VERDICTUM.IN

Reserved On : 23/10/2026
Pronounced On : 29/10/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 17710 of 2017

With
R/CRIMINAL MISC.APPLICATION NO. 17946 of 2017

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

==========

Approved for Reporting	Yes	No

==========

MILAN RAMJIBHAI PUMBHADIYA
Versus
STATE OF GUJARAT & ANR.

==========

Appearance:
MS MEDHA N PANDYA(6171) for the Applicant(s) No. 1
MS. KRUTI M SHAH(2428) for the Applicant(s) No. 1
DR. BHAGIRATH N PATEL(9016) for the Respondent(s) No. 2
MR. KISHAN H DAIYA(6929) for the Respondent(s) No. 2
PUBLIC PROSECUTOR for the Respondent(s) No. 1

==========

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

CAV JUDGMENT

1. INTRODUCTION:

The delicate intersection between workplace rigor and criminal culpability presents a recurring dilemma in our penal jurisprudence, can every administrative sternness, professional reprimand, or gruelling work routine be elevated to the gravamen of "abetment" under Section 306 of the Indian Penal Code, 1860 (IPC) simply because an individual tragically succumbs to life's pressures?

VERDICTUM.IN

Time and again, Apex Court have delineated the strict boundaries of criminal instigation, yet investigating authorities frequently demonstrate a profound disconnect from the core statutory mandate of Section 107 IPC. Prompted by the natural grief and outrage of a bereaved parent whose 24-year-old son—a first-year Master of Surgery resident—took his own life, the police machinery mechanically registered an FIR and escalated it into a full-fledged Charge Sheet against his immediate senior doctors. In doing so, the state machinery overlooked the mandatory requirement of establishing a deliberate *mens rea* or an intentional, direct act designed to drive the young doctor to self-destruction, thereby compelling this Court to exercise its inherent powers under Section 482 of the Code of Criminal Procedure, 1973 to prevent the criminal law from becoming an instrument of unintended oppression.

1.1. The present Criminal Misc. Applications under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "*Cr.P.C.*") has been preferred by the Petitioners (both original accused resident doctors of 2nd year) seeking quashing and setting aside of First Information Report (FIR) bearing C.R. No. I-151/2017 registered on 05.07.2017 with Khatodara Police Station, District Surat, for offenses punishable under Sections 306, 323, and 114 of the Indian Penal Code, 1860 (hereinafter referred to as "*IPC*") and Sections 3(1)(r), 3(1)(s), and 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, along with all consequential proceedings arising therefrom.

1.2. By way of Draft Amendment allowed by this Court, the Petitioners have further prayed for quashing and setting aside of ATRO Case No. 61 of 2019 pending before the learned Additional

VERDICTUM.IN

District Judge, Surat, which arose upon submission of the Charge Sheet by the Investigation Officer.

2. FACTS AS NARRATED VERBATIM IN FIR AND STATEMENTS OF INFORMANT:

2.1. First Information Report (FIR / C.R. No. I-151/2017 dated 05/07/2017)

The FIR was recorded on 05.07.2017 at the SMIMER Hospital Post-Mortem Department, Surat, by Police Inspector R.R. Ahir, Khatodara Police Station, upon the oral dictation of Respondent No. 2 (Complainant), Shri Dineshchandra Chhaganlal Parmar. The verbatim English translation of the FIR reads as under:

TRANSLATED FIR:

> "Date: 05/07/2017
>
> Dineshchandra Chhaganlal Parmar, Age: 56 years, Occupation: Service (Deputy Engineer, DGVCL), Residing at: C/19, Sailila Bungalows, Hira-Panna Society, Near Railway Crossing, Kosamba, Taluka - Mangrol, District - Surat. Mobile Nos.: 99099 39944, 98257 54502.
>
> Being present at the SMIMER Hospital Post-Mortem Department, upon inquiry regarding the facts of my complaint, I state that I reside at the above-mentioned address with my family. For about the last 10 years, I have been working as a Deputy Engineer at DGVCL, Bharuch Makatpur. I belong to the Scheduled Caste (S.C.)

VERDICTUM.IN

category. I have two sons, named Nikunj (Age: 27) and Dhaval (Age: 24).

My younger son, Dhaval, obtained his M.B.B.S. degree one year ago from Baroda Maharaja Sayajirao Hospital. As he desired to pursue Master of Surgery (M.S.), he secured admission under the Government quota at the New Civil Hospital here and had been studying Master of Surgery for the last one and a half months.

Since my son Dhaval went to study M.S. at New Civil Hospital, I used to have telephonic conversations with him two to three times a week. Every time over the phone, he would tell me that his seniors, Dr. Milan and Dr. Naresh Makwana, were frequently harassing him mentally and physically and were using casteist slurs against him. Whenever I went to meet him in person, he would relate the same to me. When I suggested meeting their higher authority, Dhaval would tell me, '*If you meet Sir, he will not listen to us and will fail me.*'

Last Thursday night, Dhaval called my mobile phone and informed me that Dr. Milan had kicked him in the private parts. When he went to meet the Dean regarding this, the Dean told him: '*In P.G. (Post Graduation), this is how it works. If you*

VERDICTUM.IN

want to study, then study; otherwise, leave your studies.' He further stated that the Dean had also insulted him on the basis of his caste.

Yesterday, on 04/07/2017, while I was on my way to work, Dhaval called me from his mobile number 8866865012 at around 9:00 AM in the morning and said: '*Papa, I want to leave Surgery. My seniors behave arbitrarily with me. Even during live operations, they make us purchase operation-related equipment at our own expense.*' Hearing this, I told him: '*I am calling your brother Nikunj and sending him to you, and we will discuss further.*' Thereafter, I called Nikunj and instructed him to go and meet Dhaval. Later, when I spoke to Nikunj telephonically, he informed me that Dhaval was not visible in his F/2 ward or on the hospital campus, his motorcycle was not seen, and when he called him, Dhaval was not answering his phone. Upon hearing this, I immediately left Bharuch for Surat. I arrived at New Civil Hospital, Surat at around 12:30 PM in the afternoon. After discussing with Nikunj, we met the Head of Office of the Surgery Department, Dr. Verma, but he did not give us a proper response.

Thereafter, while we were searching for

VERDICTUM.IN

Dhaval on the campus, his Passion Pro motorcycle (bearing registration No. GJ-19-S-5772) was found parked behind the M.I.C.U. ward. Meanwhile, our relatives gathered after hearing about this situation. We were continuously calling Dhaval, but he was not answering. At around 4:30 PM, when Dean Brahmbhatt arrived at the hospital, we went to meet him. However, the Dean also did not give a proper response and said: '*We are investigating; we will need to check power connections and inspect every room.*'

During this time, at around 5:30 PM in the evening, while present in the Dean Sir's office. Shortly after, Nikunj received a phone call on my mobile phone informing him that '*Your brother has been found and has been taken to the Trauma Centre.*' Hearing this, I immediately went to the Trauma Centre. Dr. Verma shouted out that '*He has consumed poison! He has consumed poison!*' and ran away. The resident doctors, Dr. Milan and Dr. Nareshbhai Makwana, who were with him, also ran away and switched off their mobile phones.

Meanwhile, a huge crowd had gathered in the Trauma Centre. Dr. Govekar came into the passage of the Trauma Centre and

VERDICTUM.IN

suddenly shouted: '*The person who was supposed to die has died, why is it necessary to gather a crowd here?*' When the public attempted to beat him upon hearing this, he fled into the C.M.O. office. I told him that I am the father of the deceased and that all of us present outside are relatives. Dr. Govekar misbehaved with me, raised his hand to hit me, and insulted me by saying: '*You* '*sala*' *belong to lower caste, you should stay lower.*'

Upon looking at my son Dhaval, who was placed on a stretcher, I saw that his breathing had stopped and he had passed away. Upon inspecting his body, injuries were visible on the right side of his forehead, on the right side of his chest, and near his right knee. Dhaval's dead body was found near a 10-story building under construction adjacent to the 'Chhayando' building, as gathered from conversation.

Thus, my son Dhaval (Age: 24) had been studying Master of Surgery at New Civil Hospital, Surat for the last one and a half months. His seniors, Dr. Milan and Dr. Naresh Makwana, were subjecting him to severe physical and mental torture and insulting him with caste-based slurs. Fed up with this continuous harassment, Dhaval committed suicide yesterday evening

VERDICTUM.IN

before 5:30 PM in some manner. Furthermore, even after he committed suicide, Dr. Brahmbhatt (Dean of New Civil Hospital), Dr. Verma (HOD, Surgery Department), and Dr. Govekar misbehaved with me (the complainant), insulted me with caste-based slurs, and along with Dr. Milan and Dr. Naresh, had subjected my son Dhaval to severe, unbearable physical and mental torture over the last one and a half months, saying: '*If you want to study, study; this is how it works here.*'

Fed up with this unbearable harassment, Dhaval committed suicide. Therefore, I request lawful investigation and action against the above-named persons."

2.2. Verbatim Subsequent Statement of Informant Dated 13/07/2017

In the course of the investigation, the Assistant Police Commissioner, "E" Division, Surat City, recorded a subsequent statement of the complainant on 13.07.2017. The verbatim translation reads as under:

TRANSLATED SUBSEQUENT STATEMENT (13/07/2017)

"Dineshchandra Chhaganlal Parmar, Age: 56 years, Occupation: Service, Residing at: C/19, Sai Leela Bungalows, Hira-Panna Society, Near Railway Crossing, Kosamba, Taluka: Mangrol, District: Surat. Mobile No.: 9909939944.

Upon being inquired at Khatodara Police

VERDICTUM.IN

Station in person, I dictate that my previously recorded complaint is correct and true as dictated by me.

In addition, as the notebook written in my son Dr. Dhaval Parmar's own handwriting needed to be sent to Gandhinagar for verification of handwriting, I brought the said notebook today and presented it before you, which you have seized in the presence of panchas.

Further, I state that on the day the complaint was lodged, I was in shock due to my son's death, because of which I could not state certain details at that time. My son, Dr. Dhaval Parmar, had informed me over the phone that he was made to work continuously for 24-24 hours and 48-48 hours, was not allowed any rest, and was not even given time to eat. He had also informed me of the fact that one of his seniors had kicked him in his private parts. From what my son told me, I felt that he had become extremely distressed and troubled.

My son's dead body was shown to us at around 5:30 PM, but no information was given to us as to where the body was brought from. Also, no panchnama was conducted in our presence, nor were we informed of the state or condition in which

VERDICTUM.IN

my son's body was lying.

Furthermore, if my son had committed suicide by jumping from the 9th floor, there were no external injury marks or bleeding visible on his body, due to which we suspect that my son was killed and then thrown from above. Additionally, my son Dr. Dhaval Parmar's vehicle was found near the MICU; who actually brought that vehicle there and how its key was found on the 9th floor where the suicide occurred is also a matter of investigation.

Furthermore, my son was also using a second mobile number, 88669 83282.

I am stating these additional details as I recall them at present. The above additional facts are correct and true as dictated by me.

2.3. Verbatim Subsequent Statement of Informant Dated 19/09/2017

A further comprehensive statement was recorded from the complainant on 19.09.2017. The verbatim translation reads as under:

TRANSLATED SUBSEQUENT STATEMENT (19/07/2017)

“Dineshchandra Chhaganlal Parmar, Age: 56 years, Occupation: Service, Caste: Hindu Scheduled Caste (S.C.), Residing at: C/19, Hira Panna Society, Tarsadi, Kosamba, Taluka: Mangrol, District: Surat. Mobile

VERDICTUM.IN

Nos.: 99099 39944, 98257 54502.

Upon being inquired in person, I dictate that I reside at the above-mentioned address with my family. My wife's name is Shakuntalaben Dineshbhai Parmar, and I have two sons: the elder son, Nikunj Parmar, and the younger son, Dr. Dhaval Parmar. My elder son Nikunj has been working for the last seven months as a contractor with Essar Steel, Essar Company, at Arihant E.D.T. Services.

Thereafter, my younger son Dhaval completed his M.B.B.S. one year ago from Baroda Maharaja Sayajirao Hospital. He then prepared for the All India Medical Test, passed the examination, placed on merit, and secured admission in Post Graduation, Master of Surgery. On 31/05/2017, he received admission at P.D.U. Government Medical College, Rajkot, through the Admission Committee for Professional Post Graduate Medical Courses, Government of Gujarat. In that same week, we went to Rajkot for admission. After securing admission, Dhaval went to join at P.D.U. Government Medical College, Rajkot.

Upon going to the college there, he was instructed to meet Dr. Jatin Bhattu, the Head of the Surgery Department. Dr. Jatin Bhattu instructed Dhaval that he must not

VERDICTUM.IN

call anyone, must not remain in contact with his parents, must not call any relatives to meet him, must not have his parents make calls to anyone or seek any recommendations, must not disclose private matters to anyone, and instructed him to join duty in the ward with immediate effect. On that very day, he was asked to meet his senior doctors in the emergency ward.

Dr. Dhaval informed us that without an official admission slip from the Head of Surgery, he was instructed by the sir to join the emergency ward in the college right away. I told my son Dhaval that both of us had come near Rajkot from Surat, had brought no clothes or luggage of any kind, and requested him to ask the sir for two days of leave. So Dhaval again went to him asking for two days of leave to fetch his clothes and belongings. However, Dr. Jatin Bhattu denied him leave and further threatened him, saying: "*I had told you not to act smart in front of me, not to tell your parents anything, and as long as you walk by holding your parents' fingers, you will not survive.*" He further threatened in an aggressive tone: "*If I grant you two days of leave, you will face difficulties and you will be targeted/harassed.*"

VERDICTUM.IN

Dhaval came outside and told me this, asking: "*Papa, what should I do now?*" I advised him: "*You join here and take charge of your ward. Since you have taken a new admission, your initial impression should not be bad, so join duty and go arrange for a room in the hostel.*" Thereafter, all necessary household items were purchased in Rajkot, and my wife and I returned home in the evening.

After about three days, Dhaval received a message stating that he had to present himself before the Admission Committee in Gandhinagar for second-round reshuffling. During those 3 to 4 days, Dhaval remained studying at Rajkot College and then went to Gandhinagar for reshuffling. During those 3 to 4 days, Dhaval was subjected to so much workload that he was given no time even to eat or sleep. Dhaval informed me of this after returning home and stated that in the unit he joined, if any mistake was made by his batchmates, senior doctors would find fault, hold them by their collars, and strike them on the back of their heads with sticks. Dhaval had witnessed this with his own eyes and expressed that he no longer wished to go to Rajkot to study.

By stroke of luck, in the reshuffling, Dhaval secured admission in Master of Surgery at

VERDICTUM.IN

Government Medical College / New Civil Hospital, Surat City. Two days later, Dhaval received a message that all admissions of the second round were canceled and final admissions would be determined in the third round. Immediately in the third round as well, Dhaval secured admission in Master of Surgery at Government Medical College, New Civil Hospital, Surat. Dhaval had a strong desire to take admission in Surgery and aspired to become a Super Specialty Specialist in Plastic Surgery.

Thereafter, on 21/05/2017, Dhaval secured admission at Surat New Civil Hospital, paid the required fees, completed admission formalities, was allotted a hostel room, and returned home in the evening. On the next day, 23/05/2017, he went to the college on his motorcycle, commenced his studies, and called us upon reaching college.

Two days later, my elder son Nikunj went to meet Dhaval in the E.O. (Emergency Orthopedic) ward. During that meeting, Dhaval was very tired and told Nikunj that Dr. Nimesh Verma, HOD of Surgery, had called a gathering of resident doctors of the college and issued numerous instructions. Specifically, Dr. Verma instructed senior resident doctors in strict terms that this time, even if a medical officer from the

VERDICTUM.IN

Surgery Department leaves, no senior doctor's chair should be compromised. Dhaval further stated that senior doctors in this ward treat incoming patients arbitrarily, and Nikunj returned after meeting him.

Two days later, my wife Shakuntalaben went to the college campus to meet our son Dhaval. She met him for five minutes, spoke to him, and he appeared happy. He then said he had no time and left. A few days later, when the doctors of the Surgery Department had their wards changed, Dhaval was posted in Male Surgical Ward-1. Two to three days later, I went to his college with my wife to meet Dhaval. My son Nikunj also came along in his car. Nikunj and I met Dhaval in Ward No. 1. I stood outside while Nikunj was sent inside Ward No. 1 to call Dhaval. Dhaval came outside the ward upon Nikunj gesturing to him.

While talking to us at that time, Dhaval appeared extremely terrified and anxious. During the conversation, he told me that he was not allowed to come upstairs to meet him and instructed us to call him downstairs instead. I asked him why he was not taking calls or connecting, explaining that we had come upstairs to meet him and

VERDICTUM.IN

that his mother, who was downstairs, also wanted to meet him.

Thereafter, Dhaval went to seek permission from Senior Doctor Milan Pumbhadiya, appearing visibly terrified. He told Dr. Milan that his parents were downstairs and asked for 10 minutes to meet them. Dr. Milan granted permission saying, "*Go ahead.*" When Dhaval came downstairs to meet us, he still appeared frightened. He came down, hugged his mother, and she asked him: "*Is everything okay? Is it the same as Rajkot?*" To which he replied: "*Here too, it feels just like Rajkot. Do not come upstairs to meet me; if I get time, I will come down to meet you.*" He expressed fear that seniors were giving him excessive work here as well and that after moving to Ward-1, he had not been able to sleep or brush his teeth properly for days.

I asked him what he wanted to do and what his wish was, adding that if he was being troubled too much or given excessive work, I would meet his senior or HOD Dr. Verma. But he pleaded with me not to do so, saying: "*I want to complete my Surgery studies. If you meet the HOD or any other senior, those people will keep it in mind and target me during exams.*" I then told him: "*If you have so much trouble at this*

VERDICTUM.IN

college, leave Surgery. Why study far from home when we got admission in a private college near home on merit quota?" I told him every college has its challenges and that he would have to endure a little. We then comforted him and returned home.

Every two to three days, we used to go to meet him. Whenever we went to his college, he would come downstairs because his seniors did not grant permission to go upstairs. His seniors had drilled into his mind that none of his relatives should come upstairs. My elder son Nikunj used to go to his college every 2 to 3 days to collect his clothes, but Dhaval would often be seen wearing the same clothes for 3 to 4 days straight without changing, because seniors gave him no time even to change clothes or shave. Nikunj informed me about this.

Two to three days later, my wife and I went to the college to meet Dhaval. We called him on the phone to come downstairs. When Dhaval came down, he told us: "*Stand near the Trauma Centre, but behind it where the Nursing College is located. Stand near that spot so I can show you, and meet me near the burns ward.*"

Saying so, he pointed out the place and kept his car parked there. We brought tiffin

VERDICTUM.IN

for him and asked him to eat. He replied: "*I ate at 3:30 PM in the afternoon, what can I eat now? I do not even get time to go to the toilet, so what should I eat?*"

He further stated: "*My senior doctors, Dr. Milan Pumbhadiya and Dr. Naresh Makwana, are harassing me severely. Seeing me stand near this car, they will assume I am roaming around idly, and out of spite, they will assign me even more work and force me to stay awake all night.*"

He said if any mistake occurred in work, they would verbally abuse him using foul language that could not even be repeated.

He further stated that Dr. Milan Pumbhadiya used casteist slurs against him, saying: "*You 'sala' lower caste people get admission with low percentages, make mistakes in work here, and are not even allowed to answer back.*" Proceeding further, he revealed: "*Papa, two days ago, Senior Dr. Milan kicked me in my private parts between my legs.*" When I asked him why he kicked him, he said he was of a quiet nature and did not respond, choosing instead to focus on his studies without complaining against anyone.

When asked what other harassment he faced, he told me: "*They do ragging in my classroom and rag me.*" I told him: "*Son,*

VERDICTUM.IN

you hold an M.B.B.S. doctor's degree, you can easily get a job anywhere, so come back home with me." But his willpower to pursue surgery made him say: "*I will stay for 2 to 3 months, after which all ragging will subside. I will endure this ragging; I have already passed one and a half months and will manage the remaining one and a half months.*" Seeing his passion for studying, I yielded to his decision and told him: "*If you face any serious difficulty, quit surgery immediately and come home; I will handle the administrative formalities.*"

Dhaval repeatedly told us that whenever his senior Dr. Naresh Makwana came to the ward for morning rounds to examine patients, he would accompany him. While examining patients, Dr. Naresh Makwana would humiliate him in front of patients using foul language. If Dr. Naresh Makwana had any scale or surgical instrument in his hand while examining patients, he would strike Dhaval on his arm with it. Thus, Dr. Naresh Makwana also harassed him severely and subjected him to continuous friction/trouble.

When I asked Dhaval if he had reported this matter to his HOD, Dhaval told me that when he met HOD Dr. Verma Sir in the Surgery Department, Dr. Verma told him:

VERDICTUM.IN

"*In every college, things run like this, and here too it will continue like this. If you want to study, study; otherwise leave. You lower caste people secure admission with low percentages and then trouble us.*" He further stated: "*Superior officers also put pressure on our seniors and trouble them because you belong to a Scheduled Caste, so it feels as if they hold a grudge against me.*"

Dhaval further stated that whenever they were in the operation theatre during operations, his seniors Dr. Naresh and Dr. Milan, as well as Unit Head Dr. Verma Sir, compelled them to purchase surgical accessory equipment required for operations at their own expense. Pressure was put on them to bring these items at their own cost. Dhaval stated: "*When I ask where I should get money to bring surgical equipment from outside, they misbehave with me and strike me.*" After stating this, he returned to duty in the ward.

Thereafter, on 04/07/2017, when I was on my way to work, Dhaval called me on my mobile number 99099 39944 from his mobile number 88588 65012 at around 9:00 AM in the morning and said: "*Papa, I want to leave Surgery.*" When I asked him why he wanted to leave, he said: "*Seniors*

VERDICTUM.IN

behave arbitrarily with me. Even during live operations, they make us purchase operation-related equipment at our own expense." Hearing this, I told him: "*I am calling your brother Nikunj and sending him to you because I have reached Bharuch. Discuss with your brother Nikunj, and we will decide further steps.*"

I then called Nikunj and instructed him to go urgently to meet Dr. Dhaval. After Nikunj reached Civil Hospital, I spoke to him telephonically, and he informed me that Dr. Dhaval was not visible in his ward or on the hospital campus, his motorcycle was missing, and he was not answering his phone.

Upon hearing this, I immediately travelled from Bharuch to Kosamba, picked up my wife, and arrived at Surat New Civil Hospital at around 12:30 PM. After meeting Nikunj and discussing the matter, we went to the office of Dr. Verma, Head of the Surgery Department. When we inquired about Dr. Dhaval, he failed to give us a proper response.

Thereafter, while searching for Dhaval on the Civil Hospital campus, his motorcycle (bearing registration No. GJ-19-S-5772) was found parked behind the MICU ward. Meanwhile, our relatives heard about this

VERDICTUM.IN

and gathered there. As Dhaval was nowhere to be found, all of us repeatedly called both of his mobile numbers, but received no response.

At around 4:30 PM, when Dean Dr. Brahmbhatt of the Medical College arrived at the hospital, around 5 to 7 of our relatives and friends went to his office to meet him. However, upon inquiring about Dr. Dhaval, he also gave no proper response, stating merely: "*We are investigating.*"

During this time, I asked Dean Dr. Brahmbhatt: "*Sir, how many duty hours are prescribed for first-year P.G. students, and are they granted weekly leave or not?*" To which he replied: "*There are no fixed hours, nor is leave fixed.*" I then remarked: "*Even a laborer has fixed working hours and is granted leave to rest, so why are resident doctors not granted leave?*" He responded: "*This is government policy; doctors are scarce, so juniors have to do extra work.*" Thus, he failed to give a proper answer.

I then told him: "*Do not waste time in arguments; I want to find my son who has gone missing from the ward. Please apply extra effort to search every room and inspect the hostel.*" During this

VERDICTUM.IN

conversation, Dr. Verma was also present in the Dean Sir's office. While discussions were ongoing, Dr. Verma received a phone call, immediately stood up, took his phone, and ran out of the Dean's office. Seeing him run out, two relatives sitting with me were asked to follow Dr. Verma to see where he was going, and two friends followed behind him.

While this was happening, my elder son Nikunj received a phone call on his mobile and told me while crying: "*Brother has been found and is in the Trauma Centre.*" Hearing this, I immediately went to the Trauma Centre, where Dr. Verma was present shouting: "*He seems to have consumed poison, he has consumed poison!*" and ran away from there.

Resident Doctors Dr. Milan and Dr. Naresh Makwana, who were also present there, fled the spot and switched off their mobile phones. At that time, inside the Trauma Centre, my son Dr. Dhaval was lying on a stretcher, and no Civil Hospital medical staff was present there. Myself, my wife, my son, relatives, and my circle of friends had been searching for Dr. Dhaval on the hospital campus since 12:30 PM. Despite our presence, when Dr. Dhaval's body was brought, we were not shown where it was

VERDICTUM.IN

brought from or where it was found lying.

Furthermore, no panchnama or legal procedure was conducted by the police in our presence at that time, nor was any information provided to us. At that moment, a massive crowd gathered in the Trauma Centre. While my relatives and I were discussing in the passage outside the Trauma Centre, Dr. Govekar arrived in the passage, saw the crowd, became enraged, and shouted: "*The person who was supposed to die has died, why gather such a crowd here?*"

Hearing this, the public present there turned angry and attempted to attack him, whereupon Dr. Govekar fled into the office where Dr. Vadel Sir was sitting. I went into that office, tried to reason with Dr. Govekar, and said: "*I am the father of the deceased, and it is improper for you to speak like this.*" Upon saying this, Dr. Govekar got enraged at me, raised his hand to hit me, and uttered words saying: "*You 'sala' lower caste people stay lower,*" thereby insulting us.

Today, when you Sir read over and explained the FIR to me, wherein the accused resident doctor's name is written as Nareshbhai Makwana, I clarify that his correct name is Dr. Narenbhai Makwana.

VERDICTUM.IN

For now, I have stated the details as I recall them. If any additional facts or evidence are found, I will definitely inform you Sir. The above statements are true and correct as dictated by me."

2.4. Official Status Report Submitted by Assistant Police Commissioner N.S. Desai, Surat City

Pursuant to the directions issued by this Court, Assistant Police Commissioner N.S. Desai, "E" Division, Surat City, submitted a formal, verified investigation status report. The verbatim English translation of the core findings of the said report reads as under:

TRANSLATED POLICE INVESTIGATION REPORT

"Subject: Regarding submission of report in Khatodara Police Station C.R. No. I-151/17 under IPC Sections 306, 323, 114 and Atrocities Act Sections 3(1)(r), 3(1)(s), 3(2)(v), 3(2)(v-a).

Reference: Order dated 26/06/2018 in Criminal Misc. Application No. 17710/2013 of the Hon'ble High Court.

With respect, N.S. Desai, Assistant Police Commissioner, 'E' Division, Surat City, submits this report as under:

Deceased Dr. Dhaval Parmar committed suicide by jumping from the 9th floor of the newly constructed Kidney Hospital within New Civil Hospital. From the spot, an English handwritten diary belonging to the deceased was seized. On the right-hand

VERDICTUM.IN

page under 'Date: 04/07/2017', it was written: '*COMPRESSED, DEPRESS, TORTURE, AND 24 HOURS DUTY, NO LEAVE, STILL WORK SHOULD BE PERFECT, HOW CAN THIS HAPPEN I LOVE DAD AND MOM, BRO*'.

FSL Report No. AB Case No. 365/17 received from Assistant Director R.N. Guna, DFSGS Gandhinagar, confirms that the disputed writing in the diary is written in the handwriting of the deceased Dr. Dhaval Parmar. **In the handwritten diary of the deceased, NO SPECIFIC PERSON IS NAMED OR INDICATED.** Statements of 12 co-resident doctors studying in 1st-year M.S. Surgery were recorded. Statements of ward doctors (Dr. Hadiyo, Dr. Malviya), senior faculty members (HOU Dr. Sandip Counsel, Dr. Jignesh Patel, Dr. Ankit Rathod), nursing staff, ward boys, servants, CMO, PMO, and hospital staff were recorded. **None of these independent witnesses supported the allegations of harassment, physical abuse, or casteist slurs in their presence.** Independent doctors and staff stated that 1st-year M.S. students do not perform surgeries and only observe; **NO SURGICAL EQUIPMENT WAS EVER REQUIRED TO BE PURCHASED FROM OUTSIDE AT**

VERDICTUM.IN

> **THEIR OWN COST.** First-year residents do not have examinations. Furthermore, RFSL Surat Report No. RFSL/EE/2017/CF/72 confirms **no incriminating text or WhatsApp messages were found** on the deceased's mobile phones. Except the interested statements of the complainant, his family members, and relatives, statements of a large number of independent witnesses were recorded. Contrary to the complainant's allegations, these independent witnesses stated that no harassment, physical torture, or casteist abuse was ever committed against the deceased. Thus, except the statements of the complainant's family members, **NO INDEPENDENT OR CORROBORATIVE EVIDENCE WAS FOUND SUPPORTING THE ALLEGATIONS IN THE FIR."**
>
> (**Emphasis supplied by the Court***)*

3. SUBMISSIONS OF THE PARTIES

3.1. Learned Advocates for the Petitioners Ms. Kruti Shah and Mr. Ashish M . Dagli would submit that:

1. **Maintainability Post-Charge Sheet:** Mere submission of a charge sheet during the pendency of a petition under Section 482 Cr.P.C. does not restrict or oust the inherent powers of the High Court to prevent abuse of process, placing reliance on ***Anand Kumar Mohatta v. State (NCT***

VERDICTUM.IN

of Delhi) [(2019) 11 SCC 706] and ***Abhishek Mishra v. State of U.P. (2025)***.

2. **Lack of Authority & Hierarchical Position:** The Petitioners were merely a 2nd-year M.S. resident doctor, only one year senior to the deceased. Administrative control, duty rosters, and academic governance rested entirely with the HOD, Unit Heads, and Assistant Professors.
3. **Absence of Accused's Name in Suicide Note:** The suicide note recovered from the deceased and verified by FSL Gandhinagar attributes his state of mind to general work pressure, continuous 24-hour shifts, and sleep deprivation. The suicide note contains no mention or allegation against the present Petitioners.
4. **Refutation of Unsubstantiated Allegations:** Allegations regarding kicking the deceased in private parts or forcing students to buy surgical instruments are vague, uncorroborated, and inherently improbable. As confirmed by the police report, 1st-year residents do not perform surgeries, and surgical instruments are procured by hospital administration or patient relatives.
5. **No Medical Corroboration for Section 323 IPC:** The telephonic hearsay allegation of being kicked in private parts is completely unsupported by the Post-Mortem report, and no contemporaneous police complaint was lodged.
6. **SC/ST Act Inapplicability:** The statutory prerequisite of committing an offense "*in any place within public view*" under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act is totally absent. Alleged interactions inside wards, call duty rooms, or private conversations do not satisfy the "public view" test.

VERDICTUM.IN

7. **Impossibility of Factual Allegations:** 1st-year M.S. residents do not perform operations, have no exams, and are never required to purchase surgical equipment at personal expense.
8. **Reliance on Legal Precedents:**
    1. *State of Haryana v. Bhajan Lal (AIR 1992 SC 604)*
    2. *Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618]*
    3. *Sanju @ Sanjay Singh Sengar v. State of M.P. [(2002) 5 SCC 371]*
    4. *Netai Dutta v. State of West Bengal [(2005) 2 SCC 659]*
    5. *A.K. Chaudhary v. State of Gujarat [(2006) 1 GLH 444]*
    6. *M. Arjunan v. State [(2019) 3 SCC 315]*
    7. *Mohit Singhal v. State of Uttarakhand [(2024) 1 SCC 417]*
    8. *Nipun Aneja v. State of U.P. [Criminal Appeal No. 654 of 2017, Decided 03-10-2024]*
    9. *Patel Babubhai Manohar Das v. State of Gujarat [Criminal Appeal No. 1388 of 2014, Decided 05-03-2025]*
    10. *Geeta v. State of Karnataka [Criminal Appeal No. 1044 of 2018, Decided 09-09-2025]*

3.2. Learned Advocate Mr. Zubin Bharda with Dr. Bhagirath N Patel and Mr. Kishan H. Daiya for the Complainant and Learned APP Mr. Rohan Shah for the State would submit that:

1. **Charge Sheet Filed:** Investigation is complete and a charge sheet has been submitted and numbered as ATRO

VERDICTUM.IN

Case No. 61 of 2019 therefore, quashing petition should not be entertained.

2. **Disputed Questions of Fact:** Quashing under Section 482 Cr.P.C. is impermissible when disputed facts exist, which must be tested during trial. Since there are disputed questions and the arguments raised by the petitioners are defences can only be tested during trial and not in quashing petition.
3. **Deceased's Writings & Systematic Torture:** The deceased recorded in his notebook that he was subjected to 24+ hour continuous duty, denied breaks, and subjected to physical and mental harassment by senior resident doctors. Specific allegations are levelled against each petitioners and the deceased had regular talk with his family members more particularly his father/Informant.
4. **Environment Driving Suicide:** Senior doctors created an atmosphere so unbearable that the deceased was forced to commit suicide and was not left with any other option but suicide. Nature of allegations are detailed in the FIR as well as subsequent statements of the Informant.
5. **Pattern of Continuous Harassment & Workload:** The allegations in the FIR and statement dated 19/09/2017 clearly indicates regarding continuous 24-48 hour duty shifts, sleep deprivation, denial of leave, and verbal reprimands.
6. **The Morning Phone Call of 04/07/2017:** The deceased's final phone call at 09:00 AM regarding arbitrary behavior of seniors and purchasing surgical equipment would be relevant as on the same day the deceased committed suicide and on the same day FIR came to be lodged and the

VERDICTUM.IN

averments in the FIR are factual of what transpired with the deceased.

7. **Casteist Slurs & Physical Assault Allegations:** The FIR as well as the subsequent statement dated 19/09/2017 asserts regarding caste-based remarks and alleged physical assault and therefore strong prima facie case is made out against the Petitioners. That a young aspiring doctor has lost his life due to the act of the Petitioner and hence has argued to reject the petitions.

4. ISSUES FOR DETERMINATION

1. **Issue I:** Whether the filing of a charge sheet bars the High Court from exercising its inherent powers under Section 482 Cr.P.C.?
2. **Issue II:** Whether the uncontroverted allegations in the FIR, Charge Sheet, verbatim subsequent statements, and Official Police Report satisfy the statutory ingredients of Section 306 read with Section 107 IPC (Abetment of Suicide) against the Petitioners?
3. **Issue III:** Whether offenses under Sections 3(1)(r), 3(1)(s), and 3(2)(v-a) of the SC/ST (Prevention of Atrocities) Act are attracted against the Petitioners?
4. **Issue IV:** Whether offenses under Sections 323 and 114 IPC are prima facie made out?
5. **Issue V:** What is the legal impact of the complainant's verbatim subsequent statement dated 13/07/2017 suspecting murder/foul play on the charge under Section 306 IPC?
6. **Issue VI:** Whether the official Police Status Report and FSL findings provide independent, unassailable grounds for

VERDICTUM.IN

quashing without holding a mini-trial?

5. ANALYSIS

5.1. Maintainability of Section 482 Cr.P.C. Petition Post-Charge Sheet

It is a settled proposition of law that the mere filing of a charge sheet during the pendency of a petition under Section 482 Cr.P.C. is no bar to the exercise of inherent powers. The Apex Court in the case of ***Anand Kumar Mohatta v. State (NCT of Delhi)*** reported in ***(2019) 11 SCC 706*** held that merely filing of charge-sheet is not a ground for refusal to exercise jurisdiction under Section 482 Cr.P.C. High Court's power under Section 482 is not restricted merely because the police have completed the investigation and filed a charge sheet under Section 173(2) Cr.P.C. and the High Court in a given case can quash the proceedings to prevent abuse of process of power of any court.

Thus, the submission of the charge sheet and registered as ATRO Case No. 61 of 2019 does not prevent this Court from evaluating whether the materials on record disclose any prima facie offense. Hence, this contention of the complainant stands rejected.

5.2. Scope of Jurisdiction under Section 482 Cr.P.C. – Absolute Prohibition against Mini-Trial

While exercising powers under Section 482 Cr.P.C., the High Court must not conduct a mini-trial, weigh conflicting oral testimony, or evaluate witness credibility. The sole legal test is whether the allegations contained in the FIR, Charge Sheet, supporting statements, and official reports—accepted on their face value as 100% true without altering a single word—satisfy the essential statutory ingredients of the alleged offenses. If the uncontroverted facts fail to constitute the offenses alleged,

VERDICTUM.IN

requiring the accused to undergo a full-fledged trial amounts to an abuse of the judicial process.

5.3. Analysis of Section 306 read with Section 107 IPC (Abetment of Suicide)

To sustain a charge under Section 306 IPC, the prosecution must establish "abetment" as defined under Section 107 IPC. Section 107 IPC defines the three distinct legal modes by which abetment can take place. To constitute "abetment", the prosecution must satisfy **at least one of these three statutory limbs**, accompanied by specific *mens rea*:

A. Instigation (Limb 1)

1. **Active Incitement / Provocation:** The accused must do a positive, active act that goads, urges, provokes, or incites another person to commit the offence.
2. **Direct Psychological Connection:** The words or acts of the accused must directly push or drive the victim to take the extreme step.
3. **Mens Rea:** Instigation requires a clear mental intention (*mens rea*) to bring about the specific result (the crime or self-destruction). Mere harsh words spoken in anger or casual reprimands without intent do not constitute instigation.

4. B. Conspiracy (Limb 2)

1. **Prior Meeting of Minds:** An agreement or active combination between two or more persons to commit the illegal act or omission.
2. **Overt Act in Pursuance:** An act or illegal omission must take place in pursuance of that agreement to facilitate the crime.

C. Intentional Aid (Limb 3)

VERDICTUM.IN

1. **Facilitation:** Doing an act prior to or at the time of the commission of the offence that directly facilitates or aids its execution.
2. **Intention to Aid:** The act must be done with the deliberate intention of assisting the commission of the crime.

Whereas essential ingredients to be fulfilled to bring a case under Section 306 of IPC requires:

1. Commission of Suicide by the Victim

- The actual occurrence of suicide by the victim is the primary foundational fact. (If suicide is not established, Section 306 IPC cannot apply).

2. Active Abetment falling under Section 107 IPC

- The prosecution must establish that the accused committed a positive act falling strictly within one of the three limbs of Section 107 IPC (Instigation, Conspiracy, or Intentional Aid).
- Passive conduct, hyper-sensitivity of the victim, or routine workplace/academic friction does not satisfy this ingredient.

3. Specific *Mens Rea* (Direct Intent to Drive Victim to Suicide)

- There must be a **clear *mens rea*** on the part of the accused to push or drive the victim to commit suicide.
- **Knowledge is not intent:** Mere knowledge that someone might feel distressed is insufficient; the accused must intend for the victim to end their life.

4. Proximate Cause

- There must be a direct, proximate nexus between the act attributed to the accused and the commission of suicide.
- Remote, past incidents without an immediate, continuous trigger or unbroken causal chain fail this ingredient.

VERDICTUM.IN

5. The "No Option Left" Test

- The acts/conduct of the accused must be of such severe intensity and character that a person of ordinary prudence in the victim's position would be left with **no other option** but to end their life.

A. Cited Precedents on Section 306 IPC & Application:

Before adverting to the judgments relied by Learned Advocates for the Petitioners it would be apt to refer the judgement in the case of Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd. and others, reported in (2003) 2 SCC 111 where the Apex Court held that the ***precedential value*** of a judgment depends on the ***facts*** and circumstances of a particular case and even an additional fact may change the ***precedential value*** of a judgment. However, to address the submissions fully, the legal principles relied upon by the petitioners are dealt with briefly as under:

- ***Ramesh Kumar v. State of Chhattisgarh [(2001) 9 SCC 618]:*** The Supreme Court held that instigation requires a clear, intention-driven push that leaves the victim with no alternative but to commit suicide. **Applied to Present Case:** Institutional duty schedules, extended working hours, or strict academic pressure in medical residency do not constitute intentional instigation.
- ***Sanju @ Sanjay Singh Sengar v. State of M.P. [(2002) 5 SCC 371]:*** The Supreme Court held that abusive words uttered in a fit of anger or routine altercations lack the requisite *mens rea* under Section 107 IPC. **Applied to**

VERDICTUM.IN

Present Case: Alleged workplace reprimands or harsh words by senior resident doctors do not establish *mens rea* to cause suicide.

- ***Netai Dutta v. State of West Bengal [(2005) 2 SCC 659]:*** The Supreme Court quashed Section 306 IPC proceedings where the suicide note failed to attribute direct, intentional instigation to the accused and workplace dissatisfaction alone cannot amount to abetment. **Applied to Present Case:** The genuine diary entry verified by FSL Gandhinagar attributes the deceased's state of mind to work strain ("*COMPRESSED, DEPRESS, TORTURE, AND 24 HOURS DUTY*") and contains no specific allegation or name of the Petitioners.
- ***A.K. Chaudhary v. State of Gujarat [(2006) 1 GLH 444]:*** The Court emphasized that mere administrative or disciplinary action, even if unpleasant, does not constitute instigation or intentional aid to suicide. Although the suicide note blamed the officers, the Court held that attribution alone is insufficient without evidence of active instigation or intentional aid. **Applied to Present Case:** Post-graduate M.S. Surgery residency entails demanding 24-hour shifts; enforcing duty rosters does not amount to an offense under Section 306 IPC.
- ***M. Arjunan v. State [(2019) 3 SCC 315] & Mohit Singhal v. State of Uttarakhand [(2024) 1 SCC 417]:*** The Apex Court held that there must be a direct, proximate link with explicit *mens rea* between the act of the accused and the suicide. The suicide note only described financial difficulties, pressure to repay, and the deceased's inability to meet obligations. It did not indicate any instigation,

VERDICTUM.IN

intentional aid, or active abetment by the accused. Mere use of abusive language, pressure for repayment, or financial disputes do not constitute abetment unless they show a clear intention to provoke suicide. In Mohit Singhala it was held that demanding repayment, using abusive language, or even assault two weeks earlier could not amount to instigation. There was no act in close proximity to the suicide. A**pplied to Present Case:** There is no proximate, intentional act by the Petitioner on or near 04.07.2017 driving the deceased to end his life.

- ***Nipun Aneja v. State of U.P. (2024):*** The Supreme Court cautioned Courts against misapplying Section 306 IPC to workplace or academic stress. In the said case Key allegations in the FIR included were persistent pressure to accept VRS, humiliation of Rajeev Jain during a meeting on 3 November 2006, issuance of letters perceived as demotions and threats allegedly made by certain officers. The Apex Court held that The FIR and statements showed **general workplace dissatisfaction**, not targeted instigation issuing merchandising letters or discussing VRS fell within **managerial discretion** and did not amount to deliberate provocation. There was no evidence showing that the officers exploited vulnerabilities or created an environment leaving suicide as the only option and that humiliation or harsh workplace conduct, without more, does not satisfy ingredients of Section 306 IPC. **Applied to Present Case:** Inability to cope with postgraduate residency strain cannot be converted into criminal prosecution against senior residents.

VERDICTUM.IN

5.4. Impact of Complainant's Verbatim Statement Dated 13/07/2017 (Suspicion of Murder)

In his sworn statement recorded on 13/07/2017, the complainant explicitly dictated:

> "*Furthermore, if my son had committed suicide by jumping from the 9th floor, there were no external injury marks or bleeding visible on his body, due to which we suspect that my son was killed and then thrown from above.*"

Evaluation of Statement without Mini-Trial:

Accepting the statement dated 13/07/2017 exactly as recorded—without embarking upon a mini-trial—the Informant explicitly raised a grave suspicion of homicide and foul play, asserting that the deceased was '*killed and thrown*' from the building. While a subjective suspicion expressed by an informant cannot override objective forensic and medical findings establishing suicide, this dramatic shift in the prosecution narrative carries immense legal significance. A charge under Section 306 IPC is legally contingent upon a definite, unvacillating case of abetment of self-destruction. Where the principal witness repeatedly alters his foundational premise—pivoting from alleged mental harassment to a direct suspicion of murder—it exposes that the allegations in the FIR are anchored in speculation, assumptions, and evolving conjectures rather than personal knowledge or verified facts. Such glaring inconsistencies in the Informant's own sworn statements severely undermine the credibility of the prosecution case, rendering it unsafe to sustain a criminal prosecution for abetment of suicide.

VERDICTUM.IN

5.5. Complainant's Verbatim Statement Dated 19/09/2017 (Pattern of General Academic Stress)

Examining the verbatim statement dated 19/09/2017 as true on its face value, it emerges that prior to joining Surat Civil Hospital, the deceased experienced identical work stress, strictness, leave denials, and witnessing seniors reprimanding juniors at P.D.U. Medical College, Rajkot, under HOD Dr. Jatin Bhattu.

Evaluation Further Statement without Mini-Trial:

This verbatim narrative demonstrates a generalized difficulty faced by the deceased in coping with the demanding, high-pressure routine of M.S. Surgery residency across institutions, rather than a targeted criminal campaign or instigation by the Petitioner. Furthermore, the complainant explicitly recorded that his son wanted to endure the residency ("*I will stay for 2 to 3 months, after which all ragging will subside... I will endure this*"). While this Court categorically clarifies that it in no way condones or encourages ragging—which remains an unmitigated social evil that must be dealt with an iron hand under appropriate administrative and legal frameworks however, every instance of institutional friction, academic intimidation, or unpardonable misconduct does not automatically equate to 'instigation' as defined under Section 107 of the IPC. In the absence of a direct, intentional act accompanied by the specific *mens rea* to compel the deceased to take his own life, the statutory ingredients of abetment remain conspicuously absent.

5.6. Independent Findings in Official Police Status Report & FSL Reports

Without embarking upon a mini-trial, this Court is entitled to examine the uncontradicted findings in official Police Status

VERDICTUM.IN

Reports and scientific FSL reports submitted directly to the Court:

1. **Absence of Proximate *Mens Rea* or Instigation in the Final Conversation:**

The prosecution lays heavy emphasis on the telephonic conversation occurring at 09:00 AM on the date of the incident (04/07/2017) to establish a proximate temporal link between the deceased's death and the alleged conduct of the Petitioners. However, examination of the statement reveals that during this conversation, the deceased merely expressed a desire to drop out of the academic program ("*Papa, I want to leave Surgery*"). At no point during this final communication did the deceased state that he was being driven to self-destruction, nor did he allege any fresh or immediate act of physical assault, caste based abuse, or direct threat by the Petitioners. Under Section 107 of the IPC, an expression of academic dissatisfaction or an intention to discontinue a post-graduate course cannot be stretched to translate into criminal abetment on the part of senior residents. In the absence of any contemporaneous threat, positive act, or *mens rea* conveyed during that call, the conversation fails to establish the mandatory legal bridge between the Petitioners' conduct and the ultimate tragic act of self-destruction.

2. **Factual Impossibility & Application of *Bhajan Lal* Category (5):**

Furthermore, accepting the timing and occurrence of this call on face value, the foundational grievance disclosed by the deceased during the said conversation—*i.e., that senior doctors compel 1st-year residents to purchase surgical equipment at their own expense during live operations*—has been established by the official police status report to be factually impossible. As recorded

VERDICTUM.IN

by the Investigating Officer after examining 12 co-resident doctors, HODs, and ward staff, 1st-year M.S. residents do not perform operations and only act as observers, and all surgical materials are mandatorily supplied by the Government Hospital. Where the primary grievance disclosed during the last phone call rests on an allegation that is absurd and inherently improbable, it attracts Category (5) of the principles laid down in *State of Haryana v. Bhajan Lal (AIR 1992 SC 604)*, rendering the allegation incapable of establishing criminal instigation under Section 306 IPC.

3. **Total Lack of Independent Corroboration:** The I.O. explicitly reported that statements of 12 co-resident doctors, nurses, ward boys, servants, CMOs, and hospital staff were recorded. Even statement of past student was recorded. Not a single independent witness corroborated any physical harassment, torture, or cast based slurs.

4. **Negative Digital FSL Findings:** Surat RFSL Report No. RFSL/EE/2017/CF/72 confirms that no incriminating text messages or WhatsApp messages were found on the mobile phones of the deceased. In an era where electronic communication forms the primary digital footprint of human interaction, the complete absence of any hostile, threatening, or abusive content assumes paramount legal significance. The forensic extraction and analysis conducted by RFSL Surat of both mobile devices recovered from the deceased revealed zero incriminating text messages, WhatsApp chats, or media files directed by or associated with the Petitioners. Had there been a sustained campaign of targeted harassment, mental torture, or caste based intimidation as alleged by the Informant, it would have reasonably left some digital trail or electronic echo on the

VERDICTUM.IN

deceased's personal devices. The total absence of any such digital evidence negatives the plea of a continuous or proximate course of abusive conduct, thereby fortifying the conclusion that the statutory threshold of active instigation under Section 107 IPC remains completely unfulfilled.

Thus, where official, uncontradicted documents (like further statements of the Informant, FSL report and police status report) completely refute the foundational assertions in the FIR, the High Court cannot shut its eyes under the guise of avoiding a "mini-trial."

5.7. Inapplicability of SC/ST (Prevention of Atrocities) Act Provisions

Sections 3(1)(r) and 3(1)(s): A fundamental prerequisite for attracting the penal provisions of Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities) Act, 1989, is that the alleged intentional insult, intimidation, or caste based slur must have occurred "*in any place within public view.*" It is a well-settled proposition of law, as enunciated by the Supreme Court in *Hitesh Verma v. State of Uttarakhand* reported in *(2020) 10 SCC 710* and *Swaran Singh v. State* reported in *(2008) 8 SCC 435*, that a "place within public view" is legally distinct from a mere "public place." Even if an alleged occurrence takes place within the precincts of a public institution—such as a hospital ward, call duty room, or departmental office—it does not satisfy the statutory requirement unless it is witnessed by independent members of the public who are not tied to or interested in the parties. Accepting every allegation in the FIR and the subsequent statements of the Informant as true on face value, the alleged utterances were purportedly made during private intra-departmental discussions,

VERDICTUM.IN

routine ward duties, or enclosed academic interactions. The official police investigation report further confirms that not a single independent witness—among the co-resident doctors, nursing staff, ward boys, or hospital workers—corroborated the utterance of any caste based slurs in their presence or sight. Consequently, the mandatory statutory ingredient of the offense taking place within "public view" remains completely unfulfilled, rendering the invocation of the Atrocities Act legally unsustainable. It is also worth noting that Petitioner Dr. Naren Makewana belongs to Schedule Tribe as it would reflect from the chargesheet hence also provisions of Atrocity Act are not attracted qua him.

1. **Section 3(2)(v-a):** This provision applies only when a scheduled IPC offense is committed against an SC/ST member. Since the underlying IPC offenses (Sections 306 and 323) fail on statutory merits, Section 3(2)(v-a) cannot stand independently.

2. Exoneration of Co-Accused Named in the FIR:

It is an undisputed fact on record that the FIR initially named five distinct individuals, including senior administrative and institutional authorities, namely Dr. Nimesh Verma (HOD Surgery Dept.), Dr. Jayeshkumar Brahambhatt (Dean of New Civil Hospital) and Dr. Ganesh Govekar (Head of Surgery Departament). Following an exhaustive investigation, the police agency itself exonerated these three individuals and chose not to file a charge sheet against them, finding the omnibus allegations in the complaint completely unsubstantiated. This deliberate exclusion and exoneration by the investigating agency carries significant legal weight. Where the core narrative of the FIR—which alleged a collective harassment involving administrative heads and seniors alike—has been found by the State’s own investigation to

VERDICTUM.IN

be factually unsustainable against the key institutional authorities, the very same uncorroborated, generic assertions cannot be selectively weaponized to sustain a criminal prosecution against the present Petitioners. The rejection of the foundational allegations qua the co-accused demolishes the theory of a systematic, institutional campaign of torture, thereby further exposing the absence of any credible material to establish mens rea or direct abetment under Section 306 IPC against the Petitioners.

5.8. Inapplicability of Sections 323 and 114 IPC

- **Section 323 IPC:** The allegation that one of the Petitioner kicked the deceased days prior, rests purely on hearsay telephonic statements. As is evident from the Post-Mortem (PM) report, there are no external injuries on the private parts of the deceased. Furthermore, while the father rushed to lodge an FIR on the very day of the incident of suicide, no prior complaint or FIR was ever lodged with the police regarding any such alleged physical assault on the private parts of the deceased. This conduct of the Informant speaks volumes regarding the unreliability of the allegations levelled in the FIR.
- **Section 114 IPC:** Section 114 IPC does not create a distinct substantive offence; rather, it renders an abettor liable as a principal offender if he is present at the time when the offense is committed, provided that prior abetment is established. For Section 114 IPC to be attracted, the prosecution must first independently establish the foundational ingredients of abetment under Section 107 IPC. In the present case, since the primary charges under Section 306 and Section 323 IPC fail for want

VERDICTUM.IN

of *mens rea*, proximate instigation, and physical evidence, the invocation of Section 114 IPC cannot stand on its own feet. Mere presence without prior active abetment does not attract penal liability under Section 114 IPC.

5.9. A critical circumstance that cannot be overlooked by this Court is the temporal duration of the deceased's association with the institution. The entire tenure of the deceased as a First-Year M.S. Surgery resident spanned a brief period of merely 43 days prior to the tragic incident. To attract the severe penal consequences of Section 306 IPC, the law demands either a proximate, direct act of instigation or a continuous, long-term course of cruel conduct that leaves the victim with no reasonable alternative but to end his life. A total institutional exposure of barely six weeks—during which the deceased was still in the initial orientation phase of an extraordinarily demanding surgical program—severely undermines the theory of a sustained, deep-rooted persistent harassment by the Petitioners who are 2nd and 3rd year students respectively.

As evident from the chargesheet, the association of the deceased with the department spanned a brief period of merely 43 days. Applying the objective standard laid down by the Supreme Court in Geo Varghese v. State of Rajasthan reported in *AIR 2021 SC 4764* academic reprimands would not fall within four corners of Section 107 of IPC. In the case on hand routine departmental instructions, academic reprimands, or allocation of ward work during an initial orientation period cannot be legally elevated to the status of 'instigation' under Section 107 IPC. While the inability to cope with a demanding residency program is deeply tragic, attributing the tragic outcome to a deliberate criminal design (*mens rea*) on the part of senior resident doctors

VERDICTUM.IN

—in the absence of any concrete material establishing a direct, positive act intended to compel self-destruction within this brief (43 days) 6-week window—fails the mandatory statutory test under Section 107 of IPC.

6. CONCLUSION

6.1. While this Court deeply sympathizes with the informant family for the tragic loss of a young doctor, criminal law requires strict adherence to statutory ingredients. Allowing criminal prosecution to proceed against the Petitioners where essential statutory ingredients are absent would constitute a clear abuse of the process of law.

6.2. Thus, for the reasons stated herein above Criminal Misc. Application No. 17710 of 2017 and Criminal Misc. application No. 17946 of 2017 are allowed. FIR bearing C.R. No. I-151/2017 registered with Khatodara Police Station, District Surat, and all consequential proceedings arising therefrom, including ATRO Case No. 61 of 2019 pending before the learned Additional District Judge, Surat, are hereby Quashed and set aside qua the present Petitioners. Rule is made absolute accordingly.

(P. M. RAVAL, J)

MMP