

## Gouri Biswas and Another Vs State Of West Bengal and Another

**Court:** Calcutta High Court (Appellate Side)

**Date of Decision:** Jan. 10, 2025

**Acts Referred:** Code of Criminal Procedure, 1973 – Section 107, 161, 482  
 Indian Penal Code, 1860 – Section 34, 107, 306

**Hon'ble Judges:** Suvra Ghosh, J

**Bench:** Single Bench

**Advocate:** Rajdeep Majumder, Pritam Roy, Triparna Roy, Debasish Roy, Saryati Dutta, Ratul Ghosh

**Final Decision:** Allowed

### Judgement

Suvra Ghosh, J

1. In the present application, the petitioners have sought quashing of G.R. Case no. 557 of 2020 pending before the Learned Additional Chief Judicial

Magistrate, Dantan, Pashim Medinipur.

2. Learned counsel for the petitioners has submitted that the first petitioner is the wife of the deceased/younger brother of the defacto

complainant/private opposite party. Surja Kanta Biswas, since deceased, used to reside in a rented accommodation with his wife/the first petitioner

and their minor daughter. He committed suicide on 31st October, 2020 by hanging. Charge sheet has been submitted against the petitioners under

section 306 of the Indian Penal Code. The allegations against the petitioners are false and frivolous there is no ingredient of offence against them

under section 306 of the Indian Penal Code. There is also no ingredient of offence under section 107 of the Code against them. Learned counsel for

the petitioner has placed reliance on a judgment of the Hon'ble Supreme Court in Criminal Appeal no. 1022 of 2021 delivered on 17th September,

2021.

3. The private opposite party has not been represented despite service of notice.

4. Learned counsel for the State produces the case diary and refers to the statement of witnesses recorded under section 161 of the Code of Criminal

Procedure.

5. Charge sheet has been submitted against the petitioners under section 306/34 of the Indian Penal Code. In order to bring home charge against the

petitioners under section 306 of the Code, ingredients of abetment as laid down under section 107 of the Code need to be substantiated. It shall be

convenient to set out section 107 of the Code.

“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.

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.”

6. In the case in hand, statement of witnesses recorded under section 161 of the Code of Criminal Procedure demonstrates that the deceased did not

approve of the acquaintance of the first petitioner with the second petitioner and starting of a beauty parlour by the first petitioner. According to the

witnesses, he committed suicide since the first petitioner did not pay heed to his reservation. Besides the said statement, there is no material on record

to suggest that the petitioners abetted suicide of the deceased. In fact, the material available on record is far from sufficient to indicate that the

petitioners were in any manner responsible for commission of suicide by the deceased or their act/conduct was the proximate cause of the suicide. In

the authority in *Rajiv Thapar and others v/s. Madan Lal Kapur* reported in 4 (2013) 3 Supreme Court Cases 330, the Hon’ble Court has laid down

four steps to determine the veracity of a prayer for quashing of proceedings in exercise of power under section 482 of the Code of Criminal

Procedure:-

“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?

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?

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?

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?

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.

7. In the present case, there is no material on record to substantiate the ingredients laid down under section 107/306 of the Indian Penal Code.

8. In the circumstances, this Court is inclined to hold that the petitioners should not be compelled to face the ordeal of trial without any credible

material against them and allowing the proceeding to continue shall amount to abuse of the process of the Court.

9. Accordingly, C.R.R. 3034 of 2024 is allowed.

10. The proceedings being G.R. Case no. 557 of 2020 pending before the Learned Additional Chief Judicial Magistrate, Dantan, Pashcim Medinipur

be quashed.

11. The petitioners be set at liberty at once and discharged from their bail bonds.

12. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

13. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.