

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 734 of 2026**

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KALPANABEN LAXMIKANT SHAH

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MS NIYATI H SAMPAT(5841) for the Applicant(s) No. 1

MS JYOTI BHATT, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE GITA GOPI****Date : 08/04/2026****ORDER**

1. Challenge is given to the order dated 1.11.2025 passed by the learned Judicial Magistrate First Class, Mandvi-Kutch below Exh.1 in Criminal Inquiry no. 55 of 2024, which came to be rejected under Section 226 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), which is for dismissal of the complaint.
2. The complaint was filed under Section 223 of the BNSS invoking Sections 306 and 503 of the IPC. Section 306 IPC is for abetment of suicide and Section 503 is for criminal intimidation. The complaint was filed by Laxmikant Kantilal Shah against the daughter-in-law and her parents and the brother. The allegation against the accused was that because of the harassment of the accused, the

complainant's wife Kalpanaben Laxmikanth Shah had consumed poison and had made an attempt to commit suicide and she had gone unconscious and was admitted in the hospital. Her dying declaration was recorded before the Executive Magistrate with the statement, the daughter-in-law and her family members were physically, mentally and economically harassing them. Now here before this Court is Kalpanaben Laxmikanth Shah as petitioner who had attempted to commit suicide.

3. It has been submitted by learned advocate Ms. Niyati Sampat that the present applicant could survive after the medical treatment and thus, prima facie, there would not be any case under Section 306 IPC. Attempt to commit suicide was an offence under Section 309 IPC. Had it been the act of this applicant prior to the Mental Health Care, 2017 coming in force, she could have been made an accused under Section 309 of IPC.
4. The Hon'ble Supreme Court has set aside its earlier judgment in **P. Rathinam / Nagbhushan Patnaik v. Union of India, JT 1994 (3) SC 392**, wherein the Court had struck down section 309 as unconstitutional. It was observed that

in a country where one-half of its population still live below the poverty line, the right to die by suicide cannot be granted to any person. Article 21 of the Constitution, which gives right to life and personal liberty, by no stretch of imagination can be said to impliedly include right to death by committing suicide. The section is also not violative of Article 14.

5. After careful consideration of the legal framework governing the issue of attempt to commit suicide, Section 309 of the Indian Penal Code, which is incorporated hereunder became redundant in the statute book:-

"Section 309 of IPC: Attempt to commit suicide.-Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both."

- 5.1 With the enactment of the Mental Healthcare Act, 2017, a significant shift in legislative intent is evident. Section 115 thereof clearly provides that any person who attempts to commit suicide shall be presumed to be under severe stress and, unless proved otherwise, shall not be tried and punished under Section 309 of the IPC. The provision

further mandates the appropriate Government to provide care, treatment, and rehabilitation to such individuals so as to reduce the risk of recurrence. In view of the aforesaid legal position, it is now settled that an attempt to commit suicide became practically inoperative.

6. The learned Judge, while rejecting the application, has dealt with the facts of the case. Prima facie since the present applicant has survived, there would not be any case under Section 306 of IPC. The learned Judge has also dealt with the petitions pending before the parties under the the Protection of Women from Domestic Violence Act, 2005 and complaint filed by the other side under Sections 209, 499 and 503 of the IPC as private Criminal Case no. 42 of 2024 and 52 of 2024 and certain documents were produced before the Court to show conviction against the accused. The learned Judge has gone in detail about the various proceedings in the matter. The prayer was made to consider the case under Section 306 of IPC against the daughter-in-law and her family members. In view of the survival of the wife of the complainant, the present petition under Section 306 of the IPC would be inapplicable. The

learned Judge has rightly considered the aspect and has rejected the application under Section 226 of the BNSS.

7. In view of the above, this Court does not find any merits in the matter and hence, the application stands rejected.

Maulik

(GITA GOPI,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MAULIK RAJESH PANDYA(HC00205), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 08/04/2026 18:03:05