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**CRR-4450-2016 WITH
CRR-1743-2017**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

- 1. CRR-4450-2016**
KAILASH KATYAL
VERSUS **....Appellant**
STATE OF HARYANA AND ANOTHER
...Respondents
- 2. CRR-1743-2017**
SACHIN ARORA
VERSUS **..... Appellant**
STATE OF HARYANA AND OTHERS
..... Respondents

1.	Judgment reserved on	27.01.2026
2.	Judgment pronounced on	23.04.2026
3.	Judgment uploaded on	24.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	-NA-

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. Sunil Chadha, Sr. Advocate with
Ms. Kashish Aggarwal, Advocate
for the petitioner in CRR-4450-2016.

Mr. Praveen Kumar, DAG, Haryana
for respondent No.1 in CRR-4450-2016 and
for respondents No.1 and 2 in CRR-1743-2017.

Mr. Ajay Kumar Chaudhary, Advocate with
Mr. Harinder Sharma, Advocate
for the petitioner in CRR-1743-2017 and
for respondent No.2 in CRR-4450-2016.



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None for respondents No.3 to 5
in CRR-1743-2017.

YASHVIR SINGH RATHOR, J.

1. This judgment shall dispose of above noted two petitions, as the same have emanated out of the same occurrence.
2. The criminal revision No.CRR-4450-2016 has been instituted by petitioner-Kailash Katyal against the order dated 15.09.2016 passed by learned Sessions Judge, Gurgaon on an application under Section 193 Cr.P.C. moved by the prosecution, vide which he has been summoned to face the trial as an accused along with main accused namely Anil Khanna.
3. The criminal revision No.CRR-1743-2017 has been instituted by the complainant namely Sachin Arora against the same impugned order dated 15.09.2016 passed by learned Sessions Judge, Gurgaon, on an application under Section 193 Cr.P.C. vide which the application moved by the prosecution for summoning remaining accused namely Sartaj, Yuvraj and Suresh Raheja has been rejected.
4. The present case was registered vide FIR No.285 dated 07.08.2015 under Section 306 of the IPC at Police Station 40, Gurgaon, on the basis of statement given to the police by Sachin Arora, son of Naveen Arora, with the allegations that he runs an office by the name of 'Ample Space' at Gurgaon. His father Sh. Naveen Arora (since deceased) aged 59 years used to work as a property dealer, who was quite upset for the last three days. When he inquired about the reason, his father told him



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that he had got paid Rs.25,00,000/- to Mahender Singh, Anil Khanna, Katyal, Yuvraj and Sartaj for obtaining loan. In the same manner, in order to arrange loan for one Rahul Garg, he got paid money to Mr. S.K. Pachowry and Bagga. Neither the loan has been got arranged by Anil Khanna, Katyal, Yuvraj, Sartaj, S.K. Pachowry and Bagga nor they are returning the money and rather they are harassing him. Mr. Raheja is neither giving flats which have been booked nor he is cancelling the flats. He further alleged that today on 06.08.2015, his father told him that he will be going to Panipat. At about 11.00 AM, he himself left for his office. At about 06.15 PM, he received a phone call from his wife Milan Arora, who told him that his father has committed suicide by hanging himself from the ceiling fan with the help of a rope and on receiving this information, he reached home and found one Will, suicide note and a list near his father, which have been handed over to the police. He alleged that his father has committed suicide on account of harassment caused by Anil Khanna, Katyal (Kailash Katyal-petitioner), Yuvraj, Sartaj, S.K. Pachowry, Bagga and Raheja and he sought legal action against them. Thereafter, the matter was investigated. The suicide note was taken into possession. During investigation, it was found that one Memorandum of Understanding (**for short “MoU”**) dated 10.10.2014 was executed between Anil Khanna and one Mahender Singh, Director of M/s Starex Holding Pvt. Ltd. for arranging a loan of Rs.25 crores. The said loan was to be got arranged by said Anil Khanna being a lender facilitator, which was to be obtained from Pansari Consultancy and a sum of



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Rs.25,00,000/- was paid as advance to said Anil Khanna. Petitioner-Kailash Katyal was an attesting witness on the said MoU along with deceased-Naveen Arora. After conclusion of investigation, the police submitted final report under Section 173 Cr.P.C. only against accused-Anil Khanna while remaining persons namely Kailash Katyal, Yuvraj, Sartaj and Suresh Raheja were found to be innocent and their names were kept in column No.2 of the challan.

5. After the case was committed to the Court of Sessions for trial, the complainant moved an application under Section 193 Cr.P.C. for summoning petitioner and three other persons namely Sartaj, Yuvraj and Suresh Raheja as additional accused. Learned Sessions Judge, Gurgaon, vide impugned order dated 15.09.2016 partly accepted the application and summoned petitioner-Kailash Katyal as an additional accused to face the trial while the prayer to summon remaining three persons namely Sartaj, Yuvraj and Suresh Raheja was declined and application qua them was dismissed. Learned Sessions Judge observed that the name of petitioner Kailash Katyal has appeared in the suicide note and he was also a witness to the MoU and failure on the part of the accused to arrange loan led to harassment of the deceased, as a result of which, he committed suicide.

6. Feeling aggrieved, the petitioner has instituted the revision petition bearing CRR-4450-2016 while complainant has instituted the revision petition bearing No.CRR-1743-2017. All the parties have been heard and the material on file has been perused.



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7. Learned counsel for the revisionist namely Kailash Katyal argued that impugned order is based on conjectures and surmises and there is no material on the file to *prima facie* show that petitioner had abetted the commission of suicide by the deceased and the impugned order is manifestly illegal. Learned counsel next contended that even if, the allegations levelled in the FIR are taken to be true on the face of it, no offence under Section 306 of IPC is made out as no inducement was caused by the petitioner so as to compel the deceased to commit suicide. Learned counsel further contended that from the allegations levelled in the FIR and the suicide note, no *mens rea* on the part of the accused is also *prima facie* established, which could constitute instigation or an act to abet the commission of suicide. Learned counsel next contended that prosecution must show a clear *mens rea* on the part of accused to drive a victim to commit suicide and that victim had no other option but to take the extreme step of committing suicide. Learned counsel next contended that the petitioner was merely an attesting witness of the MoU like the deceased and he was not the loan facilitator, which was to be arranged by accused namely Anil Khanna and even if loan was not arranged, it is the Director of M/s Starex Holding Pvt. Ltd., who could have been the aggrieved person and not the deceased. The allegations against the petitioner do not constitute instigation, conspiracy or intentional aid as defined under Section 107 of IPC and the Court of learned Sessions Judge has not appreciated the facts of the case in the correct perspective while allowing the application under Section 193 Cr.P.C. moved by the



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prosecution and summoning the petitioner as an additional accused by taking cognizance against him whereas no case much less a *prima facie* case is made out from the allegations levelled in the FIR and the suicide note and he prayed that petition in hand be accepted and impugned order be set aside.

8. On the other hand, learned State counsel assisted by counsel for the complainant argued that from the allegations levelled in the FIR and suicide note, it is *prima facie* established that accused had abetted the commission of suicide by the deceased as he played an active role at the time the MoU was signed and loan was to be arranged by him and as such, he facilitated the commission of suicide. Learned counsel next contended that when there is material to show that accused might have committed the offence, the Court can summon him to face the trial and probative value of the material on record cannot be gone into at this stage before the trial Court. At this stage, the trial Court is only to find out whether a *prima facie* case against the accused is made out or not and he prayed that petition in hand be dismissed.

9. Learned counsel next contended that the impugned order vide which the prayer to summon remaining accused has been declined also suffers from material illegalities and a *prima facie* case is made out against the remaining accused namely Sartaj, Yuvraj and Suresh Raheja as well and they too should be summoned to face the trial. Learned counsel next contended that the investigation should be reopened and handed over to some other agency or to an officer not below the rank of



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Superintendent of Police. In support of his contentions, learned counsel has relied upon 2014(3) SCC 92, **Hardeep Singh Vs. State of Punjab and others** and 2014(3) SCC 306, **Dharam Pal and others Vs. State of Haryana and another.**

10. The moot point to be decided is as to whether the act of the accused would constitute an offence under section 306 IPC or not. To get an answer to this question, we have to go through the meaning of the expression 'abetment' defined under section 107 IPC and a reading of Section 306 IPC which are re-produced below:

“Section 306 : ABETMENT OF SUICIDE

If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine`.

Section 107 : Abetment of a thing :

A person abets in doing of a thing, who Firstly instigates any person to do that thing; or Secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing ; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing“.

Thirdly : Intentionally aids, by any act or illegal omission, in doing of that thing.

11. From the above provision, it is clear that to constitute an offence under section 306 IPC, prosecution has to establish (1) that a person committed suicide and (2) that such suicide was abetted by the accused.

12. As per section 107 IPC, a person can be said to have abetted



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in doing of a thing (1) if he instigates any person to do that thing (2) if he engages with one or more other person or persons in any conspiracy for the doing of that thing, and if an act or illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing (3) if he intentionally aids, by any act or illegal omission, the doing of that thing.

13. As per facts of the case, present case shall fall under the first clause of section 107 IPC as there is no allegation that accused in any manner intentionally aided or engaged with any person in conspiracy for the commission of suicide. Allegations to attract clause 'secondly' and 'thirdly' in section 107 IPC are, thus, totally missing in this case.

14. As per clause 'firstly' in section 107 IPC, a person can be said to have abetted in doing of a thing if he "instigates" any person to do that thing. But, when can a person be said to have 'instigated' another to do an act? The word 'Instigate' is not specifically defined in Indian Penal Code. As per Oxford Dictionary, 'instigate' means 'to goad' or urge forward, to provoke, incite, urge or encourage to do an act The word 'goad' means keep irritating or annoying somebody to do some thing or to make a person to move more quickly in a particular direction especially by pushing or forcing such person. The term 'Urge' means to advise or try hard to persuade somebody to do some thing or forcing such person to move more quickly in a particular direction especially by pushing or forcing such person. 'Urge forward' means in this context 'urge' a person 'forward' Thus a person who instigates another has 'to



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goad or urge ` forward the latter with an intention to provoke, incite, urge or encourage doing of an act by the latter.

15. A close combined reading of the meaning of the word 'instigation' with the meaning of the terms `goad` and `urge` will reveal that `instigation involves two things. One is a physical act or omission, while the other is a mental act. The physical act or omission involved in the instigation is `goadng or urging forward` another. Such physical act of goading can be committed also by any other willful conduct may be, by even an adamant silence. Thus, by words, deeds, willful omission or willful silence also, one can goad a person i.e. keep irritating or annoying a person until he reacts.

16. So also, the physical act of `urging forward` or instigation` involves doing of an act by strongly advising, persuading to make a person to do something or by pushing or forcing a person in order to make him move more quickly in a forward direction. Thus, both the physical acts in goading or urging forward can be committed by doing some act either verbal or physical or even by a willful commission or conduct. To the same effect is the law laid down in (2001) 9 SCC 618 **Ramesh Kumar vs. State of Chhattisgarh.**

17. In (2010) 12 SCC 190 **S.S. Chheena vs. Vijay Kumar Mahajan**, Hon'ble Supreme Court explained the concept of abetment along with necessary ingredient for offence under Section 306 of IPC as under:

“25. Abetment involves a mental process of instigating a



person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”

18. In (2010) 1 SCC 707 **Amalendu Pal vs. State of W.B.**, Hon’ble Supreme Court explained the parameters of Section 306 in following words:

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

19. Apart from such physical act particularly omission, prosecution is also required to establish *mens rea* on the part of accused



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in order to constitute instigation and such a provocation has to be intentional and in this background, the allegations in the FIR have to be looked into to ascertain whether there was any instigation or act on the part of the accused which incited the deceased to commit suicide.

20. Coming to the facts of the case in hand, the MoU dated 10.10.2014 (Annexure P-7) executed between Anil Khanna, lender facilitator and M/s Starex Holding Pvt. Ltd. through its Director Mr. Mohinder Singh shows that said Anil Khanna provides services for facilitating finance/loan through authorized financial institutions and entities i.e. Pansari Consultancy, Mumbai and he took the responsibility for arranging a loan of Rs.25 crore within 45 days and advance payment of Rs.25,00,000/- was made to Anil Khanna. Both petitioner-Kailash Katyal and deceased-Naveen Arora were attesting witnesses to the said MoU.

21. The suicide note left behind by the deceased (Annexure P-2) is reproduced as under:-

"I am committing suicide. Two person, one Anil Khanna 1. Anil Khanna & and Co. (Katiyal, Yuvraj and Sartaj) had to arrange loan for Mohinder Singh and had taken Rs. 25 lacs from him and executed an agreement and did not get the loan and wasted one year of everyone and they are underground. Rest a report to the police has been made. Mohinder Singh ji, the commission of Rs. 7 lac (Rs. Seven Lac) due to me of which Ishvien ji is also aware of, be given to my children. Kukreja ji, I am keeping the list of the persons, who have



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plots in Meerut, kindly give it to them and give the Meerut dealer his commission and my commission (Meerut 4%+3% of me). Two bookings are directly of me. Those of Panipat and Sonipat are separate. Some account is pending regarding Ansal and Kurukshetra, which be done and be paid to children. The same is approximately 6-7 lacs.

I have no complaint against Mohinder Singh and Kukreja ji.

2. Person is Mr. S.K. Pachowry Bangalore (Bagga & Co.), who had to give loan to Rahul Gaur. Just like Anil Khanna & Co. made fool, in the same fashion, Mr. SK Pachowry has done, did not give any money and instead wasted my money and that of Mr. Rahul Gaur.

Mr. Rahul Gaur is a very good person. Mr. S.K. Pachowry and Mr. Bagga had taken Rs. 11,40,000/- from him but did not get the loan done and instead made us do an additional expenditure of more than 5 lacs. I am writing this for the reason that they may not misguide more people. Both these persons have misused my name. They wasted my time and commission.

Mr. Raheja Pls. return the money of those persons, who have cancelled. Nothing is kept in cheating.

Sachin and Sagar stay together. 1. Pay back loan of Standard Chartered Bank and credit Card bill. 2. Rs. 5 lacs are to be returned to Rajeev Kaushik. 3. Rs. 50,000/-are to be returned to Vikram Dhawan.

*I am sorry
(I am sorry)*

Naveen Kumar”

22. In this manner, as per contents of the suicide note, Anil Khanna and Company (Katyal, Yuvraj and Sartaj) had to arrange loan for



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Mahender Singh for which a sum of Rs.25,00,000/- was paid to Anil Khanna at the time of MoU but he did not get the loan advanced for one year. Deceased further alleged that Mr. S.K. Pachowry Bangalore (Bagga and Co.), who had to arrange loan for Rahul Gaur, has befooled them and did not give any money and wasted his money and that of Mr. Rahul Gaur just like Anil Khanna and Company made of them fool. He further alleged that Mr. S.K. Pachowry and Mr. Bagga have misused his name and wasted his time and commission.

23. The contents of the aforesaid suicide note thus only go to show that the loan which was to be arranged could not be arranged and time was wasted but such an act cannot be termed as instigation to commit suicide. To make out an offence under Section 306 of IPC for abetment of suicide, the prosecution is required to establish direct or indirect act of incitement by the accused, a clear *mens rea* to drive the victim to commit suicide and that victim had no other option but to take the extreme step of committing suicide. Mere harassment to the deceased is not sufficient and the actions of the accused must constitute instigation, conspiracy or intentional aid as defined in Section 107 of IPC, thereby encouraging or inciting the deceased to commit suicide. There must also be a clear intention/*mens rea* on the part of the accused to instigate a person to commit suicide and the accused must intend for the suicide to occur as a result of his actions. There must also be a close, direct and immediate link between the actions of the accused and the commission of suicide and harassment or provocation must also be of such a nature that



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victim is left with no other option but to commit suicide. However, in the present case, there was no instigation or act on the part of petitioner-accused namely Kailash Katyal as well as Sartaj, Yuvraj and Suresh Raheja, who are respondents in CRR-1743-2017, which could incite the deceased to commit suicide. There is also no proximate link between alleged inaction on the part of accused in not arranging the loan and the commission of suicide and petitioner-Kailash Katyal and respondents-Sartaj, Yuvraj and Suresh Raheja thus have not played any active role or committed any positive or direct act to instigate or aid the commission of suicide by the deceased.

24. As a result of aforesaid discussion, I am of the considered opinion that no offence under Section 306 IPC, much less a *prima facie* case, is made out against the revisionist as well as remaining persons-Sartaj, Yuvraj and Suresh Raheja in CRR-1743-2017. However, learned Sessions Judge has not appreciated the facts of the case and material on file in the correct perspective while summoning petitioner Kailash Katyal by taking cognizance on an application under Section 193 Cr.P.C. moved by the prosecution while the application qua Sartaj, Yuvraj and Suresh Raheja has rightly been dismissed. Resultantly, impugned order dated 15.09.2016 qua petitioner Kailash Katyal is not sustainable and is liable to be set aside.

25. There is no dispute about proposition of law laid down by the Hon'ble Supreme Court in **Hardeep Singh's case** (supra) and **Dharam Pal's case** (supra) cited by learned counsel for the complainant



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but the same are not applicable to the facts and circumstances of the present case as no *prima facie* case is made out to take cognizance and summon petitioner Kailash Katyal as an accused.

26. In view of the aforesaid discussion, **CRR-4450-2016** is **allowed** and impugned order dated **15.09.2016** qua petitioner Kailash Katyal is hereby **set aside** and **CRR-1743-2017** is hereby **dismissed**.

27. Pending misc. application(s), if any, shall also stands disposed of.

28. A photocopy of this order be placed on the file of other connected case, mentioned above.

23.04.2026
Priyanka Thakur

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No