

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR CONSENT QUASHING) NO. 3573
of 2026**

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KAJALBEN ASHVINBHAI CHOTARA & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1,2,3,4

MS KRINA P.CALLA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS

Date : 05/03/2026

ORAL JUDGMENT

1. RULE returnable forthwith. Learned APP Ms.Asmita Patel waives service of notice of rule for and on behalf of the respondent no.1 – State and learned advocate Mr.Jaypalsinh B.Vaghela waives service of notice of rule for and on behalf of the respondent no.2 – original complainant.

2. By way of preferring the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the present applicants-accused, who are the husband and in-laws of the deceased, seek to invoke the inherent powers of this Court, praying to quash and set-aside the First Information Report

being I-CR No.227 of 2017 lodged before the Anjar Police Station, Kachchh, as well as the proceedings of the Sessions Case No.14 of 2019 pending before the learned Sessions Judge, Anjar, Kachchh, for the offences punishable under Section 498A, 306 and 114 of the Indian Penal Code.

3. Initially, the present application was filed for consent quashing, however, considering the gravity and seriousness of the offence, the matter has been heard on merits.

4. Heard learned advocate Mr.Mahesh Pujara for Mr.Ashish M.Dagli, learned advocate appearing for the applicants-accused, learned advocate Mr.Jaypalsinh B.Vaghela appearing for the respondent no.2 – original complainant and learned APP Ms.Asmita Patel appearing for the respondent no.1 – State.

5. It is the case of the prosecution that the deceased (i.e. the daughter of the complainant) got married to the present applicant no.4 on 22.05.2017, and after her marriage, she was residing with her husband in a joint family. It is alleged that soon after her marriage, she was subjected to persistent mental

and physical cruelty, alongside consistent ill-treatment. It is further alleged that she was prevented even from visiting her parental home, therefore, feeling distress and disappointment, she took her own life out of despair by hanging herself.

6. At the outset, learned advocate Mr.Mahesh Pujara appearing for the applicants-accused has submitted that the impugned FIR was lodged by the complainant on account of doubt, misunderstanding and misconception, and now the complainant has settled the matter with the applicants and has also filed an affidavit dated 29.01.2026 to that effect.

7. Learned advocate Mr.Pujara has submitted that the impugned FIR lodged by the first informant is palpably false and there is not an iota of evidence to implicate the present applicants-accused with the alleged offence. He has further submitted that the prosecution offered no account and failed to explain the crucial events immediately preceding the incident on the fateful day. Learned advocate Mr.Pujara has submitted that the proximity between the alleged act of instigation by the applicants-accused and the commission of suicide by the

deceased has not been proved. He has further submitted that except the statement of the complainant, there is no other evidence to connect the present applicants with the alleged offence. It is further submitted that the complainant has made vague, omnibus and general allegations against the applicants-accused, and the FIR, even if it is considered at its face value, the same could not even establish the offence as alleged in the FIR.

8. Learned advocate Mr.Pujara has, therefore, urged that considering the above, the application may be allowed and the impugned FIR may be quashed and set-aside.

9. Learned advocate Mr.Jaypalsinh B.Vaghela appearing for the complainant (i.e. the mother of the deceased) has submitted that since the matter has been settled between the parties and there is no ill-will or grievance amongst them, the present application may be allowed and the impugned FIR as well as the proceedings of the Sessions Case may be quashed and set-aside.

10. Learned APP Ms.Krina P.Calla appearing for the respondent – State has vehemently opposed the present

application and has submitted that having regard to the gravamen and seriousness of the offence, the application may not be entertained and the same may be rejected.

11. A bare perusal of the complaint indicates that upon marrying the applicant no. 4, the deceased resided with them in a joint family, which included the other applicants-accused. Furthermore, it appears from the material on record that except the statement of the complainant, no other evidence of any witness could be obtained. It is alleged that due to the torture by the applicants-accused, the deceased had committed suicide. It reveals that immediately after the occurrence, the deceased was taken to a hospital, where she was declared dead. It also appears that on the strength of the complaint filed by the mother of the deceased, the investigation was carried out, and during the course of the inquiry, the police had recorded the statement of the complainant as well as her family members, who were admittedly not present at the place where the incident had occurred. Admittedly, there is no suicide note on record.

12. This Court is conscious of the fact that in such type of serious offences, the FIR cannot be quashed only on the basis of

the consent and the court has to consider the merits of the case and to form an opinion, whether the ingredients of Section 107 are attracted or not ? In other words, by examining the materials on record, the court would require to form an opinion, whether, there is a *prima facie* case against the present applicants-accused, which requires a full-fledged trial.

13. It is settled that to attract Section 107 of the IPC, the accused must have *mens rea* to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide. In the present case, it appears from the materials on record that there is no suicide note by the deceased, and further there is no evidence on record to suggest as to what had happened immediately preceding the incident. Admittedly, the Investigating Officer has not recorded the statement of the neighbour. It also appears that there is no reference to any specific incident and the allegations made by the complainant are general in nature. Even, considering the case of the prosecution on a demurrer and at its highest, the Court does not find the essential ingredients of

Section 107 of the Indian Penal Code are being attracted.

14. At this juncture, I may refer to the decision of the Supreme Court in case of **Shenbagavalli and others vs. Inspector of Police, Kancheepuram District and another**, reported in 2025 INSC 607, wherein the Supreme Court held as under :-

“15. Section 306 requires a person having committed suicide as a first requirement but for abetment of such commission, which is essential, the ingredients must be found in Section 107 IPC. The requirement of abetment under Section 107 IPC is instigation, secondly engagement by himself or with other person in any conspiracy for doing such thing or act or a legal omission in pursuance to that conspiracy and thirdly intentionally aids by any act or an illegal omission of doing that thing. In large number of judgments of this Court it stands established that the essential ingredients of the offense under Section 306 IPC are (i) the abetment; (ii) intention of the accused to aid and instigate or abet the deceased to commit suicide. Merely because the act of an accused is highly insulting to the deceased by using abusive language would not by itself constitute abetment of suicide. There should be evidence suggesting that the accused intended by such act to instigate the deceased to commit suicide. [M.Arjunan vs. State represented by its Inspector of Police, (2019) 3 SCC 315]

16. Similarly, in the case of **Ude Singh and Others vs. State of Haryana**, (2019) 17 SCC 301 it has been observed in para 16 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.

17. *These being the essential ingredients for the offence of abetment to suicide, and the said ingredients having not been fulfilled, the further continuation of proceedings would not be sustainable. The other evidence such as statements, sought to be relied upon by the prosecution, apart from the suicide note, does not in any manner advance the case of the prosecution, particularly when the foundation of the case is the suicide note itself. With the very element of abetment conspicuously absent from the allegations made in the FIR which is primarily based upon the suicide note, the essential requirements for constituting an offence under Section 306 IPC remain unfulfilled. As such, the continuation of the criminal proceedings initiated against the Appellants would amount to an abuse of the process of law. The Court cannot permit such proceedings to degenerate into instruments of harassment or unjust prosecution.*

18. *The Court would not hesitate to exercise its extraordinary powers which are inherent to quash such proceedings when it comes to fore, and the court is satisfied that allowing the proceedings to continue would be an abuse of process of Court or that the ends of the justice require that the proceedings ought to be quashed. Reference in this regard may be made to the Judgment of this Court in **Geo Varghese vs. State of Rajasthan and Another**, (2021) 19*

SCC 144.”

15. This Court is quite conscious of the fact that the power under Section 482 of the Code of Criminal Procedure, 1973 (corresponding Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), is extraordinary, and it should be used sparingly, as the exercise of such power would scuttle the FIR at the threshold. But, if the FIR fails to make out essential ingredients of the offence, the power should be exercised. Upshot of the above discussion, the present application deserves consideration.

16. In the result, the present application is allowed. The First Information Report being I-CR No.227 of 2017 lodged before the Anjar Police Station, Kachchh, as well as the proceedings of the Sessions Case No.14 of 2019 pending before the learned Sessions Judge, Anjar, Kachchh, for the offences punishable under Section 498A, 306 and 114 of the Indian Penal Code, are hereby ordered to be quashed and set-aside qua the present applicants. All consequential proceedings arising pursuant thereto are also quashed and set-aside.

17. Rule made absolute. Direct service is permitted.

(VIMAL K. VYAS, J.)

/MOINUDDIN

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MOINUDDIN ABDULLAH SAIYED(HC00172), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 07/03/2026 14:34:58