2026:UHC:8144

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 419 of 2022
(Under Section 482 of the Cr.P.C.)

Pramod Kumar Sharma --Applicant

Versus

State of Uttarakhand and Another

--Respondents

Presence:-
Mr. Gaurav Singh, learned counsel for the applicant.
Mr. Vipul Painuly, learned AGA for the State.

Hon'ble Siddhartha Sah, J. (Oral):

By means of the instant Criminal Miscellaneous Application under Section 482 of the Cr.P.C., the applicant has assailed the order dated 24.02.2022 passed by the learned Sessions Judge, Pauri Garhwal in Sessions Trial No. 01 of 2022, 'State vs. Pramod Kumar Sharma', under Section 306 of the IPC, Case Crime No. 20 of 2021, P.S. Lakshman Jhula, District Pauri Garhwal, whereby it came to a conclusion that charge for offence punishable under Section 306 of the IPC be framed against the present applicant. The charge framed on 24.02.2022 under Section 306 is also under challenge.

2. Facts necessary for the adjudication of the present Criminal Miscellaneous Application under Section 482 of the Cr.P.C. are as follows:

> As per the prosecution story, an FIR has been lodged by the first informant/reporter on 27.09.2021 against the applicant, alleging therein that on 26.09.2021, the daughter of the complainant left for Rishikesh in the morning at 11:30 am from Mumbai Nagar for Yoga M.A.

examination, the time was 3:15 pm on reaching Haridwar and called complainant and told her that uncle Pramod Sharma is coming to pick her, then will take her to Rishikesh by his bike. Then, at 5:30 in the evening, the complainant got a call from his phone that they have stopped at Chilla Dam. After this, some unknown person took a call from her and told her that this road is very dangerous and both of them, girl and man are going towards this path. We are stopping them and giving them into police custody. After that, the phone got disconnected. Meanwhile, while talking on the phone, a voice was coming from behind, Pramod was saying that the complainant is also a policeman. After that, complainant kept calling, but the phone was not answered, after this, at 7:00 pm, the phone was received in the outpost and asking complainant whether there are any gents near her and asked complainant's address and asked for the number of any acquainted person. So complainant gave number of the acquainted brother Sunil, who lives in Rishikesh and also her number. After this, at about 8:00 in the evening, complainant got a call from a phone number and said that her daughter has fallen in the canal and is not being found. Complainant suspects that Pramod had done some kind of act with her by administering her some intoxicant or threatened to slander the family members, which hurt her so much that she was forced to jump into the canal. Consequently, the FIR was lodged as FIR/Case Crime No. 20/2021 for the alleged offence punishable under Section 306 of the

IPC at Police Station Lakshman Jhula, District Pauri Garhwal.

3. During the course of the investigation, the statement of the respondent no. 2/complainant was recorded by the police under Section 161 of the Cr.P.C. In her statement under Section 161 of the Cr.P.C., she reiterated the FIR version but however, changed the version a little bit. However, learned counsel for the applicant would submit that the informant does not allege any instigation. In fact, on a question put to her she categorically answered that there was no content for the instigation for suicide.

4. During the course of investigation, the statements of the witnesses, namely, Avadh Kishore and Arti were also recorded by the police under Section 161 of the Cr.P.C. The eyewitnesses have stated that the deceased suddenly jumped into the canal.

5. After completion of the investigation, the I.O. submitted charge-sheet against the applicant under Section 306 of the IPC on 21.12.2021, and based upon the said charge-sheet, the learned Chief Judicial Magistrate took cognizance on 23.12.2021 and summoned the applicant to face the trial.

6. After having complied with the provisions of Section 207 of the Cr.P.C., the learned Magistrate upon having found that the offence is triable by court of Sessions, committed the case to Sessions Court for trial. Learned Sessions Court fixed the date for framing of charges and date of 24.02.2022 was fixed for arguments on framing of charges. After hearing both the parties, the learned trial court by order dated 24.02.2022 passed an order that *prima facie* it appears that the applicant has

committed the offence punishable under Section 306 of IPC and on the very same day framed the charge against the applicant for offence punishable under Section 306 of the IPC.

7. Assailing the order of framing charge as well as the charge under Section 306 of the IPC, learned counsel for the applicant would submit that the trial court gave a perverse finding while proceeding to pass an order for coming to the conclusion that charge under Section 306 IPC is made out. He would further submit that the order framing charge and the charge have been framed on the utter misreading of the evidence. He would further submit that the charge is framed on presumption and assumptions. He would further submit that charge under Section 306 is not made out.

8. Learned counsel for the applicant would submit that the prosecution has not collected any evidence that the accused had instigated the deceased to commit suicide. The finding of the trial court is dehors the record and on the basis of presumption, the charge under Section 306 of the IPC has been framed. He would further submit that contrary to what has the finding returned by the learned trial court, there is no evidence about the illicit relation between the applicant and the deceased, inasmuch as no witness has said anything about their illicit relationship.

9. While referring to the order of framing charge, learned counsel for the applicant would submit that though the learned trial court has returned the finding that the applicant had exploitated the deceased mentally and physically due to which there has been instigation for suicide, he would submit that there is no evidence to

the said effect. He would further submit that the learned trial court has misread and misconstrued the evidence on record and without any basis or evidence has framed the charge under Section 306 of the IPC.

10. Learned counsel for the applicant has drawn the attention of the Court to the definition of Section 306 and 107 of the IPC, which are being reproduced hereunder for ready reference.

> ***"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.*
>
> ***107. Abetment of a thing.—****A person abets the doing of a thing, who—*
>
> *First— 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.*
>
> *Explanation 1.— A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.*
>
> *Illustration*
>
> *A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.*
>
> *Explanation 2.— Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act."*

11. Referring to Section 107 of the IPC, the learned counsel for the applicant would submit that there is no

positive act or *mens rea* attributed to the applicant and there is nothing on record to suggest that the deceased was put to such a situation by the applicant wherein she had no other option except to commit suicide. He would also submit that the eyewitnesses do not say anything that the deceased had said about any inducement, coercion, instigation or inducement by the applicant meted out to the deceased to commit suicide. He would further submit that the material on record demonstrates that there was no provocation or instigation at the behest of the applicant to the deceased to commit suicide.

12. While referring to the charge-sheet, learned counsel for the applicant would submit that the charge-sheet has been submitted on the basis of presumption. Learned counsel for the applicant has drawn the attention of the Court to a particular material sentence in the charge-sheet, as follows-

> *"अगर कृतिका नशे में ना होती और अभियुक्त खाना नंबर 3 भी स्वयं नशे में ना होता तथा कृतिका को उसके मामा के घर ऋषिकेश में छोड़ देता तो यह दशा ना होती।"*

13. Lastly, the learned counsel for the applicant has relied upon a judgment of the Hon'ble Supreme Court in the case of ***Kanchan Sharma versus State of Uttar Pradesh and Another, reported in 2021 (6) SCR 194*** and has drawn the attention of the Court to para 9 of the said judgment, which is being extracted hereunder for ready reference :

> *"**9**. Having heard learned counsel on both sides, we have perused the impugned order and other material placed on record. Except the self-serving statements of the complainant and other witnesses stating that deceased was in love with the appellant, there is no other material to show that appellant was maintaining any relation with the deceased. From the material placed on record it is clear that on the date*

of incident on 04.05.2018 deceased went to the house of the appellant and consumed poison by taking out from a small bottle which he has carried in his pocket. Merely because he consumed poison in front of the house of the appellant, that itself will not indicate any relation of the appellant with the deceased. 'Abetment' involves mental process of instigating a person or intentionally aiding a person in doing of a thing. Without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306, IPC.

To proceed against any person for the offence under Section 306 IPC it 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. There is nothing on record to show that appellant was maintaining relation with the deceased and further there is absolutely no material to allege that appellant abetted for suicide of the deceased within the meaning of Section 306, IPC. Even with regard to offence alleged under Section 3(2)(v) of the Act it is to be noticed that except vague and bald statement that the appellant and other family members abused deceased by uttering casteist words but there is nothing on record to show to attract any of the ingredients for the alleged offence also. This Court in the case of ***Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)***[1] *had an occasion to deal with the aspect of abetment. In the said case this Court has opined that there should be an intention to provoke, incite or encourage the doing of an act by the accused. Besides, the judgment also observed that each person's suicidability pattern is different from the other and each person has his own idea of self-esteem and self-respect. In the said judgment it is held that it is impossible to lay down any straightjacket formula dealing with the cases of suicide and each case has to be decided on the basis of its own facts and circumstances. In the case of* ***Amalendu Pal @ Jhantu v. State of West Bengal***[2] *in order to bring a case within the purview of Section 306, IPC this Court has held as under :*

> *"**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."*

In the judgment in the case of ***S.S. Chheena v. Vijay Kumar Mahajan & Anr.***[3] *this Court reiterated the ingredients of offence of Section 306 IPC. Paragraph 25 of the judgment reads 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."*

In the judgment in the case of ***Rajiv Thapar & Ors. v. Madan Lal Kapur***[4] *this Court has considered the scope of the provision under Section 482, Cr.PC and has laid down the steps which should be followed by the High Court to determine the veracity of a prayer for quashing of proceedings in exercise of power under Section 482, Cr.PC. Paragraph 30 containing the four steps read as under :*

> *"**30**. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:*
>
> ***30.1**. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?*
>
> ***30.2**. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*
>
> ***30.3**. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?*
>
> ***30.4**. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*
>
> ***30.5**. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be*

wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

14. While placing glance upon the judgment of Hon'ble Supreme Court in the case of ***Kanchan Sharma (supra)***, learned counsel for the applicant would submit that without positive act on the part of the accused to instigate or aid in committing suicide, no one can be convicted for offence under Section 306 of the IPC. To proceed against any person for the offence under Section 306 IPC requires an active act or direct act which led the deceased to commit suicide, seeing no option that the act must have been intended to push the deceased into such a position that he committed suicide.

15. The learned counsel for the applicant would also submit that there is nothing on record to show that the applicant has done any active act or direct act which has led the deceased to commit suicide. Hence, he would submit that since there is no positive act on the part of the applicant to instigate or aid in the alleged suicide by the deceased, he cannot be convicted for offence under Section 306 IPC and he would submit that the Criminal Miscellaneous Application under Section 482 of the Cr.P.C. deserves to be allowed and the impugned order framing charge and the charge under Section 306 IPC deserve to be set aside and quashed.

16. Per contra, learned counsel for the State, Mr. Vipul Painuly, A.G.A., would submit that there are circumstances against the accused. While referring to the charge-sheet, he would submit that if the accused had deliberately not made the deceased to consume the intoxicating substance and had not taken the deceased

to Chilla instead of Rishikesh, the incident would not have occurred. He would also submit that there is evidence on record in the form of statement under Section 164 of the Cr.P.C. of an independent witness, Arti, who stated that just before the deceased jumped into the canal, the accused was scolding the deceased. He would thus submit that there is eyewitness account of the offence committed by the applicant. He would also refer to the medical examination report of the accused, which was conducted after the incident and he would submit that in the medical examination report, there are many scratch marks of nails on the hands of the accused/applicant, which suggests that there was struggle of the deceased with the applicant, hence offence under Section 306 IPC would be made out.

17. On a query made by the Court, whether there is evidence of instigation as contemplated under Section 306/107 of the IPC, the learned A.G.A. would reply that the only evidence is that only after scolding, the deceased jumped into the canal, hence the ingredients of Section 306/107 of the IPC would be made out.

18. In rejoinder, learned counsel for the applicant would submit that the evidence of Arti, as borne out from her statement under Section 164 of the Cr.P.C., would clearly reveal that her evidence is at best a hearsay evidence, inasmuch as she has stated in the statement under Section 164 Cr.P.C. that some person said that the uncle (accused) was scolding the girl (deceased). Hence, he would submit, since it is not direct evidence and at best a hearsay evidence and it cannot be said that there was any instigation at the behest of the applicant to the deceased to commit suicide.

19. Having heard the learned counsel for parties what falls for determination of this Court is whether under the facts and circumstances of the case, the trial court was justified in proceeding to frame the charge under Section 306 of the IPC?

20. Perusal of the FIR which is the inception of the case, narrates the incident. However, it does categorically state that the accused (Pramod) instigated the daughter (deceased) to commit suicide and her daughter jumped into the canal and lost her life.

21. However, in her statements under Section 161 of the Cr.P.C., the informant/respondent no.2 herein categorically states that she has no content that the applicant had instigated her daughter for committing suicide.

22. Perusal of the charge-sheet would submit that it does not specifically mention anything that the applicant (accused) instigated the deceased to commit suicide. It only records that the deceased was in a state of intoxication and if the accused had not been in a state of intoxication and he would have left her in her maternal uncle's place in Rishikesh, then this incident might not have happened.

23. It is also relevant to mention the statements of the eyewitness, Arti, as is borne out from her statement under Section 164 Cr.P.C. From the said statement under Section 164 Cr.P.C., there is nothing to suggest that the applicant/accused instigated the deceased. It only mentions about the applicant and the deceased being in a state of intoxication. Regarding the slapping the deceased by the applicant, there is no direct eye-witness account and it is only a hearsay evidence.

24. Perusal of the order by means of which the Sessions Judge, Pauri Garhwal came to the conclusion that *prima facie* case under Section 306 of the IPC appears to be made out is apparently dehors the record. A bare perusal of the order dated 24.02.2022 of order framing charge reveals that the learned Sessions Judge has in fact harped upon the alleged illicit relationship of the applicant and the deceased and that there was a difference in the age between the two and therefore, he comes to a conclusion that *prima facie* case under Section 306 of the IPC is made out. Further, the learned Sessions Judge has also very lightly brushed aside the contentions raised on behalf of the accused/applicant that no evidence has been collected by the prosecution during investigation regarding the instigation at the behest of the accused to instigate the deceased to commit suicide. Therefore, it is apparent from record and the order dated 24.02.2022 of the order framing charge that the said order, by means of which the learned Sessions Judge has come to the conclusion that prima facie a case under Section 306 IPC is made out against the applicant, is not based on any material and in fact, it is dehors the evidence on record.

25. The Court has put a pertinent query to the learned A.G.A. whether there is evidence regarding instigation as contemplated under Section 306/107 of the IPC, the only answer the learned A.G.A. has come forth with is that it was only after the scolding by the applicant that the deceased jumped into the canal and committed suicide.

26. After going through the record, it is clear that prosecution has failed to collect any evidence during

investigation that the accused has instigated the deceased to commit suicide. The findings of the trial court regarding the *prima facie* case under Section 306 IPC being made out against the applicant is dehors the record and it is apparent that the charge has been framed on the basis of presumption and assumptions.

27. It is also clear from record that in her statements under Section 161 of the Cr.P.C., the informant/respondent no. 2 has herself stated that she has no content to suggest that the accused instigated the deceased to commit suicide.

28. The Court also finds favour with the submissions of the learned counsel for the applicant, Mr. Gaurav Singh that the ingredients under Section 107 of the IPC are missing and the prosecution has utterly failed to collect any evidence regarding any positive act on the part of the accused to instigate or aid in committing the suicide by the deceased. From record, it is clear that there is no active act or direct act on the part of the accused which led the deceased to commit suicide.

29. Law is well settled that the word 'instigate' denotes incitement or urging to do some drastic or unadvisable action or to stimulate or incite. Presence of *mens rea*, therefore, is the necessary concomitant of instigation.

30. Considering the definition of abetment under Section 107 IPC, the Hon'ble Supreme Court has held that the charge and conviction of the applicant for an offence under Section 306 IPC is not sustainable merely on the allegation of harassment of the deceased. The Hon'ble Supreme Court further held that neither the ingredients of abetment are attracted on the statement of

the deceased. In this regard, reference needs to be made to a judgment of the Hon'ble Supreme Court in the case of ***Sanju alias Sanjay Singh Sengar vs. State of M.P., reported in (2002) 5 Supreme Court Cases 371***, wherein the Hon'ble Supreme Court dilated on the issue of Section 306 IPC and has held as noted hereinabove.

31. In a recent judgment of the Hon'ble Supreme Court in the case of ***Shenbagavalli and Others vs. Inspector of Police, Kancheepuram District and Another, reported in 2025 SCC OnLine SC 987***, the Hon'ble Supreme Court once again had the occasion to dwell on Section 306 IPC, and in particular, reference needs to be made to para nos.15, 16, 17, 18 and 19 of the aforesaid judgment, in which the Hon'ble Supreme Court held that in cases where essential ingredients for the offence of abetment to a suicide having not been fulfilled, the further continuation of the proceedings would not be sustainable. The Hon'ble Supreme Court further went on to observe that 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 the process of Court and ends of justice require that the proceedings ought to be quashed. Para nos.15, 16, 17, 18 and 19 thereof are being quoted hereunder for ready reference.

> *"**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 V. State represented by its inspector of Police[6])

16. *Similarly, in the case of Ude Singh and Others V. State of Haryana[7], 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 V. State of Rajasthan and Another[8].*

***19**. In the light of the above findings, when offence under Section 306 itself is not being made out continuance of the proceedings against the Appellants cannot be permitted."*

32. Thus, in view of the aforesaid facts and circumstances and after having considered the entire record and after considering the provisions of Section 306 and Section 107 of the IPC and after considering the judgments of the Hon'ble Supreme Court in the case of ***Kanchan Sharma (supra), Sanju alias Sanjay Singh Sengar (supra), and Shenbagavalli and Others (supra)***, regarding settled law on Section 306 IPC and the rival submissions of learned counsel for the parties this Court comes to the conclusion that the order framing charge and the charge under Section 306 IPC are unsustainable. The charge under Section 306 is not based on any material and in fact it is dehors the evidence on record and therefore, the instant Criminal Miscellaneous Application under Section 482 of the Cr.P.C. deserves to be allowed.

33. The Criminal Miscellaneous Application is hereby allowed and the impugned order dated 24.02.2022 passed by the District and Sessions Judge, Pauri Garhwal in Sessions Trial No. 01 of 2022, 'State vs. Pramod Kumar Sharma' as well as the charge dated

24.02.2022 framed by the Sessions Judge, Pauri Garhwal under Section 306 IPC against the applicant are quashed and set aside. The present Criminal Miscellaneous Application is allowed in the aforesaid terms and as a consequence, the applicant stands discharged.

(Siddhartha Sah, J.)
10.09.2026

JKJ/