



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 30TH DAY OF JULY 2025

BEFORE

THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 100661 OF 2025
(482(CR.PC)/528(BNSS))

BETWEEN:

FEEBI GOTTAM (NAME AS PER THE ADHAR CARD),
FEEBHE GOLLAPALLI W/O PEETARU
(NAME AS PER THE FIR),
AGE ABOUT: 33 YEARS, OCC: PRIVATE EMPLOYEE,
R/AT: H.NO.157, KRUPA NAGAR,
MANTUR ROAD, NEAR MASJID,
HUBBALLI, PIN CODE-580 020.

... PETITIONER

(BY SRI. SACHIN C. ANGADI, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
THROUGH ASHOK NAGAR PS, HUBBALLI,
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, DHARWAD,
PIN CODE-580 002.

2. ESHAYYA GOLLAPALLI S/O OBAYYA,
AGE: 42 YEARS, OCC: RAILWAY STAFF,
R/AT: HOUSE NO.27,
CHANMUNDESHWARI NAGAR,
HUBBALLI, PIN CODE-580 032.

... RESPONDENTS

(BY SMT. GIRIJA S. HIEMATH, HCGP FOR R1;
SMT. RESHMA MADIWALAR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (UNDER SECTION 528 OF BNSS, 2023), PRAYING TO ALLOW THIS PETITION AND QUASH THE COMPLAINT AND FIR IN CRIME NO.05/2025 CRIME REGISTERED BY THE ASHOK NAGAR PS., HUBBALLI FOR OFFENCES PUNISHABLE UNDER SECTION 108 OF BHARATIYA NYAYA SANHITA (BNS), 2023 FILE PENDING BEFORE THE JMFC-1 COURT, HUBBALLI, IN THE INTEREST OF THE JUSTICE.





THIS PETITION, COMING ON FOR ADMISSION THIS DAY,
ORDER IS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY)

1. Accused in Crime No.5/2025 registered by Ashoknagar Police Station, Hubballi-Dharwad for the offence punishable under Section 108 of the Bharatiya Nyaya Sanhita 2023 (BNS 2023) is before this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023) with a prayer to quash the FIR registered against her in the present case.

2. Heard learned counsel for the parties.

3. FIR in Crime No.5/2025 was registered by Ashoknagar Police Station, Hubballi-Dharwad for the aforesaid offence against the petitioner herein based on the first information dated 26.01.2025 received from Eshayya Gollapalli, brother of deceased Petaru Gollapalli (Peter). The petitioner is the wife of deceased Petaru (Peter) Gollapalli. In the first information, it is stated that



marriage of the deceased, aged about 40 years, with the petitioner, was solemnized about 2 years prior to the date of registration of the FIR. The petitioner had lived with her husband for a period of about 3 months from the date of their marriage and thereafter had returned to her parents' house. Efforts made to bring her back had failed. On 26.01.2025, between 10.30 a.m. to 12.30 p.m., deceased had committed suicide by hanging himself in the room in his house leaving behind a death note. It is in this background, FIR was registered against the petitioner.

4. The material on record would go to show that marriage of the petitioner with the deceased Petaru Gollapalli (Peter) was solemnized on 08.12.2022. It appears that thereafter the couple lived together only for a short time. Deceased had filed M.C.No.223/2024 before the jurisdictional Family Court against the petitioner for restitution of conjugal rights. On the other hand, the petitioner has filed Crl.Misc.No.89/2024 before the jurisdictional Court of Magistrate against the deceased and



his relatives, including the first informant in the present case, under the provisions of the Protection of Women from Domestic Violence Act, 2005.

5. It appears that during the pendency of the aforesaid proceedings, deceased had committed suicide by hanging himself in his house on 26.01.2025. In the alleged death note, which is left behind by the deceased, he has stated that his wife needs his death and she had tortured him. Except the aforesaid, there is no mention of any particular act committed by the petitioner which has nexus to the death of the deceased. For the purpose of invoking Section 108 of BNS 2023, the alleged act committed by the accused should have the proximity and nexus with the death of the deceased and the said act should also have abated, instigated or aided the deceased to commit suicide.

6. Reading of the complaint, filed in the present case, would go to show that, necessary ingredients so as



to attract the alleged offence is not found. Undisputedly the petitioner and the deceased were living separately for the last more than one year and there are matrimonial proceedings pending between them.

7. The Hon'ble Supreme Court in the case of PRASKASH AND OTHERS Vs. THE STATE OF MAHARASHTRA AND ANOTHER¹, has observed that merely for the reason that accused had asked the deceased to go and die, that itself is not sufficient to constitute the necessary ingredients for the purpose of invoking the offence punishable under Section 306 of the IPC. In paragraph No.12 of the said judgment, it is observed as follows:

"12. ... Even in we accept the prosecution story that the appellant did tell the deceased "to go and die" that itself does not constitute the ingredient of "instigation". The word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea, therefore, is the necessary concomitant of instigation. It is common knowledge that the words uttered in a quarrel or on the spur of

¹ 2024 INSC 1020



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the moment cannot be taken to be uttered with mens rea." ...

8. The Hon'ble Supreme Court in the case of **MARIANO ANTO BRUNO AND ANOTHER Vs. INSPECTOR OF POLICE²**, in paragraph No.42 has observed as follows:

"42. To convict a person under Section 306 IPC, there has to be clear mens rea to commit offence. It also requires an active act or direct act which leads deceased to commit suicide finding no other option and the act must be such reflecting intention of the accused to push deceased into such a position that he commits suicide. The prosecution has to establish beyond reasonable doubt that the deceased committed suicide and Appellant No. 1 abetted the commission of suicide of the deceased. In the present case, both the elements are absent.

9. In the case of **RAMESH KUMAR Vs. STATE OF CHATTISGARH³**, in paragraph Nos.20 and 21, the Hon'ble Supreme Court has observed as follows:

"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

² 2022 SCC OnLine SC 1387

³ (2001) 9 SCC 618 : 2001 INSC 515



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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.

21. In State of West Bengal v. Orilal Jaiswal¹⁰, this Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

(Emphasis supplied)

10. The Hon'ble Apex Court in the case of **KANCHAN SHARMA Vs. STATE OF UTTAR PRADESH AND ANOTHER⁴**, in paragraph No.9 has observed as follows:

9. "Abetment" involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306IPC. To proceed against any person for the offence under Section 306IPC it requires an active act or direct act which led the deceased to commit suicide, seeing no option and that act must have been

⁴ 2021 SCC OnLine SC 737



intended to push the deceased into such a position that he committed suicide."

11. Under the circumstances, if the allegations found in the FIR are examined in light of the law laid down by the Hon'ble Supreme Court in the aforesaid cases, it is evident that this is a fit case wherein this Court needs to exercise its power under Section 528 of the BNSS 2023, to secure the ends of justice. Accordingly, the following:

ORDER

- i. Petition is allowed.
- ii. The entire proceeding in Crime No.5/2025, registered by Ashoknagar Police Station, Hubballi-Dharwad for the offence punishable under Section 108 of BNS 2023, is quashed.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

KGK
CT:BCK
LIST NO.: 1 SL NO.: 61