



2026:KER:6717

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

WEDNESDAY, THE 28<sup>TH</sup> DAY OF JANUARY 2026 / 8TH MAGHA, 1947

CRL.REV.PET NO. 1224 OF 2025

CRIME NO.577/2023 OF MELPARAMBA POLICE STATION, Kasargod

SC NO.427 OF 2024 OF ADDITIONAL DISTRICT & SESSIONS

COURT - I, KASARAGOD

REVISION PETITIONER/ACCUSED NO.1

SAFWAN ADHUR  
AGED 30 YEARS  
S/O SAYYID IBRAHIM THANGAL NEAR EROLE MUHIYUDHEEN  
MASJID, BARA VILLAGE, KASARAGOD -, PIN - 671319

BY ADVS.  
SRI.R.ANAS MUHAMMED SHAMNAD  
SRI.C.C.ANOOP  
SHRI.SALEEK.C.A.  
SHRI.THAREEK T.S.  
SHRI.HAMDAN MANSOOR K.

RESPONDENT/STATE

STATE OF KERALA  
REPRESENTED BY SHO, MELPARAMBA POLICE STATION,  
KASARAGOD, PIN - 671541

SR.PP-SRI.A.VIPIN NARAYAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
ADMISSION ON 21.1.2026, THE COURT ON 28.01.2026, DELIVERED THE  
FOLLOWING:



**C.R.**

**ORDER**

*Dated : 28<sup>th</sup> January, 2026*

The 1<sup>st</sup> accused in S.C.427/2024 pending before the Additional Sessions Judge-I, Kasaragod, arising out of crime No.577/2023 of Melparamba police station filed this petition under Section 438 & 442 of the BNSS, challenging Annexure-A4 order of the learned Sessions Judge rejecting his application for discharge.

2. As per Annexure-A4 order, the learned Sessions Judge decided to frame charge against the petitioner under Sections 306 and 204 of IPC.

3. The prosecution case is that the petitioner had an extra marital relationship with the 2<sup>nd</sup> accused, who is now no more. When the 2<sup>nd</sup> accused came to know that the petitioner was about to marry another woman, she inquired about the same with the petitioner. Enraged by the query made by the 2<sup>nd</sup> accused, the petitioner scolded the deceased saying “go away and die”. It is alleged that, the deceased who was mentally disturbed due to the above act of the petitioner, jumped into a well, along with her daughter aged 5½ and committed suicide on 15.9.2023 between 5.10 a.m and 6.00 a.m.

4. According to the learned counsel for the petitioner, even if the entire allegations levelled against the petitioner are believed, the same will not constitute the offences punishable under Sections 306 and 204 IPC. Therefore



he prayed for setting aside Annexure-A4 order by which the Sessions Judge decided to frame charge against the petitioner.

5. The petition was opposed by the learned Public Prosecutor.

6. As per the prosecution case, the deceased was already married to another person. The petitioner had an extra marital relationship with her. When the deceased came to know that the petitioner was going to marry another woman, she called the petitioner over the phone and inquired about his decision to marry another woman. It appears that, in the ensuing wordy altercation the petitioner scolded the deceased and said “go away and die”. According to the learned counsel, such a comment made by the petitioner in a heat of passion was without any intention to abet the deceased to commit suicide and therefore, the offence under Section 306 IPC is not made out.

7. Section 306 IPC reads as follows :-

***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.*

8. Section 107 IPC defines the term abetment as instigating, conspiring or intentionally aiding someone to commit an offence. In the decision in **Sanju Alias Sanjay Singh Sengar v. State of M.P., 2002 KHC 1270**, relied upon by the learned counsel for the petitioner, the Apex Court



held in paragraph 12 that :

*“....Even if we accept the prosecution story that the appellant did tell the deceased 'to go and die', that itself does not constitute the ingredient of 'instigation'. 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. It is common knowledge that the words uttered in a quarrel or in a spur of the moment cannot be taken to be uttered with mens rea. It is in a fit of anger and emotional....”*

9. In the decision in **Swamy Prahaladdas v. State of M.P., 1995 KHC 3306**, the Apex Court held that, words which are casual in nature which are often employed in the heat of the moment between quarrelling people does not amount to abetment of suicide.

10. In the decision in **Cyriac v. S.I.of Police, 2005 KHC 1021** in paragraph 17 and 18 this Court held as follows :

*17. From the discussion already made by me, I hold as follows: The act or conduct of the accused, however insulting and abusive those may be, will not by themselves suffice to constitute abetment of commission of suicide, unless those are reasonably capable of suggesting that the accused intended by such acts consequence of suicide. Even if the words uttered by the accused or his conduct in public are sufficient to demean or humiliate the deceased and even to drive him to suicide, such acts will not amount to instigation or abetment of*



*commission of suicide, unless it is established that the accused intended by his acts, consequence of a suicide. It is not enough if the acts of the accused cause persuasion in the mind of the deceased to commit suicide.*

*18. An indirect influence or an oblique impact which the acts or utterances of the accused caused or created in the mind of the deceased and which drove him to suicide will not be sufficient to constitute offence of abetment of suicide. A fatal impulse or an illfated thought of the deceased, however unfortunate and touchy it may be, cannot unfortunately, touch the issue. Those cannot fray the fabric of the provision contained in S.306 IPC. In short, it is not what the deceased 'felt', but what the accused 'intended' by his act which is more important in this context. Of course, the deceased's frail psychology which forced him to the suicide also may become relevant, but it is only after establishing the requisite intention of accused.*

11. Therefore, what is important is the intention of the accused and not what is felt by the deceased. In the instant case also, the words, “go away and die” made by the petitioner was in the midst of a wordy quarrel between the petitioner and the deceased, in a heat of passion without having any intention to instigate the deceased to commit suicide and as such, the offence under Section 306 IPC is not made out. Since the allegations do not constitute the offence under S.306 IPC, the offence under S.204 IPC also will not be attracted. Therefore, Annexure-A4 order passed by the learned Sessions Judge



by which he decided to frame charge against the petitioner under S.306 and S.204 IPC is liable to be set aside and the petitioner is liable to be discharged of those offences.

12. In the result, this Crl.Revision Petition is allowed. Annexure-A4 order of the learned Sessions Judge is set aside. The petitioner is discharged of the offences punishable under Ss.306 and 204 of IPC, under Section 438 & 442 of the BNSS.

*Sd/-C.Pratheep Kumar, Judge*



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APPENDIX OF CRL.REV.PET NO. 1224 OF 2025

**PETITIONER ANNEXURES**

|                    |                                                                                                                        |
|--------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>Annexure A1</b> | <b>A CERTIFIED COPY OF THE FIR IN CRIME NO.577/2023 OF THE MELPARAMBA PS, KASARAGOD DATED 15.09.2023</b>               |
| <b>Annexure A2</b> | <b>A CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO.577/2023 DATED 19.12.2023</b>                                      |
| <b>Annexure A3</b> | <b>A CERTIFIED COPY OF THE CYBER FORENSIC ANALYSIS REPORT BEARING NO. 80/23/B1-2591/2023/DFSL/KSD DATED 30.08.2024</b> |
| <b>Annexure A4</b> | <b>A CERTIFIED COPY OF THE ORDER DATED 08.07.2025 IN CRL MP 2027/2025 IN SC NO. 427/2024</b>                           |
| <b>Annexure A5</b> | <b>A CERTIFIED COPY OF THE SUICIDE NOTE BY THE ACCUSED NO.2</b>                                                        |