A MAHENDRA K C

v.

THE STATE OF KARNATAKA & ANR.

(Criminal Appeal No. 1238 of 2021)

B OCTOBER 29, 2021

[DR. DHANANJAYA Y CHANDRACHUD AND B. V. NAGARATHNA, JJ.]

Code of Criminal Procedure, 1973: s.482 – Exercise of power under, scope – Prosecution case was that the victim-deceased, the driver of accused-second respondent committed suicide – In the suicide note, he had made serious and grave allegations against the accused second respondent of amassing wealth disproportionate to the known sources of income and a detailed account of the role of the accused in the events which led to the deceased committing suicide – Second respondent successfully filed s.482 application for quashing the criminal proceedings – Hence the instant appeal – Held: High Court while exercising its power under s.482 should have applied the following two tests: i) whether the allegations made in the complaint, prima facie constituted an offence; and ii) whether the allegations were so improbable that a prudent man would not arrive at the conclusion that there was sufficient ground to proceed with the complaint – Rather, High Court stalled the investigation by granting an interim order of stay – The alleged suicide was of a person who was working as a driver of a Special Land Acquisition Officer against whom serious and grave allegations of amassing wealth disproportionate to the known sources of income were made by the deceased and a detailed account of the role of the accused in the events which led to the deceased committing suicide – These were matters of investigation and possibly trial – If the investigation had been allowed to proceed, there would have been a revelation of material facts which would have aided in the trial, for the alleged offence against the second respondent – High Court tested the veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial – At the stage when the High Court considers a petition for quashing under s.482, the High Court cannot test the veracity of the

allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of trial – High Court virtually proceeded to hold a trial, substituting its own perception for what it believed should or should not have been the normal course of human behavior – This is clearly impermissible – The entire judgment of the High Court consists of a litany of surmises and conjectures and such an exercise is beyond the domain of proceeding under s.482 – High Court had proceeded to scrutinize what has been disclosed during the investigation, ignoring that the investigation had been stayed by an interim order of the High Court, during the pendency of the proceedings under s.482 – Petition for quashing FIR dismissed – Penal Code, 1860 – s.306.

Mental Health: The High Court while deciding merits of s.482 Cr.P.C petition has made observations diminishing the importance of mental health – Mental health of an individual cannot be compressed to a one size fit all approach.

Allowing the appeals, the Court

HELD: 1. The Single Judge has failed to notice the distinction between a petition for quashing under Section 482 (which was being considered) and a criminal trial or an appeal against a conviction on a charge under Section 306. The Single Judge has transgressed the limits of the jurisdiction under Section 482 of the CrPC. The judgment is replete with hypothesis and surmises on the basis of which the Single Judge has reached an inference on facts. The Single Judge has tested the veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. At the stage when the High Court considers a petition for quashing under Section 482 of the CrPC, the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, *prima facie* establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of trial.

The High Court in the present case has virtually proceeded to hold a trial, substituting its own perception for what it believed should or should not have been the normal course of human behavior. This is clearly impermissible. [Para 16][595-G-H; 596-A-C]

2. The complaint in the present case on the basis of which the FIR was registered contains a detailed account of: The knowledge of the deceased in regard to the illegal activities of the accused; the accused having used the deceased's bank account for transfer of funds to his relatives; the deceased having been threatened by the accused and by his "house car driver" with death; and the recovery of the suicide note which was also uploaded on the Facebook account of the deceased; The suicide note in turn provides a detailed account of the wealth amassed by the second respondent-accused who was an SLAO, worth over Rs.100 crores; the second respondent-accused having converted approximately Rs. 100 crores into currency notes of various denominations; the knowledge of the deceased with respect the illegal activities of the accused; the accused having used the deceased for the conversion of currency notes amounting to over Rs. 75 crores; the payment of the salary of the deceased, who was a driver having been stopped for three months; a threat of murder being administered to the deceased following a shortage in the currency; and the deceased having decided to end his life by consuming poison, having suffered at the hands of the accused. In this backdrop, it is impossible on a judicious purview of the contents of the complaint and the suicide note for a judicial mind to arrive at a conclusion that a case for quashing the FIR had been established. In arriving at that conclusion, the Single Judge has transgressed the well settled limitations on the exercise of the powers under Section 482 CrPC and has encroached into a territory which is reserved for a criminal trial. [Paras 17, 18] [596-D-H; 597-A-D]

State of Orissa v. Saroj Kumar Sahoo **(2005) 13 SCC 540 : [2005] 5 Suppl. SCR 548;** *State of Haryana v. Ch. Bhajan Lal* **1992 Supp (1) SCC 335 : [1990] 3 Suppl. SCR 259;** *State of M.P. v. Surendra Kori* **(2012) 10 SCC 155 : [2012] 8 SCR 858;** *State of Telangana v. Managipet* **(2019) 19 SCC 87 – relied on.**

3. The High Court while exercising its power under Section 482 of the CrPC to quash the FIR instituted against the second respondent-accused should have applied the following two tests: i) whether the allegations made in the complaint, *prima facie* constitute an offence; and ii) whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint. [Para 21][599-G-H; 600-A-B]

Ramesh Kumar v. State of Chhattisgarh **(2001) 9 SCC 618 : [2001] 4 Suppl. SCR 247;** *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* **(2009) 16 SCC 605 :** [2009] 13 SCR 230; *Amalendu Pal @ Jhantu v. State of West Bengal* **(2010) 1 SCC 707 : [2009] 15 SCR 836;** *Praveen Pradhan v. State of Uttaranchal* **(2012) 9 SCC 734 : [2012] 8 SCR 1129;** *Vaijnath Kondiba Khandke v. State of Maharashtra* **(2018) 7 SCC 781;** *M. Arjunan v. The State (Represented By Its Inspector of Police)* **(2019) 3 SCC 315;** *Ude Singh v. State of Haryana* **(2019) 17 SCC 301 : [2019] 9 SCR 703;** *Rajesh @ Sarkari v. The State of Haryana* **(2020) 15 SCC 359;** *Gurcharan Singh v. The State of Punjab* **(2020) 10 SCC 200;** *Arnab Manoranjan Goswami v. State of Maharashtra* **(2021) 2 SCC 427 – relied on.**

4. While adjudicating on an application under Section 482 CrPC, the High Court in the present case travelled far away from the parameters for the exercise of the jurisdiction. Essentially, the task before the High Court was to determine whether the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety did or did not *prima facie* constitute an offence or make out a case against the accused. Instead of applying this settled principle, the High Court has proceeded to analyze from its own perspective the veracity of the allegations. This is not a case where the High Court has arrived at a conclusion that the allegations in the FIR or the complaint are so absurd and inherently improbable on the basis of which no prudent person

could ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Nor is this a case where the criminal proceeding is manifestly *malafide* or has been instituted with an ulterior motive of taking vengeance on the accused. On the contrary, the specific allegations in the FIR and in the complaint find due reflection in the suicide note and establish a *prima facie* case for abetment of suicide within the meaning of Sections 306 and 107 of the IPC. The entire judgment of the High Court consists of a litany of surmises and conjectures and such an exercise is beyond the domain of proceeding under section 482 of the CrPC. The High Court has proceeded to scrutinize what has been disclosed during the investigation, ignoring that the investigation had been stayed by an interim order of the High Court, during the pendency of the proceedings under section 482. [Paras 25, 26][602-F; 603-A-D]

5. The High Court observed that a *prima facie* case for the commission of offence under Section 306 of the IPC is not made out since: i) the suicide note does not describe the specific threats; ii) details of the alleged demand of Rs. 8 lacs from the deceased by the respondent-accused are not set out in the suicide note; and iii) no material to corroborate the allegations detailed in the suicide note has been unearthed by the investigating agency. The High Court observed that since the deceased took considerable time to write a twelve page suicide note, "it would have been but natural for the author to set out the details". The High Court has evidently travelled far beyond the limits of its inherent power under Section 482 CrPC since instead of determining whether on a perusal of the complaint, a *prima facie* case is made out, it has analysed the sufficiency of the evidence with reference to the suicide note and has commented upon and made strong observations on the suicide note itself. Further, the observation of the High Court that there is no material to corroborate the allegations made in the suicide note is erroneous since it is not a consideration for the High Court while exercising its power under Section 482 of the CrPC, particularly in view of the fact that the trial has not begun and the Single Judge had stayed the investigation in the criminal complaint. [Para 27][603-D-G; 604-H; 605-A]

Case Law Reference

[2005] 5 Suppl. SCR 548	**relied on**	**Para 19**
[1990] 3 Suppl. SCR 259	**relied on**	**Para 19**
[2012] 8 SCR 858	**relied on**	**Para 19**
(2019) 19 SCC 87	**relied on**	**Para 20**
[2001] 4 Suppl. SCR247	**relied on**	**Para 23**
[2009] 13 SCR 230	**relied on**	**Para 24**
[2009] 15 SCR 836	**relied on**	**Para 24**
[2012] 8 SCR 1129	**relied on**	**Para 24**
(2018) 7 SCC 781	**relied on**	**Para 24**
(2019) 3 SCC 315	**relied on**	**Para 24**
[2019] 9 SCR 703	**relied on**	**Para 24**
(2020) 15 SCC 359	**relied on**	**Para 24**
(2020) 10 SCC 200	**relied on**	**Para 24**
(2021) 2 SCC 427	**relied on**	**Para 24**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No.1238 of 2021.

From the Judgment and Order dated 29.05.2020 of the High Court of Karnataka at Bengaluru in Criminal Petition No.3515 of 2017

With

Criminal Appeal No.1239 of 2021.

Mahesh Thakur, Ms. Vipasha Singh, Ms. Shailja Das, Dr. Anthony Raju, Ajay Kanojia, V. N. Raghupathy, Md. Apzal Ansari, Sharan Thakur, Sarvesh Singh Baghel, Shantanu Singh, Advs. for the appearing parties.

The Judgment of the Court was delivered by

DR. DHANANJAYA Y CHANDRACHUD, J.

1. While exercising the jurisdiction under Section 482 of the Code of Criminal Procedure 1973[1], a Single Judge of the High Court of

[1] "CrPC"

A Karnataka quashed (i) a complaint dated 6 December 2016; and (ii) the proceedings initiated pursuant to the complaint. The proceedings which have been quashed were registered as Crime No.565 of 2016 on 7 December 2016at Police Station Maddur, Mandya District, Karnataka and pending on the file of the IInd Additional Civil Judge (Junior Division) and JMFC Maddur. The complainant, at whose behest the First B Information Report[2] was registered foran offence punishable under Section 306 read with Section 34 of the Indian Penal Code 1860[3], and the State of Karnataka are in appeal against the judgment of the High Court dated 29 May 2020.The Single Judge was persuaded to quash the proceedings on the ground that the continuation of the prosecution "would C [be] a travesty of justice and be a sheer waste of time", besides requiring the accused-respondent "to undergo the rigors of a lengthy trial".

A Facts

2. On 6 December 2016, a complaint was lodged at Maddur Police Station at 20:00 hours by the appellant who is the brother of the deceased. D The complaint narrates that the appellant's brother was working as a driver for the accused-second respondent. The second respondent is an officer of the State of Karnataka and is employed in the capacity of a Special Land Acquisition Officer[4]. According to the complaint, the deceased would travel from Bengaluru once in a month to visit the family E home and meet his family and friends. Among his friends was Shashi Kumar. It is alleged that on 4 December 2016 the deceased met another friend, Shiva Kumar at Bengaluru and went to the village. After enquiring about the welfare of his parents, the deceased shared his anguish with the complainant and Shiva Kumar that the accused, who is an SLAO, has amassed disproportionate assets worth over one hundred crores F and had utilized the mobile and bank account of the deceased to transfer funds to his relatives in the course of converting "black money into white". The complaint narrates that since the deceased was aware of the dealings of the accused, the accused together with another driver, had been threatening him with murder.

G 3. On 6 December 2016 at about 1:30pm, Shashi Kumar called the complainant to inform him that the deceased was staying in a room in a lodge and was not opening the door. When he attempted to call the

[2] "FIR"
[3] "IPC"
H [4] "SLAO"

deceased on his cell phone, the deceased spoke in a drunken state and it was apprehended that he was in some difficulty. The complainant alleged that he proceeded to the lodge at 3.00 pm and met Shashi Kumar and found that the room was bolted from inside. The complainant was informed that on 4 December 2016, the deceased had asked Shashi Kumar to arrange a room at a lodge, where he stayed with Shashi Kumar. The deceased is alleged to have informed Shashi Kumar that his life was in danger as the deceased was aware of the illegal activities of the accused in amassing wealth as a result of which he was being threatened with murder. The deceased asked Shashi Kumar to leave the room as the deceased was expecting another friend of his, Suresh, to join him, with whom he was going to discuss the activities of the accused. On 5 December 2016, the deceased called Shashi Kumar to bring him food at the lodge, which was delivered. The deceased informed Shashi Kumar that his friend Suresh had not turned up. He also told Shashi Kumar to return home as one of his other friends would be staying with him.

4. On finding that the deceased was not opening his room on 6 December 2016, a ladder was used by the complainant to access the window of the deceased's room, with the help of the Manager of the lodge. The deceased was found to be in "sleeping mode". The Maddur Police Station was informed and when the door of his room was opened at 18:00 hours, the deceased was found to have died. On a teapoy next to the cot, a bottle of liquor, poison and a suicide note written by the deceased were found. The suicide note was uploaded by the deceased on his Facebook account through his mobile. The complaint narrates that the suicide note has referred to the illegal activities of the accused in amassing wealth in excess of Rs. 100 crores, converting black money into white and transferring funds from the bank account of the deceased through his mobile to the accounts of the relatives of the accused. The complaint alleged that the accused had threatened the deceased with death and harassed him as a result of which the deceased, having suffered mental stress, committed suicide by consuming poison.

5. The FIR was registered at 20:00 hours on 6 December 2016.The second respondent-accused, an SLAO for Bengaluru City, and another driver of his car were named as accused. The suicide note recorded by the deceased allegedly in his own handwriting contains a detailed narration of the properties alleged to have been illegally acquired by the second respondent. Besides detailing the properties which were acquired by the accused in paragraphs 1 to 13, the suicide note refers to:

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(i) The transfer of funds in several lakhs of rupees by the accused to his relatives by using the cell phone and bank account of the deceased;

(ii) The conversion of approximately Rs.100crores into currency notes of Rs.2,000/-, Rs.100/- and Rs.50/-;

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(iii) The knowledge of the deceased in regard to the transactions of the accused as a result of which he had been threatened to be killed "by rowdies";

(iv) A raid conducted against the accused by the establishment of the Lokayukta of Karnataka while he was posted in the

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Housing Board;

(v) The involvement of judges to whom presents or gifts were made;

(vi) The payment of salary to the deceased having been stopped at the behest of the accused;

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(vii) The accused having used the deceased for changing currency worth over Rs.75 crores; and

(viii) The deceased being in knowledge of "all the information", and when a shortage of an amount of Rs.8 lakh was found,

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the deceased had been directed to make good the deficiency, failing which he was threatened to be killed by rowdies.

6. In this backdrop, the deceased recorded that he had been threatened by the accused and hence was ending his life by consuming poison. Both the second respondent and his "house driver" were

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specifically named as responsible for this death.

7. The second respondent-accused was arrested on 11 December 2016. On 12 December 2016, based on a complaint made by BT Suresh, a friend of the deceased, an FIR was registered against the accused as Crime No.128/2016 in Ijur Police Station, Ramnagar District, under

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Sections 323, 324, 341, 342, 363, 506, 114 read with Sections 120B and 34 of the IPC.

8. On 18 April 2017, the accused instituted a petition under Section 482 CrPC for quashing the FIR registered as Crime No. 565/2016. A Single Judge of the High Court of Karnataka stayed investigation and

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proceedings in Crime No.565/2016. After arguments were heard,

judgment was reserved on 12 November 2019. Eventually, by his judgment delivered nearly 6 months thereafter on 29 May 2020, the Single Judge allowed the petition and quashed all proceedings relating to the complaint and FIR registered as Crime No.565/2016.

9. At the outset, it is necessary to elucidate the reasons which have weighed with the High Court in quashing the FIR. The High Court has held that:

(i) The suicide note which consists of 21 numbered paragraphs gives a detailed account of the transactions undertaken by the accused;

(ii) For a person who has made such a detailed account of twenty transactions in the suicide note, it can be prudently expected that the deceased would have furnished details of the threats administrated to him by the accused;

(iii) In the unnumbered paragraph of the suicide note "the totally different story" is set out, stating that the accused threatened to kill the deceased since there was a shortage of cash to the tune of Rs 8 lacs for which the accused suspected the deceased to be responsible;

(iv) The deceased held the accused responsible for withholding his salary for three months;

(v) Though a query was put to the Government Pleader and counsel for the complainant as to whether the investigation had thrown up any material which corroborated the allegations set out in the suicide note, the GP submitted that "they have not been able to unearth any material to corroborate any of the allegations";

(vi) Though the petition was instituted before the High Court on 18 April 2017, and was pending for over three years, no corroborative material had been produced before the Court by the investigating agency;

(vii) Even assuming that the accused has amassed huge wealth, that would not constitute a good ground for a person to commit suicide since it was not the case of the deceased that the accused had deprived him of his wealth;

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(viii) The suicide note contains no incriminating statement or material except for a bald and vague statement that the accused had threatened the deceased;

(ix) The complaint does not disclose details of the alleged threat nor does it state that the deceased had on multiple occasions complained of having received threats from the accused;

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(x) The allegation in regard to the demand for repayment of Rs 8 lacs rings hollow "as neither the prosecution nor the de facto complainant had placed an iota of material that the deceased was or had in fact been in possession of huge sum of money";

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(xi) No act proximate to the time of death is alleged against the accused;

(xii) If the allegation of the demand of Rs. 8 lacs was correct, it would have been natural for the accused to restrain the deceased from leaving Bangalore to ensure the recovery of the alleged sum;

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(xiii) The investigation had not thrown up any material regarding the use of the mobile banking facilities of the deceased for the transfer of funds;

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(xiv) Neither the death-note nor investigation revealed a threat call to the deceased;

(xv) The only witness who could have spoken about the veracity of the suicide note was the deceased;

(xvi) If a threat had been administered to the deceased, he would have narrated the incident to the complainant or his friends;

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(xvii) Even if a threat was given, the nature of the threat would have to be examined particularly on the question as to whether it was of such an alarming proportion so as to drive a 'normal person' to contemplate suicide;

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(xviii) If the deceased had felt threatened by the accused, this was belied by his visits to his village to meet his parents and friends and the failure to lodge a complaint with the police particularly when the Police Commissionerate was a stone's throw away. This casts doubt on the veracity of the suicide note;

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(xix) Since the deceased had consumed alcohol, it is possible that in the grip of intoxicants he had failed to act sanely;

(xx) The conduct of the deceased in attending a marriage in a different town is indicative of the actions of a normal person; and

(xxi) How the deceased had sourced the poison was unknown.

10. The judgment of the Single Judge has given rise to two special leave petitions under Article 136 of the Constitution: one by the complainant and the second by the State of Karnataka.

B Submission of parties

11. Mr Mahesh Thakur, has appeared for the complainant in support of his appeal. In the appeal filed by the State of Karnataka, Mr V.N. Raghupathy has appeared and made submissions. The respondent-accused has been represented in the course of his submissions by Mr Sharan Thakur.

12. Mr Mahesh Thakur, learned counsel appearing on behalf of the complainant urged the following submissions:

(i) The matter being at the stage of investigation and the second respondent having been enlarged on bail, the Single Judge has manifestly erred in quashing the FIR as a result of which the entire investigation has been scuttled midstream;

(ii) The High Court has completely failed to notice the seriousness and gravity of the allegations made against the accused;

(iii) The precedents of this Court indicate that in exercising its jurisdiction under Section 482 CrPC, the High Court does not function as a court of appeal or revision and the jurisdiction has to be exercised with care and circumspection;

(iv) The allegations in the FIR and the contents of the complaint, if taken on their face and accepted in their entirety, clearly indicate the commission of an offence punishable under Section 306 of the IPC by the accused, in which event it was improper for the High Court to quash the proceedings;

A (v) Besides the suicide note, the deceased had informed both the complainant and other witnesses of the harassment which he had suffered at the hands of the second respondent-accused who had a position of influence as an SLAO and with whom the deceased worked as a driver;

B (vi) The nature of the threats and whether the deceased had received calls was a matter for investigation;

(vii) The suicide note contains a detailed account of the illegal activities of the second respondent-accused in amassing disproportionate wealth and the manner in which the C deceased had been utilized for transfer of funds; and

(viii) The High Court has despite the specific allegations in the suicide note and in the complaint enquired into the veracity of the allegations, thereby conducting a trial at the stage of considering a petition for quashing a criminal complaint.

D 13. Mr V.N. Raghupathy learned counsel appearing on behalf of the State of Karnataka has urged similar submissions. It has been submitted that:

(i) The suicide note which was recovered under a mahazar by the jurisdictional police had also been uploaded by the E deceased from his Facebook account;

(ii) The suicide note was submitted to the Forensic Science Laboratory for analysis but the High Court stayed the investigation while entertaining the proceedings under Section 482 CrPC and scuttled the investigation;

F (iii) The allegations in the complaint and the suicide note contain a clear and detailed account of the harassment caused to the deceased at the behest of the second respondent-accused which on its face establishes a case of abetment of suicide; and

G (iv) Another complaint filed by a friend of the deceased which was registered at Ijur Police Station in Ram Nagar District (Crime No.128/2016) corroborates the averments made in Crime No.565/2016 of Maddur Police Station.

14. On the other hand, Mr Sharan Thakur, learned counsel H appearing on behalf of the second respondent – accused submitted that:

(i) Abetment postulates an instigation and in the context of Section 306, the instigation must be to an extent where there is no option but to commit suicide;

(ii) The allegations in the complaint and in the suicide note fall short of the ingredients to establish a case of abetment and hence the essential requirements of the offence under Section 306 have not been established;

(iii) The Single judge of the High Court had furnished reasons for indicating that the allegations contained in the suicide note are inherently improbable;

(iv) The version of the complainant is full of contradictions and inconsistencies;

(v) The suicide note fails to mention any overt act by the accused which would have driven the deceased to commit suicide. During the period between 11 December 2016, when the accused was taken into custody and 29 December 2016, when he was enlarged on bail by the Sessions Court at Mandya, extensive enquiries and investigation were carried out by the investigating agency including the State Police and ACP Karnataka, in spite of which no incriminating evidence has been found; and

(vi) It is a well settled principle of law that in cases involving abetment of suicide there must be a number of direct or indirect acts of incitement to the commission of suicide. In other words, a mere allegation of harassment would not suffice unless the action on the part of the accused compels the person to commit suicide.

15. The rival submissions now fall for analysis.

C Analysis

16. On reading the judgment of the Single Judge, it would appear that the Single Judge has failed to notice the distinction between a petition for quashing under Section 482 (which was being considered) and a criminal trial or an appeal against a conviction on a charge under Section 306. The Single Judge has transgressed the limits of the jurisdiction under Section 482 of the CrPC. The judgment is replete with hypothesis and surmises on the basis of which the Single Judge has reached an inference

A on facts. The Single Judge has tested the veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. At the stage when the High Court considers a petition for quashing under Section 482 of the CrPC, the test to be applied is whether the allegations in the complaint as they stand, without adding B or detracting from the complaint, *prima facie* establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of trial. The High Court in the present case has virtually C proceeded to hold a trial, substituting its own perception for what it believed should or should not have been the normal course of human behavior. This is clearly impermissible.

17. The complaint in the present case on the basis of which the FIR was registered contains a detailed account of:

D (i) The knowledge of the deceased in regard to the illegal activities of the accused;

(ii) The accused having used the deceased's bank account for transfer of funds to his relatives;

(iii) The deceased having been threatened by the accused and E by his "house car driver" with death; and

(iv) The recovery of the suicide note which was also uploaded on the Facebook account of the deceased;

The suicide note in turn provides a detailed account of

F (a) The wealth amassed by the second respondent-accused who was an SLAO, worth over Rs.100 crores;

(b) The second respondent-accused having converted approximately Rs. 100 crores into currency notes of G various denominations;

(c) The knowledge of the deceased with respect the illegal activities of the accused;

(d) The accused having used the deceased for the conversion of currency notes amounting to over Rs. 75 crores; H

(e) The payment of the salary of the deceased, who was a driver having been stopped for three months;

(f) A threat of murder being administered to the deceased following a shortage in the currency; and

(g) The deceased having decided to end his life by consuming poison, having suffered at the hands of the accused.

18. In this backdrop, it is impossible on a judicious purview of the contents of the complaint and the suicide note for a judicial mind to arrive at a conclusion that a case for quashing the FIR had been established. In arriving at that conclusion, the Single Judge has transgressed the well settled limitations on the exercise of the powers under Section 482 CrPC and has encroached into a territory which is reserved for a criminal trial.

19. The High Court has the power under Section 482 to issue such orders as are necessary to prevent the abuse of legal process or otherwise, to secure the ends of justice. The law on the exercise of power under Section 482 to quash an FIR is well settled. In **State of Orissa** v. **Saroj Kumar Sahoo**[5], a two judge Bench of this Court, observed that:

> "8. […] While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/ continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may

[5] (2005) 13 SCC 540

A examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto."

These principles emanate from the decisions of this Court in **State** B **of Haryana** v. **Ch. Bhajan Lal**[6] and **State of M.P.** v. **Surendra Kori**[7]. In **Surendra Kori** (supra), this Court observed:

"14. The High Court in exercise of its powers under Section 482 CrPC does not function as a Court of Appeal or Revision. This Court has, in several judgments, held that the inherent C jurisdiction under Section 482 CrPC, though wide, has to be used sparingly, carefully and with caution. The High Court, under Section 482 CrPC, should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, D are of wide magnitude and cannot be seen in their true perspective without sufficient material."

20. In **Bhajan Lal** (supra), this Court laid down the principles for the exercise of the jurisdiction by the High Court in exercise of its powers under Section 482 of the CrPC to quash an FIR. Justice Ratnavel Pandian E laid down the limits on the exercise of the power under Section 482 CrPC for quashing the FIR and observed:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to F the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible G to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

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[6] 1992 Supp (1) SCC 335

H [7] (2012) 10 SCC 155

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so 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 the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The judgment in **Bhajan Lal** (supra) has been recently relied on by this Court in **State of Telangana** v. **Managipet**[8].

21. Based on the above precedent, the High Court while exercising its power under Section 482 of the CrPC to quash the FIR instituted

[8] (2019) 19 SCC 87

against the second respondent-accused should have applied the following two tests: i) whether the allegations made in the complaint, *prima facie* constitute an offence; and ii) whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint. Before proceeding further, it is imperative to briefly discuss the law on the abetment of suicide to determine if a *prima facie* case under Section 306 of the IPC has been made against the respondent-accused.

22. Section 306 of the IPC provides for punishment of the abetment of suicide:

> "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."

Section107 of the IPC defines the expression "abetment":

> "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 lakes 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 willful misrepresentation, or by willful 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."

23. The essence of abetment lies in instigating a person to do a thing or the intentional doing of that thing by an act or illegal omission. In **Ramesh Kumar** v. **State of Chhattisgarh**[9], a three-judge Bench of this Court, speaking through Justice RC Lahoti (as the learned Chief Justice then was), observed:

> "20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation

[9] (2001) 9 SCC 618

though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

24. A two judge Bench of this Court in **Chitresh Kumar Chopra** v. **State (Govt. of NCT of Delhi**[10]), speaking through Justice DK Jain, observed:

"19. As observed in *Ramesh Kumar* [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(*i*) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(*ii*) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

20. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for

[10] (2009) 16 SCC 605

A individual vulnerability to suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, *which may either be an attempt for self-protection or an escapism from intolerable self*."

B This has been reiterated in the decision in **Amalendu Pal @ Jhantu** v. **State of West Bengal**[11], where it has been observed:

"12. […] 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 C 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."

D (See also in this context the judgments in **Praveen Pradhan** v. **State of Uttaranchal**[12], **Vaijnath Kondiba Khandke** v. **State of Maharashtra**[13], **M. Arjunan** v. **The State (Represented By Its Inspector of Police)**[14], **Ude Singh** v. **State of Haryana**[15], **Rajesh @ Sarkari** v. **The State of Haryana**[16] and **Gurcharan Singh** v. **The State of Punjab**[17].These decisions have been recently referred to in the E judgment of this Court in **Arnab Manoranjan Goswami** v. **State of Maharashtra**[18]).

25. While adjudicating on an application under Section 482 CrPC, the High Court in the present case travelled far away from the parameters for the exercise of the jurisdiction. Essentially, the task before the High F Court was to determine whether the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety did or did not *prima facie* constitute an offence or make out a case against the accused.

G [11] (2010) 1 SCC 707
[12] (2012) 9 SCC 734
[13] (2018) 7 SCC 781
[14] (2019) 3 SCC 315
[15] (2019) 17 SCC 301
[16] (2020) 15 SCC 359
[17] (2020) 10 SCC 200
H [18] (2021) 2 SCC 427

26. Instead of applying this settled principle, the High Court has proceeded to analyze from its own perspective the veracity of the allegations. It must be emphasized that this is not a case where the High Court has arrived at a conclusion that the allegations in the FIR or the complaint are so absurd and inherently improbable on the basis of which no prudent person could ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Nor is this a case where the criminal proceeding is manifestly *malafide* or has been instituted with an ulterior motive of taking vengeance on the accused. On the contrary, the specific allegations in the FIR and in the complaint find due reflection in the suicide note and establish a *prima facie* case for abetment of suicide within the meaning of Sections 306 and 107 of the IPC. The entire judgment of the High Court consists of a litany of surmises and conjectures and such an exercise is beyond the domain of proceeding under section 482 of the CrPC. The High Court has proceeded to scrutinize what has been disclosed during the investigation, ignoring that the investigation had been stayed by an interim order of the High Court, during the pendency of the proceedings under section 482.

27. The High Court observed that a *prima facie* case for the commission of offence under Section 306 of the IPC is not made out since: i) the suicide note does not describe the specific threats; ii) details of the alleged demand of Rs. 8 lacs from the deceased by the respondent-accused are not set out in the suicide note; and iii) no material to corroborate the allegations detailed in the suicide note has been unearthed by the investigating agency. The High Court observed that since the deceased took considerable time to write a twelve page suicide note, "it would have been but natural for the author to set out the details". The High Court has evidently travelled far beyond the limits of its inherent power under Section 482 CrPC since instead of determining whether on a perusal of the complaint, a *prima facie* case is made out, it has analysed the sufficiency of the evidence with reference to the suicide note and has commented upon and made strong observations on the suicide note itself. Paras 32, 33, 34 and 39 of the order of the High Court are extracted below:

> "32. In paragraph no.21, a bald statement is made stating that because he is aware of all the above transaction, he was given a death threat. In the next sentence, he states that he has been psychologically/emotionally trouble and hence, he is consuming

poison and that the petitioner and his driver alone are responsible. For a person, who has detailed 20 transactions, it can be prudently expected of such a person to give details of the threat.

33. In the next unnumbered paragraph, a totally different story/ note is set out as a reason for the petitioner threatening the deceased. In the unnumbered paragraph, he states that there was shortage in the cash to the tune of Rs.8 lakhs and that the petitioner suspected him as being responsible for the same and hence, threatened him that if the deceased did not repay said Rs.8 lakhs, he would have the deceased killed at the hands of rowdies. Thereafter, in the next sentence he states that in view of the same, he has decided to consume poison and that the petitioner and his driver are responsible for the same.

34. In paragraph no.20, the deceased holds the petitioner responsible for withholding the salary for the last three months. The other paragraphs including paragraph no.20 detail the properties said to have been amassed by the petitioner and other illegal transactions. After having perused and scrutinized the death note, a query was put to the learned High Court Government Pleader and the counsel appearing on behalf of 2nd respondent as to whether the investigation has thrown up any material that corroborates any of the allegations set-out in the death note. The learned High Court Government Pleader would fairly submit that they have not been able unearth any material to corroborate any of the allegations.

39. As discussed above, the death note contains no incriminating statement or material except for a bald and vague statement but that the accused had threatened him. Even the complaint does not disclose any details of the alleged threat nor does the complaint state that the deceased had on multiple occasions complained of having received threats from accused. Even the allegation of the demand for repayment of Rs.8 lakhs rings hollow as neither the prosecution nor the de-facto complainant have been able to place an iota of material that the deceased was or had in fact been in possession of huge sum of money."

Further, the observation of the High Court that there is no material to corroborate the allegations made in the suicide note is erroneous since it is not a consideration for the High Court while exercising its power

under Section 482 of the CrPC, particularly in view of the fact that the trial has not begun and the Single Judge had stayed the investigation in the criminal complaint.

28. The Single Judge, other than deciding on the merits of the case while exercising the power under Section 482 of the CrPC, has also made observations diminishing the importance of mental health. The mental health of a person cannot be compressed into a one size fits all approach. In paragraph 37 of the impugned judgment, the Single Judge observed:

> "37. It is not the case of the deceased that the accused had deprived him of his wealth or have committed acts that have shattered his hopes in life or separated him from his family and friends."

The Single Judge then makes the following observation in paragraphs 41 and 43:

> "41. [..] It is not the case of the prosecution that the deceased was running away from or escaping the petitioner or his henchmen, but as is his habit, to visit his parents and to spend time with his friends. If the deceased had really felt threatened, he would have definitely approached the police. It is not that he was naive or not worldly-wise. If his employment with the petitioner was true, then the Police Commissionerate was only a stone's throw away. It is not that the deceased was a weakling. The deceased by profession, is a driver. A profession where, accidents causing loss of life and limb are a daily occurrence and every driver is aware that he could be involved in an accident at any time.
>
> 43. His act of attending a relatives marriage in a different town and his interacting with friends and relatives are all actions of a normal person and not of a person under severe duress. The contention that this criminal case would jeopardize his career progression also cannot be brushed aside. It is also not forthcoming as to how he sourced the poison."

29. The Single Judge has termed a person who decided to commit suicide a 'weakling' and has also made observations on how the behavior of the deceased before he committed suicide was not that of a person who is depressed and suffering from mental health issues. Behavioural scientists have initiated the discourse on the heterogeneity of every individual and have challenged the traditional notion of 'all humans behave

A alike'. Individual personality differences manifest as a variation in the behavior of people. Therefore, how an individual copes up with a threat- both physical and emotional, expressing (or refraining to express) love, loss, sorrow and happiness, varies greatly in view of the multi-faceted nature of the human mind and emotions. Thus, the observations describing the manner in which a depressed person ought to have behaved deeply
B diminishes the gravity of mental health issues.

30. The High Court by its order has prevented the completion of the investigation in the complaint registered as Crime No.565/2016 pending on the file of the IInd Additional Civil Judge (Junior Division) and JMFC Court, Maddur, Mandya District. The alleged suicide is of a person who
C was working as a driver of a Special Land Acquisition Officer, who is a public servant and against whom serious and grave allegations of amassing wealth disproportionate to the known sources of income were made by the deceased. The suicide note contains a detailed account of the role of the accused in the events which led to the deceased committing suicide.
D These are matters of investigation and possibly trial. The High Court stalled the investigation by granting an interim order of stay. If the investigation had been allowed to proceed, there would have been a revelation of material facts which would aid in the trial, for the alleged offence against the second respondent.

E 31. For the above reasons, we allow the appeals and set aside the impugned judgment and order of the Single Judge of the High Court of Karnataka dated 29 May 2020.In the circumstances, the petition for quashing the FIR instituted by the respondent-accused shall stand dismissed.

F 32. Pending application(s), if any, stand disposed of.

Devika Gujral Appeals allowed.