

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRMC No. 516/2017

Reserved on: 08.05.2026
Pronounced on: 15.05.2026
Uploaded on: 15.05.2026
Whether the operative part or full
judgment is pronounced: Full

Mohinder Kour & Ors.

...Petitioner(s)/Appellant(s)

Through: Mr. Kulwant Singh Johal, Sr. Adv. with
Mr. Karman Singh Johal, Adv.

Vs.

State Through Ld. Advocate General, Jammu

...Respondent(s)

Through: None

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

J U D G M E N T

1. In this petition, the petitioners have invoked inherent powers vested in this court under Section 561-A of the Jammu and Kashmir CrPC which was then in force for setting aside an order dated 18th of July 2017 passed by learned Court of 2nd Additional Sessions Judge, Jammu [“the Trial Court”] in File No. 93/Session, whereby the petitioners have been charged for commission of offences under Section 306/498-A RPC.
2. The impugned order has been challenged on multiple grounds, including one; that the learned trial court has not discussed the evidence on record, and two; that it has not adverted to the evidence on record collected by the IO to satisfy itself as to whether the ingredients of Section 306/498-A RPC were made out for framing of the charge.
3. Having heard Mr. K. S. Johal, learned senior counsel appearing for the petitioner and perused the material on record including the order impugned passed by the trial court, I am of the considered opinion that the impugned order framing charge under Section 306/498-A RPC against the petitioners is not sustainable in law. It seems that when the challan was taken up for

framing of charge by the trial court, an application was moved by the father of the deceased seeking framing of charge against the petitioners for offences under section 304-B or 302 RPC in addition to the offences under section 498-A/306 RPC.

4. From the impugned order, it clearly transpires that the trial court discussed in detail the evidence with regard to the maintainability of charge under section 304-B and 302 RPC and came to the conclusion that there was no evidence on record which would show *prima facie* commission of offences under Section 304-B and 302 RPC. The trial court, thus, dismissed the application filed by the father of the deceased, but framed the charges under Section 498-A/306 RPC.

5. From the reading of the entire order, it clearly transpires that the learned trial court did not advert to the evidence on record to find out as to whether the ingredients of Section 304-B/306 RPC were disclosed. There is nothing in the order impugned which would show that the learned trial court considered the evidence on record though for a limited purpose of framing the charge and came to a definite conclusion that *prima facie* there was a material for framing charge under Section 304-B/306 RPC.

6. Neither the ingredients of these Sections have been discussed, nor there is reference to the evidence on record. Needless to say that Section 306 RPC has two ingredients:

- (1) there should be an act of suicide by a person.
- (2) the abatement to the said Act by the accused.

7. In order to frame a charge under Section 306 RPC, it must necessarily be demonstrated that the accused person has contributed to the suicide by the deceased by some direct or indirect act. To demonstrate contribution or involvement of the accused, one of the three conditions enshrined in Section 107 RPC are required to be fulfilled i.e., there must be instigation to the person to commit suicide or there must be conspiracy between one or more person or persons, for driving a person to commit suicide, or there must be intentional aid, by any act or illegal omission for doing the act of committing suicide. It was thus incumbent upon the trial court to refer to the evidence on record, though for a limited purpose of finding out as to whether the

ingredients of Section 306/498-A RPC were made out. It seems that the trial court was more obsessed with determining the issue of framing of charge under section 304-B/302 RPC raised by the father of the deceased in his separate application.

8. The trial court seems to have forgotten that even for framing the charge under Section 306/498-A RPC, he was required to go through the challan and the evidence oral as well as documentary collected by the Investigating Officer.

9. After dismissing the application moved by father of the deceased for framing of charge under Section 304-B/302 RPC, the trial court straightway accepted the conclusions of the IO and framed the charges under Section 498-A/306 RPC. The trial court has thus not performed its duty of framing the charge as is cast upon him by law.

10. For the foregoing reasons, this petition is **allowed**. The order impugned dated 18th July 2017 is quashed. The matter is remanded to the trial court for considering the framing of the charge afresh after hearing both the sides.

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
15.05.2026
Altaf

Whether approved for reporting? Yes/No