instigation so as to compel the deceased to have no other option but to commit suicide.

5.3.1 Hon'ble Suprme Court in the case of ***Naresh Kumar v. State of Haryana reported in (2024) 3 SCC 573: 2024 INSC 149***, observed as follows:-

> *"20. This Court in Mariano Anto Bruno v. State [Mariano Anto Bruno v. State, (2023) 15 SCC 560], after referring to the abovereferred decisions rendered in context of culpability under Section 306 IPC observed as under: (SCC para 45)*
>
> *"45. ... It is also to be borne in mind that in cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable."*

5.3.2 In the case of ***Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*** it observed as follows:

> *"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking*

for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1 For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

16.2 We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set-ups, education, etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances."

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

5.3.3 The Supreme Court in ***Jayedeepsinh Pravinsinh Chavda v. State of Gujarat, 2024 SCC OnLine SC 3679 : 2024 INSC 960*** observed as follows:

"18. For a conviction under Section 306 of the IPC, it is a well-established legal principle that the presence of clear mens rea – the

intention to abet the act—is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide."

5.3.4 In cases of alleged abetment of suicide, the gravamen of the offence lies in the establishing of clear and unequivocal proof of direct or indirect acts of incitement or instigation to the commission of the act. A mere bald allegation of harassment of the deceased by another person does not satisfy the legal thresholds required for a conviction. To attract the mischief of Section 306 of the Indian Penal Code (IPC), there must be positive action on the part of the accused of such a compelling nature that it leaves the deceased with no alternative but to resort to suicide. Furthermore, such offending action must be proximate in time to the occurrence of the suicide to establish a continuous and unbroken link. Whether a person has abetted the commission of suicide is a question of fact that can only be gathered from a meticulous evaluation of the unique facts and circumstances of each individual case.

5.3.5 For the purpose of determining abetment, the primary judicial consideration is whether the accused is guilty of the explicit act of instigating the suicide. As consistently settled and reiterated by the Hon’ble Supreme Court, "instigation" means to goad, urge forward, provoke, incite, or encourage the doing of an act. A delicate analysis of human behavior is required, as the human mind reacts in myriad ways, and the impact of one's actions carries several imponderables. If the deceased was hyper-sensitive, and the alleged action of the accused was otherwise not ordinarily expected to induce a similarly circumstanced, ordinary person to commit suicide, it would be judicially unsafe to hold the accused guilty. Conversely, if the accused, through a continuous and systematic course of conduct, deliberately engineers a situation where the deceased perceives no other viable option but to end his life, the case squarely falls within the four corners of Section 306 IPC.

5.3.6 The essential element of *mens rea* (guilty mind) on the part of the accused in these cases must be examined with strict reference to their actual acts and deeds. If the nature of the acts and deeds reveals that the accused intended nothing more than mere harassment or a transient, snap-show of anger, the case falls short of the statutory thresholds required for abetment of suicide. However, if the accused persistently irritates, annoys, or persecutes the deceased through continuous words or deeds until the deceased is actively provoked into reacting, the offense of abetment may be made out. Because suicide involves multifaceted and complex attributes of human behavior, courts must demand cogent, convincing, and unimpeachable proof of active incitement.

5.3.7 To legally link the act of instigation to the act of suicide, the two occurrences must stand in close temporal proximity to each other, forming a seamless nexus or a chain of causation where the suicide is the direct, predictable result of the instigation. The act of instigation must possess such severe intensity and immediate proximity that it objectively pushes the deceased into an inescapable position.

5.4 From reading of the entire FIR and the papers, there is no direct or indirect act of incitement or instigation to commit suicide by the deceased nor the act of pressurizing the deceased to get married his daughter with this son of the petitioner No. 1 are mere bald allegations of harassment since it falls shorts of the legal threshold required for attracting section 306 of the IPC. Such pressurizing does not amount to compelling the deceased leaving behind him no other alternative to but to resort to suicide. More particularly, the proximity in time of the occurrence of the suicide does not reflect a continuous and unbroken link of such pressure and hence also, the question of abetment for the commission of suicide is out of question. No ordinary person is expected to commit suicide in similarly situated circumstances without there being a continuous and systematic conduct falling short of deliberately creating a situation where the deceased perceives no other option but to commit suicide is also not coming on record. The foundational facts are falling short so as to attract section 107 and 306 of the IPC on the facts of the reading of the FIR and papers. There is no cogent, convincing and un-impeachable proof of active incitement of the petitioner and therefore, continuation of FIR would amount to abuse of process of law.

5.5 One of the allegations is also to the effect that the petitioners had indulged in some occult process which led the deceased to commit suicide before killing his family members and his pet. No doubt, the entire family has lost their lives in an unfortunate incident; however, in the absence of any sufficient material to show that the petitioners had intended to push the deceased into such a position that he was left with no other option but to commit suicide, continuation of criminal proceedings against the petitioners would amount to abuse of the process of law.

5.6 This Court, in view of the facts and circumstances of the case, more particularly considering that in the FIR lodged by the brother-in-law of the deceased, Sukhdev Singh, being FIR No. 11198001201479 of 2020, registered at Nilambaug Police Station for offences punishable under Section 302 of the IPC, read with Section 25(1)(B) of the Arms Act and Sections 8 and 9 of the Prevention of Cruelty to Animals Act, there is not an iota of evidence or allegation against the present petitioners. However, as an afterthought, for the reasons best known to the father of the deceased, the present informant has lodged the FIR after a delay of 42 days, based on an alleged suicide note which does not implicate the present petitioners or establish any nexus or proximity between the alleged acts and the suicide committed. The complainant having failed to prima facie establish that the petitioners had any intention to abet the deceased to commit suicide.

5.7 As far as the allegations under Section 323 of the IPC are concerned, the same are vague and do not attract the offence, as no specific allegations have been disclosed.

5.8 As far as Section 506 of the IPC is concerned, a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant. No such factual aspects are emerging from the record. As far as Section 504 is concerned, it contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace, or intentionally insulting a person knowing it to be likely that such person may be provoked to commit a breach of public peace or any other offence. However, from the reading of the FIR, it does not transpire that in the ordinary course of events, the deceased was insulted so as to provoke him to breach the peace or commit an offence under law. The abusive language, if at all used, would amount to intentional insult only if it is likely to provoke the person insulted to commit a breach of peace. Mere abusive, discourteous language, rudeness, or insolence does not amount to intentional insult within the meaning of Section 504 of the IPC, and therefore the necessary ingredients of Section 504 are not made out.

5.9 As regards the contention raised by the learned advocate for the petitioner that the charge-sheet has been filed and the petitioners can apply for discharge, it would be apt to refer to the judgment of the Hon’ble Supreme Court in ***Shaileshbhai Ranchhodbhai Patel and Another v. State of Gujarat and Others,*** reported in 2024 SCC Online SC 5569, wherein it has been held that: “The High Court under Section 482 of the CrPC retains the power to quash an FIR even after a charge-sheet under Section 173(2) is filed, provided it is satisfied that either the FIR and the charge-sheet read together, even if accepted as true and correct, do not disclose the commission of any offence, or that continuation of proceedings would amount to an abuse of the process of law and of the Court, in the peculiar facts and circumstances of each case." Hence, the argument that this Court should not exercise its inherent powers once the charge-sheet is filed does not hold good.

5.10 In the case of **State of Haryana Vs. B.Bhajanlal & ors., AIR 1992 SC 604**, the Hon'ble Apex Court summed up the proposition of law, which reads as under:-

> *"(1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(2) Where the allegations ins the F.I.R. and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under S.156(1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the code.*
>
> *(3) Where, the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out the case against the accused.*
>
> *(4) Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under S.155(2) of the Code.*
>
> *(5) Whether, the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

(6) Where, there is an express legal bare engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) toi the institution and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

From the entire reading of the papers of the charge-sheet as well as the FIR, the present case would squarely fall within parameters (1), (3), (5), and (7) laid down by the Hon’ble Supreme Court in ***State of Haryana and Others v. Bhajan Lal and Others, reported in 1992 Supp (1) SCC 335***.

6. In view of the above, the captioned petition stands allowed. The impugned FIR being CR No. 11198001201657 of 2020, registered on 28.10.2020 with Nilambaug Police Station, District Bhavnagar, for the offences punishable under Sections 306, 406, 120B, 323, 504, 506(2), and 114 of the IPC, along with all consequential proceedings arising therefrom qua the present petitioners, stands quashed and set aside.

7. Rule is made absolute to the aforesaid extent.

(P. M. RAVAL, J)

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