

Crl.M.C.No.1229/21

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 15TH DAY OF OCTOBER 2025 / 23RD ASWINA, 1947

CRL.MC NO. 1229 OF 2021

CRIME NO.326/2019 OF Pudunagaram Police Station, Palakkad

THE ORDER/JUDGMENT DATED IN CP NO.2 OF 2021 OF
JUDICIAL MAGISTRATE OF FIRST CLASS ,CHITTUR

PETITIONER

SIVADASAN NAIR K.G.,
AGED 58 YEARS
S/O. GOVINDAN NAIR, KOLLARIKKAL HOUSE, MANEED,
ERNAKULAM 686664.

BY ADVS.
DR.S.GOPAKUMARAN NAIR (SR.)
SHRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SRI.K.ARJUN VENUGOPAL
SHRI.ASWIN KUMAR M J
SHRI.ARUN ROY
SRI.SHAHIR SHOWKATH ALI
SMT.HELEN P.A.

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RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682031.

OTHER PRESENT:

SRI. SANAL. P. RAJ, PP.

THIS CRIMINAL MISC.CASE HAVING BEEN FINALY HEARD ON
15.07.2025, THE COURT ON 15.10.2025 PASSED THE FOLLOWING:

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'CR'

V.G.ARUN, J

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Crl.M.C.No.1229 of 2021

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Dated this the 15th day of October, 2025

ORDER

The petitioner is the 2nd accused in Crime No.326 of 2019 initially registered at the Pudunagaram Police Station under Section 174 of Cr.P.C. The police, after investigation, filed Annexure-A2 final report alleging commission of offences under Sections 306 read with 113 of IPC. Thereupon, the matter was taken on files of the Judicial Magistrate of First Class, Chittur as C.P.No.2 of 2021. The allegations in the final report are to the following effect;

A business venture by name "Mind Masters Technology Pvt.Ltd." was started by the victim Ramesh, along with his wife and the accused. The money towards his share, as well as the shares of the accused, was invested by Ramesh himself, on the assurance of the accused that they will repay the amount. The



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money required for the investment was raised by Ramesh from the funds of his proprietary concern called “Solucion Limited”. After forming the new company, its day to day affairs were entrusted with the accused, but the failure on their part to handle the affairs properly resulted in the company facing acute financial crisis. The situation was so bad that it became impossible to even pay the salary of the company's staff. On their part, the accused directed the staff and creditors of the company to approach Ramesh demanding payment. They also compelled Ramesh to meet the demand. Unable to withstand the pressure, Ramesh committed suicide at his parental house in the early morning of 22.10.2019, by setting himself on fire.

2. Heard Senior Advocate S.Gopakumaran Nair for the petitioner and Public Prosecutor Adv.Sanal P Raj for the State.

3. Learned Senior Counsel contended that the prosecution allegations, even if accepted in their entirety, are not sufficient to attract the alleged offence since, for a person to be prosecuted alleging abetment of suicide, there should be



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instigation from his part and close proximity between the act of instigation and commission of suicide. To support the contention, reliance is placed on the decisions of the Apex Court in **Prakash and Others v. State of Maharashtra and Another** [2024 SCC OnLine SC 3835] and **Gurcharan Singh v. State of Punjab** [2020 KHC 6567].

4. According to the Senior Counsel, the allegation that the petitioner and other accused made the creditors demand the amounts due to them from Ramesh and had compelled Ramesh to make the payments are false. The suicide only indicates that Ramesh was a feeble minded person with no willpower to face and get over the business crisis. Even if Ramesh was under great mental stress and strain, his act of committing suicide, to escape from the crisis, cannot result in the petitioner being prosecuted.

5. It is then contended that the statements in the suicide note do not reveal any act of instigation from the petitioner's part. Further, the allegation that the petitioner had telephoned



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Ramesh on the ill-fated night cannot be accepted, since the call data records are not seized and produced. Finally, it is contended that for attracting the offence of abetment, as in other offences, *mens rea* has to be established. Support for this argument is sought to be drawn from the decision of the Apex Court in **Gurcharan Singh** (supra).

6. According to the learned Public Prosecutor, the circumstances under which Ramesh committed suicide makes it apparent that he was driven to take the extreme step due to the treacherous acts and the pressure exerted by the accused. The suicide note indicates that the final act was committed by Ramesh after answering the petitioner's call. Hence, the contention that there is no proximity between the act of the accused and the suicide cannot be countenanced. Even otherwise, that question has to be decided based on the evidence tendered during trial.

7. As contended by the learned Senior Counsel, for attracting the offence under Section 306 of IPC, the accused



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should have instigated the victim to commit suicide. The Supreme Court in **Prakash and Others** (supra) has held the close proximity between the positive act of instigation by the accused person and commission of the suicide by the victim to be a cardinal aspect.

8. Here, the victim was under tremendous mental pressure by reason of the financial crisis faced by the company and his own proprietary concern. There is also forensic evidence to the effect that the suicide note recovered by the police is in the handwriting of the person who had written the other pages in the note book. The suicide note mentions about the treachery committed by the accused. The note also contains a tailpiece where the author has noted that the petitioner had called over phone and threatened that he will be taught a lesson. In order to satisfy the requirement of instigation, it is not necessary that the words spoken must be capable of compelling the victims to commit suicide. It would suffice if the instigation is suggestive of the consequence.



Whether the alleged offensive acts of the accused are so proximate as to have a clear nexus with the suicide instigation, can be decided only on a wholesome consideration of the facts and circumstances. The law on this point is expounded by the Apex Court in **Chitresh Kumar Chopra v. State (Government of NCT of Delhi)** [(2009) 16 SCC 605], the relevant portion of which is extracted below;

“19. As observed in Ramesh Kumar [(2001) 9 SCC 618: 2002 SCC (Cri) 1088], where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.”



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9. Thus, for deciding whether there was incitement or instigation by the petitioner, appreciation of evidence is essential. As held in **Naresh Aneja alias Naresh Kumar Aneja v. State of Uttar Pradesh and Another** [(2025) 2 SCC 604], the High Court is not expected to conduct a mini trial or minute examination of the records for deciding whether to exercise its inherent power under Section 482 Cr.P.C. Pertinent also to note that, the entire set of documents produced along with the final report are not made part of this Crl.M.C.

For the aforementioned reasons the Crl.M.C is dismissed, without prejudice to the petitioner's right to approach the trial court. Needless to say, if a discharge petition is filed, the court below is bound to pass a reasoned order thereon.

sd/-

V.G.ARUN, JUDGE



APPENDIX OF CRL.MC 1229/2021

PETITIONER ANNEXURES

Annexure-6	THE CERTIFIED COPY OF THE DOCUMENT EXAMINATION REPORT/OPINION WAS RECEIVED BY PETITIONER
Annexure -7	THE CERTIFIED COPY OF THE SUICIDE NOTE ALLEGED TO BE WRITTEN BY THE DECEASED
Annexure - 8	TRUE COPY OF THE BALANCE SHEET OF SOLUCION UNLIMITED, A PROPRIETORSHIP CONCERN OWNED BY THE DECEASED, MR. RAMESH G.P.,
Annexure -9	TRUE COPY OF THE COMPANY/LLP MASTER DATA OF MIND MASTER TECHNOLOGIES PVT LTD IN WHICH THE DECEASED WAS A PARTNER
ANNEXURE A1	THE TRUE COPY OF THE FIR NO. 326/2019 DATED 22/10/2019.
ANNEXURE A5	TRUE COPY OF THE STATEMENT RECORDED BY THE POLICE FROM THE BROTHER OF DECEASED RAMESH DATED NIL.
ANNEXURE A2	THE TRUE COPY OF THE REPORT DATED 30.12.2020 SUBMITTED BY THE POLICE IN CRIME NO. 326/2019 OF PUDUNAGARAM POLICE STATION.
ANNEXURE A3	TRUE COPY OF THE STATEMENT RECORDED BY THE POLICE FROM THE MOTHER OF DECEASED RAMESH DATED 22.10.2019.
ANNEXURE A4	TRUE COPY OF THE STATEMENT RECORDED BY THE POLICE FROM THE WIFE OF DECEASED RAMESH DATED NIL.