AFR **IN THE HIGH COURT OF ORISSA AT CUTTACK**

CRLREV No.1028 of 2025
CNR No. ODHC010885322025

Surendranath Mishra & others …. **Petitioners**
Mr. L. Mishra, Advocate

-Versus-

State of Odisha …. **Opposite Party**
Mr. S. Panda, Advocate

CORAM:
JUSTICE R.K. PATTANAIK
DATE OF HEARING:29.07.2026
DATE OF JUDGMENT:12.10.2026

1. Instant revision is filed by the petitioners assailing the correctness, legality and judicial propriety of the impugned order of cognizance dated 24th September, 2025 as at Annexure-3 passed in connection with G.R. Case No. 369 of 2025 by the learned SDJM, Champua on the grounds stated.

2. The informant lodged the F.I.R. as at Annexure-1 stating therein about the death of his 16 year old son, a student of Class-X while residing in the hostel of Kerala English Medium School, Champua alleging that he was subjected to physical assault and torture by the school staff named causing grievous injuries including a deep wound on his right leg, bleeding from nostrils and severe contusion of right wrist. The informant further alleged that the incident took place in the morning hours of the fateful day but he was informed with a delay of one and half hours. It is also alleged that the

accused persons named fled away leaving the body of the son at the hospital. With such other allegations made therein, the report was lodged and as a result, Champua P.S. Case No. 187 dated 12th July, 2025 was registered under Sections 103(1) and 3(5) BNS. After completion of investigation, the chargesheet i.e. Annexure-2 was filed, however, under Sections 107 and 3(5) BNS. Upon receiving the chargesheet, the learned SDJM, Champua in G.R. Case No. 369 of 2025 took cognizance of the offences vide Annexure-3, which is under challenge at present.

3. The following at the grounds upon which the order of cognizance at Annexure-3 has been questioned, such as, (i) the decision is erroneous and against the weight of material on record; (ii) the learned court below without applying the judicial mind took cognizance of the offences against the petitioners;(iii) the allegations in the F.I.R. and the materials collected in support of the same even if are taken at face value and accepted in its entirety do not prima facie constitute any offence against the petitioners; (iv) the implication of the petitioners is absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against them and hence, the learned court below fell into serious error in taking cognizance of the offences; (v) the petitioners, who are teachers and warden of the school, have had no role in the alleged incident, however, have been roped in on the basis of concocted statements of the witnesses examined during investigation, inasmuch as,

the deceased committed suicide without any overt acts being committed; (vi) the essential ingredients of Section 107 BNS are not satisfied to prima facie make out a case against the petitioners and the reason behind the death of the deceased and therefore, the offences under Section 107 and 3(5) BNS are not established, hence, the order of taking cognizance is illegal and liable to be set aside; (vii) for any such sporadic incident or events suddenly happened under peculiar circumstances even while the victim is humiliated and thereafter, committed suicide on account of any such humiliation, there can be no offence punishable under Section 107 BNS made out in absence of any mens rea; (viii) petitioner Nos. 1, 2 & 4 are not named in the F.I.R. but subsequently implicated on the basis of the statements of the witnesses and in absence of any intention of abetting the suicide or any such intention of ill-feeling towards the deceased on account of his death, such offence cannot be alleged; and (ix) since the chargesheet and the materials collected and filed therewith do not disclose commission of any offences by the petitioners, continuance of the proceeding would amount to abuse of process of Court and hence, the order of cognizance at Annexure-3 is liable to be interfered with and set at naught.

4. Heard Mr. Mishra, learned counsel for the petitioners and Mr. Panda, learned ASC for the State.

5. Mr. Mishra, learned counsel cites the following decisions, namely, **Geo Varghese Vrs. State of Rajasthan and**

another (2021)19 SCC 144; Thangavel Vrs. The State 2025 Live law (SC)659; **Jayedeepsinh Pravinsinh Chavda and others Vrs. State of Gujarat** in SLP(Crl.) No. 7957 of 2024 dated 10th December, 2024; **Madan Mohan Singh Vrs. State of Gujarat & another (2010) 8 SCC 628**; **R.K.Ramasamy Vrs. State and another** in Crl. O.P. No. 4186 of 2016 and Crl. M.P. No. 2161 of 2016 of the Madras High Court to submit that no case of abetment to commit suicide is made out, hence, the petitioners are entitled to be discharged and for that the order of cognizance at Annexure-3 and the criminal proceeding deserves to be set aside.

6. On the other hand, Mr. Panda, learned ASC for the State would submit that the deceased was subjected to mental and physical torture by the petitioners and other accused persons on 11th July, 2025, later to which, he jumped from 4th floor of the hostel on 12th July, 2025 and committed suicide and for that all are accountable, hence, all are responsible for the alleged death and as such liable for criminal prosecution for the offences under Section 107 and 3(5) BNS. It is submitted that filing of the chargesheet has established the involvement of the petitioners for having abetted the death of the deceased, a student of the school staying in the hostel at the relevant point of time and therefore, the learned S.D.J.M., Champua did not err or commit any serious wrong in taking cognizance of the alleged offences vide Annexure-3.

7. In **Abhinav Mohan Delkar Vrs. State of Maharashtra and others 2026(6) SCC 233**, the Apex Court was seisin

over a matter, wherein, the allegation was about abetment causing death posed with a question as to whether every allegation and acquisition levelled, a reprimand or rebuke made an insinuation or insult voiced or even continuous acts of ill-treatment, harassment or defamation as the case therein would lead to commission of an offence under Section 107 BNS and finally held and observed that mens rea is necessary to reach at such a conclusion. It has also been held therein that what constitutes mens rea is the intention and purpose of the alleged perpetrator as discernible from the conscious acts or words and the attendant circumstances which in all probability could lead to such an end. As further observed therein, the real intention of the accused plays a vital role and whether he intended by any action to at least possibly drive the victim to commit suicide is the test. In the decision (supra), it is also held that did the thought of goading the victim to suicide ever occur in the mind of the accused or whether it can be inferred from the facts and circumstances arising in a particular case is the real test of mens rea which depends on the facts of each particular case and finally, concluded that harsh or severe harassment unless committed with a conscious and deliberate act, intention to drive such person to a suicidal death cannot be attributed.

8. In **Prakash and others Vrs. State of Maharashtra and another (2026) 6 SCC 251**, it is held that for an offence under Section 306 IPC, an act of suicide by one and abetment to the said act by another and furthermore instigation or incitement by the latter must be found in close proximity to

the commission of suicide and having a clear mens rea to abet the suicide and should put the former in such a position that he would have no other option but to commit suicide and that the element of mens rea cannot simply be presumed or inferred instead, it must be evident and explicitly discernible.

9. Referring to the case laws cited, Mr. Mishra, learned counsel would submit that the petitioners cannot be held liable for having abetted the suicidal death of the deceased. Referring to the statement of the witnesses and other material documents filed along with the chargesheet, the submission of Mr. Mishra, learned counsel is that the deceased under stress, after warning given to the hostel inmates, committed suicide without anyone's involvement and it is not a case of any instigation or incitement by the teachers or warden. The reason behind the deceased committing suicide is revealed from the statements of other students of the school recorded under Section 180 BNS, referring to which Mr. Mishra, learned counsel further submits that for having consumed Dendrite, the inmates of the hostel were reprimanded with a warning that their guardians would be informed about the same, later to which, the deceased committed suicide on the next day morning by jumping from the 4th floor of the hostel and for that, the petitioners are not to be held responsible but having been chargesheeted, the learned court below proceeded to take cognizance of the alleged offences. With such submission, Mr. Mishra, learned counsel refers to the post-mortem report and other relevant documents to claim that it is a fit case where this Court is to exercise revisional

jurisdiction to set aside the order of cognizance as at Annexure-3 which is opposed by Mr. Panda, learned ASC for the State since a prima facie case is made out with the chargesheet filed against them.

10. In **Rahul Kushwaha Vrs. State of U.P. & another, 2026 SCC OnLine All 5494**; it is held and concluded that if there is no proximity or nexus between the alleged acts of harassment and the victim committing suicide, no offence of abetment or instigation to suicide is made out punishable under Section 306 IPC. Apart from the above, it is also concluded that mens rea is material and in absence of any such prima facie evidence, the continuation of prosecution would amount to abuse of process of law. In **V.P. Singh Vrs. State of Punjab and others 2022 SCC OnLine SC 1999**, the Apex Court held that abetment involves a mental process and any such instigation or incitement should have the intention to provoke, incite, or encourage the doing of an act leading to a suicidal death and while each person's suicidability pattern is different from others, possess own idea of self-esteem and self-respect and therefore, it would be difficult to lay down any straightjacket formula in dealing with such cases. A similar view has been expressed by the Rajasthan High Court in **Smt. Swarna Kalra and another Vrs. State of Rajasthan and another** in S.B. Criminal Revision Petition No. 263 of 2021 dated 23rd July, 2026, wherein, it is concluded that the relationship between a teacher and a student is founded upon discipline, guidance and academic supervision, hence, any such acts in ordinary

course of discharging professional duties cannot by any stretch of imagination be construed as instigation or intentional aid to commit suicide.

11. In **R.K. Ramasamy Vrs. State and another (**Crl.O.P.No.4186 of 2016 and CRLMP 2181 of 2016) decided on 25th September, 2021, the Madras High Court concluded that no case under Section 306 IPC is made out when the accused therein used to scold the deceased, a student, for not pursuing his study properly with a conclusion that such an act in no way amounts to instigating him to commit suicide or is responsible for commission of the offence of abetment.

12. In **Jayedeepsinh Pravinsinh Chavda** (supra), the Apex Court considered a case whether an offence under Section 306 IPC is made out while dealing with an allegation of mental and physical torture to a daughter in-law and ultimately held that there is no proximate link between the alleged acts or instances of harassment to her and subsequent death by hanging, furthermore, when the marital discord and any such harassment, even if true, did not reflect any intention to instigate, incite or provoke the deceased to commit suicide. It is observed therein that mere harassment and issues between the wife and husband along with in-laws and the death of the wife in absence of a mens rea to instigate the other family members cannot be said to have abetted her suicide when, requisite mens rea is found to be absent.

13. According to this Court, any act or omission to instigate or aid commission of suicide is essential to allege abetment. A proximate link between the harassment and subsequent death of the deceased shall have to be established. More important is the mens rea with prima facie evidence to suggest that the accused with the requisite intention subjected the deceased to commit suicide. A series of events must result in the suicidal death of the victim with active participation or even indirect involvement of the accused to show that he abetted such death fully knowing what consequences would follow. It has been the settled position of law that any such incident in isolation or sporadically happened without requisite mens rea to drive the victim to commit suicide cannot constitute abetment of suicide. The legal threshold for abetment of suicide requires proof of active instigation, provocation or intentional aid. Any such standard administrative or academic discipline in a school resulting in the death of a student by suicide lacks the necessary criminal intent to constitute an offence. In **V.P. Singh** (supra), it is ruled that actions, such as, suspending a student for misconduct or enforcing institutional discipline which are necessary for running an educational institution and death of that student cannot be categorized as abetment. In **Thangavel** (supra) it is concluded that mere scolding alone is not a suicide trigger and noted the fact that a reasonable person cannot anticipate that standard corrective warning would drive a student to take his own life. It has been emphasized in a catena of decisions that the teachers do

have a solemn duty to instill discipline and any corrective actions, reprimands, or warnings are viewed as essential course corrections, rather, than criminal provocation. While standard discipline is legally protected, institutions, faculty can still face criminal charges under certain circumstances. If the discipline crosses into the territory of deliberate mental torture, targeted harassment or public shaming, it may fulfill the elements of abetment and could well be said to be a case of active instigation. In cases involving targeted systemic bias such as caste-based discrimination etc. a case of abetment could be made out.

14. In the case at hand, the petitioners said to have warned the students of the hostel for some of them having taken Dendrite, an intoxicant and even the evidence collected during investigation revealed the same. It is also made to reveal from the chargesheet and connected materials that punishment was given to some of the students to spend the night on the verandah of the hostel for having taken the drug substance. It is also revealed that the students were warned and reprimanded by the petitioners and even informed them that their guardians are to be informed about the incident, consequent upon which, the deceased, an inmate, jumped from the 4th floor of the hostel and had a suicidal death. The cause of death is revealed from the post-mortem report dated 13th July, 2025. No mischief was alleged against the petitioners except having warned the students of the hostel. It is not that there has been an incessant harassment to the deceased in the hands of the petitioners. It was on account of

an incident in the fateful night and upon revelation that some of the students consumed Dendrite, the petitioners, for such exposure, admonished them. The deceased was one among them and since it was informed that guardians are to be summoned, he took things upon himself and took such a drastic step and committed suicide. In absence of any positive act or indirect act of incitement or instigation by the petitioners, this Court is inclined to hold that no case under Section 107 BNS is made out. As earlier discussed, mens rea must exist with a clear intention or instigation to provoke someone to commit suicide. A regular warning lacks the criminal intent. If a student is overly sensitive or sentimental, a teacher cannot be blamed for a tragic outcome that an ordinary person could not anticipate from a basic routine discipline. Having said that, since the petitioners are the faculty members and warden of the school in question, having had no direct involvement in the death of the deceased, cannot be held in any way responsible for having abetted his suicidal death.

15. According to the informant, the incident was reported with a delay of one and half hours. Such delay might have happened for a variety of reasons and it is not right and justified to attribute any bad intention against the petitioners. There must have been a chaotic situation after the deceased jumped from 4th floor of the hostel and a delay of one and half hour to intimate the informant cannot be said to be fatal. It does happen at times when a victim of suicidal death is immediately shifted to the hospital with a primary purpose to

save his life. It is not that the alleged incident was suppressed by the school authorities and with substantial delay, it was reported to the family of the deceased. Considering the chargesheet and other materials, this Court finds no any suspicious circumstances existed to attribute any malafide against the petitioners. It is alleged by the informant that the school staff left the deceased at the hospital and fled away. Since the informant arrived at the hospital and thereafter, the events turned ugly, this Court is of the view that the school staff might have left the hospital immediately after the arrival of the informant in anticipation of any untoward incident. At times, innocents face public wrath and in such situations, human tendency is to leave and be safe. The unfortunate death of a student and the immediate reaction might have led to a provocative situation and under such circumstances, persons who may think that they may be subjected to physical assault or could be under trouble react in certain manners. In fact, there is no any such evidence to suggest that the petitioners escaped from the hospital or avoided the family of the deceased or left the dead body of the victim at the hospital under mysterious circumstances. It is a clear case of a death by suicide by the deceased, a student, under desperation or on account of mental stress after having learned that the school is to inform their guardians for having been caught taking an intoxicating substance. The other students warned alike the deceased did not panic. But the deceased, said to be a good student, committed suicide in order to avoid humiliation and under such circumstances, in

absence of any other mischief or overt acts committed by the petitioners except taking disciplinary action cannot be held responsible for having abetted his death. It is reiterated that a disciplinary measure adopted by a school reprimanding students would not amount to provoking any of them to commit suicide unless there are repeated specific allegations of harassment and insult deliberately intended without any justifiable cause or reason. A simple act of reprimand of a student by a teacher, who is under moral obligation to maintain discipline would not amount to instigation or intentionally aiding to the commission of a suicide. Having regard to the chargesheet and all the connected materials, this Court finds no any prima facie evidence even remotely to suggest that the deceased was provoked or instigated by the petitioners. It is not a case that the victim was continuously subjected to harassment in the hands of the petitioners but for the disciplinary action, out of mental stress or simply to avoid humiliation after having learnt that their guardians are to be informed, took a decision to end his life and the said aspect was lost sight of by the learned court below, which, simply accepted the chargesheet and without application of judicial mind held and concluded that the alleged offences are prima facie made out and therefore, according to this Court, the impugned order of cognizance at Annexure-3 cannot be sustained in law.

16. In the result, the revision stands allowed. As a necessary corollary, the impugned order of cognizance dated 24th September, 2025 as at Annexure-3 passed in connection with

G.R. Case No. 369 of 2025 by the learned SDJM, Champua is hereby set aside for the reasons stated hereinabove.

(R.K. Pattanaik)
Judge

Kabita

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