

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL REVISION CASE No.44 OF 2011

Between:-

1. Chilikuri Mariyadas, S/o Venakateswarlu, R/o Somavaram Village,
Nandigama Mandal, Krishna District.
2. Chilikuri Pitchayya, S/o Venkateswarlu, R/o Somavaram Village,
Nandigama Mandal, Krishna District.

...Petitioners

AND

The State of A.P., rep by Public Prosecutor,
High Court of A.P., Hyderabad,.

...Respondent

DATE OF ORDER PRONOUNCED : 16.06.2025

SUBMITTED FOR APPROVAL:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

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|---|--------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copy of Judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether His Lordship wish to see the
fair copy of the Judgment? | Yes/No |

Dr. Y. LAKSHMANA RAO, J

*** THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

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High Court of A.P., Hyderabad,.

...Respondent

! Counsel for the Petitioners : Sri P.Prabhakara Rao

**^Counsel for the Respondent : Ms. P.Akhila Naidu,
Assistant Public Prosecutor**

< Gist:

> Head Note:

? Cases referred:

- 1) (2002) 6 SCC 650**
- 2) (2010) 12 SCC 190**
- 3) (2010) 1 SCC 707**
- 4) (2011) 3 SCC 626**
- 5) (2019) 17 SCC 301**
- 6) 1995 Supp (3) SCC 438**
- 7) 1995 Supp (3) SCC 438**
- 8) (2009) 16 SCC 605**
- 9) (2020) 15 SCC 359**
- 10) 2025 SCC OnLine SC 107**
- 11) (2010) 8 SCC 628**
- 12) (2001) 9 SCC 618**
- 13) 2025 INSC 168**
- 14) 2024 SCC OnLine SC 4091**
- 15) (2019) 3 SCC 315**
- 16) (2005) 2 SCC 659**
- 17) (2021) 19 SCC 144**
- 18) SCC OnLine SC 1387**

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 44 of 2011

ORDER:

The Criminal Revision Case has been preferred under Sections 397 and 401 of Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C') challenging the judgment dated 21.12.2010 in Crl.A.No.29 of 2009 passed by the learned VI Additional District and Sessions Judge (F.T.C) Krishna, Machilipatnam, confirming the judgment dated 09.03.2009 in S.C.No.300 of 2008 passed by the learned Assistant Sessions Judge, Nandigama finding the revisionists guilty of the offence punishable under Section 306 of the Indian Penal Code, 1860 (for short 'the I.P.C') and convicted the revisionists under Section 235 (2) of 'the Cr.P.C.,' and sentenced them to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.500/- (Rupees Five Hundred Only) each and, in default, to undergo simple imprisonment for a period of three months each.

2. I have heard the arguments of the learned counsel for the petitioners and the learned Assistant Public Prosecutor.

3. Sri P. Prabhakara Rao, the learned counsel for the petitioners, while reiterating the grounds of the revision, submitted that the judgments of the learned Courts below are contrary to law, weight of evidence and probabilities of the case; the learned Courts below erred in convicting the petitioners merely based on Ex.P8 dying declaration without any support from independent

sources; the learned Courts below ought to have seen that there is no investigation or either direct or indirect participation of the petitioners for the alleged abetting of the offence of suicide within the contemplation of Section 306 of 'the I.P.C'; the Courts below ought to have seen that non-examination of the doctor who attended the deceased was fatal to the prosecution case inasmuch as there was no evidence to show about the mental condition of the deceased enabling her to make a statement as to the offence; the learned Courts below ought to have seen that as the post-mortem discloses that the deceased sustained 100% burn injuries that it is impossible or highly improbable to make a statement under Ex.A8; the learned Courts below ought to have seen that P.Ws.1 to 4, who are direct eye witnesses, did not support the case of the prosecution and this itself creates any amount of doubt on the case of the prosecution; the learned Courts below ought to have seen that there are material contradictions between the evidence of P.W.6 and P.W.9 as to the recording of the statement of the deceased by the P.W.9; and that eventually, requested to allow the criminal revision case by setting aside the impugned judgments passed by the learned Appellate and Trial Courts.

4. *Per contra*, Ms. P. Akila Naidu, learned Assistant Public Prosecutor vehemently argued that the learned Appellate Court having gone through the evidence of the prosecution witnesses and the judgment of the learned Trial Court rightly passed the judgment confirming the conviction for the offence

charged and urged to dismiss the revision case as there are no material irregularities, miscarriage of justice and misreading of the evidence.

5. Thoughtful consideration is bestowed on the arguments advanced by the learned counsel for the petitioners and the learned Assistant Public Prosecutor. I have perused the record.

6. Now the point for consideration is:

“Whether the judgment in Crl.A.No.29 of 2009 dated 21.12.2010 passed by the learned VI Additional District and Sessions Judge (F.T.C) Krishna, Machilipatnam, is correct, legal, and proper with respect to its finding, sentence, or judgment, and there are any material irregularities? And to what relief?”

7. It is apposite to refer to the judgment of the Hon’ble Apex Court in **Bindeshwari Prasad Singh v State of Bihar**¹ wherein at Paragraph Nos.12 & 13 it is held as under:

“13.... In the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in the exercise of its revisional jurisdiction. It has repeatedly been held that the High Court should not re-appreciate the evidence to reach a finding different from the trial Court. In the absence of manifest illegality resulting in grave miscarriage of justice, exercise of revisional jurisdiction in such cases is not warranted.”

8. This Court, while exercising its jurisdiction under Section 397 read with Section 401 of ‘the Cr.P.C.,’ cannot invoke it’s revisional power as a Second Appellate Court and re-appreciation of evidence is not possible in the revision case as laid down in the decision in **Bindeshwari Prasad Singh**. However, this Court is not denuded of its powers to examine whether judgments

¹(2002) 6 SCC 650

impugned are correct, legal and proper with respect to their findings, sentence or even judgment and there are any material irregularities. If there are manifest illegalities and interest of public justice requires interference for the correction of those manifest illegalities or to prevent a great miscarriage of justice, this Court is empowered to evaluate the evidence and analyze it and come to a just conclusion

9. It is the case of the prosecution emanating from the charge sheet that the deceased-Chilukuri Mariyamma is the wife of Petitioner No.1. Petitioner No.2 is the younger brother of Petitioner No.1. Marriage of Petitioner No.1 was performed with deceased about two decades ago. They were blessed with two daughters and one son. From the very beginning of the marriage, Petitioner No.1 had been harassing the deceased both physically and mentally suspecting her fidelity. Frequent quarrels ensued between them. On the night of 14.02.2008, the Petitioners beat deceased due to suspicion of her fidelity. As a result, she felt insulted, as she was beaten by Petitioner No.2 with a chappal, she poured kerosene on her body and set herself ablaze. The whole body was burnt. On 15.02.2008 at about 09.00 a.m., Petitioner No.1 shifted the body of the deceased to Government Hospital, Nandigama and from there to Government General Hospital, Vijayawada, wherein she succumbed to injuries on the same day at about 02.30 p.m.

10. Based on Ex.P11 Hospital intimation on 15.02.2008 at about 10.30 a.m., P.W.9 Sub-Inspector of Police, Nandigama Police Station had come

posthaste to the Government Hospital, Nandigama, recorded the statement of the deceased vide Ex.P12, basing on which a case in Cr.No.47 of 2008 under the caption 'Woman Burns' was registered and took up investigation. P.W.9 visited the scene of offence, examined it in the presence of P.W.5 and L.W.15 Pallepogu China Anandam and seized M.O.1 - ten liters tin of kerosene under Ex.P5 observation report. P.W.9 also drew Ex.P14 - sketch of scene of offence. On receipt of death intimation of Chilukuri Mariamma from Government General Hospital, Vijayawada, P.W.8 altered the section of law from the caption 'Woman Burns' to Section 306 read with 34 of 'the I.P.C.,' on 16.02.2008 at about 09.30 a.m. An inquest was conducted over the cadaver of deceased in the presence of P.W.5 and L.W.15 under Ex.P6 – Inquest Report and forwarded the body of Chilukuri Mariamma to autopsy.

11. P.W.6 – the Judicial Magistrate of I Class, Nandigama, on requisition under Ex.P7 hospital intimation, had visited Government Hospital, Nandigama and recorded Ex.P8 dying declaration of Chilukuri Mariamma. P.W.7 conducted autopsy over the cadaver of deceased and issued Ex.P9 – Postmortem certificate, certifying that the cause of death of Chilukuri Mariamma was due to burns and its complications. P.W.9 arrested Petitioner No.1 on 19.02.2008 and Petitioner No.2 on 22.08.2008 and forwarded them to the learned jurisdictional magistrate for judicial remand. On completion of investigation, a charge sheet was filed.

12. The learned Judicial Magistrate of I Class, Nandigama took cognizance of the offence under Section 306 read with 34 of 'the I.P.C.,' against the Petitioners and registered the case as P.R.C.No.25 of 2008. In this case it is expedient to examine whether there was any instigation either direct or indirect on the part of the Petitioners driving Chilukuri Mariyamma for taking extreme step of committing suicide by pouring kerosene on her body and set herself ablaze. The doctor, who attended the deceased, was not examined by the prosecution to speak about the mental condition of the deceased while giving her dying declaration. The deceased received 100% burn injuries as seen from the evidence of P.W.7, the doctor who conducted autopsy. P.Ws.1 to 4 deposed ignorance about the case of the prosecution. The Trial Court based on the evidence of panch witnesses, the Judicial Magistrate of I Class, Nandigama, inquest report and the dying declaration of the deceased, convicted and sentenced the Petitioners.

13. P.W.6 the Judicial I Class Magistrate, Nandigama who recorded the dying declaration of the deceased deposed that he had commenced recording of dying declaration at 10.45 a.m., and concluded at 10.55 a.m. He admitted that there were no other persons present at the time of recording of dying declaration except the duty doctor and his attender. Whereas the evidence of P.W.9 – the Sub-Inspector of Police is that he recorded the statement of the deceased at about 10.50 a.m., and 11.00 a.m., on the same day of recording of dying declaration by the learned Magistrate. The learned Magistrate

recorded dying declaration of Chilukuri Mariamma in her own words (translated into English) as under:

“My husband and his brother (my brother-in-law) Pitchayya beat me yesternight. They stated that why should I lead this life and why should not I die. Hence I poured kerosene and set myself fire. My mother-in-law brought me to the hospital.”

14. In this context, it is apposite to refer the landmark decisions of the Hon’ble Apex Court about the principles and ratios to decide whether there are adequate ingredients to determine about commission of abetment of suicide by the petitioners.

15. In **S.S. Chheena v. Vijay Kumar Mahajan**², at Paragraph No.25 it is held 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.”

16. In **Amalendu Pal v. State of West Bengal**³, at Paragraph No.12 it is 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

²(2010) 12 SCC 190

³(2010) 1 SCC 707

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.

17. In **M. Mohan v. State**⁴, at Paragraph Nos.44 and 45 it is held as under:

“44. 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.

45. The intention of the legislature and the ratio of the cases decided by this Court are 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 this act must have been intended to push the deceased into such a position that he/she committed suicide.

18. In **Ude Singh v. State of Haryana**⁵, at Paragraph Nos.15 and 16 it is held as under:

“15. Thus, “abetment” involves a mental process of instigating a person in doing something. A person abets the doing of a thing when:

- (i) he instigates any person to do that thing; or*
- (ii) he engages with one or more persons in any conspiracy for the doing of that thing; or*
- (iii) he intentionally aids, by acts or illegal omission, the doing of that thing.*

These are essential to complete the abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do anything.

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

⁴(2011) 3 SCC 626

⁵(2019) 17 SCC 301

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.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set-ups, education,

etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.”

19. In **Swamy Prahaladdas v. State of Madhya Pradesh**⁶, at Paragraph

Nos.2 and 3 it is held as under:

“2. The impugned order of the High Court of Madhya Pradesh is in confirmation of the order of the Court of Session, whereby, the appellant herein, has been summoned to face trial for offence under Section 306 IPC. The said order has been passed in this background:

Sushila Bai, respondent, a married woman, is alleged to have had two paramours, one was the deceased and the other is the appellant. It is alleged that there was sexual jealousy between the two. The deceased was a married man. The prosecution alleges that Sushila Bai had completely bewitched him but her heart was with the appellant. On the morning of 13-6-1992, all the three had a quarrel while sharing their morning tea. During that course, the appellant is said to have remarked for the deceased to go and die. The prosecution alleges that thereafter the deceased went home in a dejected mood, whereafter he committed suicide. The suicide has been termed as the direct cause for the treatment meted out to the deceased by the appellant. It is Sushila Devi though, who alone stands committed to the Court of Session to face trial because of her preferential treatment to the appellant.

3. At the time of framing of charge, the trial court thought it appropriate to associate the appellant herein as an accused because of the words he uttered to the deceased. We think that just on the basis of that utterance the Court of Session was in error in summoning the appellant to face trial. In the first place it is difficult, in the facts and circumstances, to come to even a prima facie view that what was uttered by the appellant was enough to instigate the deceased to commit suicide. Those words are casual in nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite mens rea on the assumption that these words would be carried out in all events. Besides the deceased had plenty of time to weigh the pros and cons of the act by which he ultimately ended his life. It cannot be said that the suicide by the deceased was the direct result of the words uttered by the appellant. For these reasons, the error is

⁶1995 Supp (3) SCC 438

apparent requiring rectification. The appeal is accordingly allowed. The orders of the High Court and that of the Court of Session are thus upset. The appellant need not face the charge.”

20. In **Gurcharan Singh v. State of Punjab**⁷, at Paragraph No.15 it is held as under:

“15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Section 107 IPC, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous. However, what transpires in the present matter is that both the trial court as well as the High Court never examined whether the appellant had the mens rea for the crime he is held to have committed. The conviction of the appellant by the trial court as well as the High Court on the theory that the woman with two young kids might have committed suicide possibly because of the harassment faced by her in the matrimonial house is not at all borne out by the evidence in the case. Testimonies of the PWs do not show that the wife was unhappy because of the appellant and she was forced to take such a step on his account.”

21. In **Chitresh Kumar Chopra v. State (NCT of Delhi)**⁸, at Paragraph No.13 it is held as under:

“13. As per the section, a person can be said to have abetted in doing a thing, if he, firstly, 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 to Section 107 states that any wilful misrepresentation or wilful concealment of material fact which he is bound to disclose, may also come within the contours of “abetment”. It is manifest that under all the three situations, direct involvement of the person or persons concerned in the

⁷1995 Supp (3) SCC 438

⁸(2009) 16 SCC 605

commission of offence of suicide is essential to bring home the offence under Section 306 IPC.”

22. In **Rajesh v. State of Haryana**⁹, at Paragraph No.13 it is held as under:

“9. Conviction under Section 306 IPC is not sustainable 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. 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.”

23. Further, the learned counsel for the petitioners relied upon the judgment of the Hon'ble Apex Court in **Mahendra Awase v. State of Madhya Pradesh**¹⁰ wherein at Paragraph Nos.18, 19 and 20 it is held as under:

“18...As has been held hereinabove, to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.

19. Applying the above principle to the facts of the present case, we are convinced that there are no grounds to frame charges under Section 306 IPC against the appellant. This is so even if we take the prosecution's case on a demurrer and at its highest, a reading of the suicide note reveals that the appellant was asking the deceased to repay the loan guaranteed by the deceased and advanced to Ritesh Malakar.

⁹ (2020) 15 SCC 359

¹⁰ 2025 SCC OnLine SC 107

It could not be said that the appellant by performing his duty of realising outstanding loans at the behest of his employer can be said to have instigated the deceased to commit suicide. Equally so, with the transcripts, including the portions emphasised hereinabove. Even taken literally, it could not be said that the appellant intended to instigate the commission of suicide. It could certainly not be said that the appellant by his acts created circumstances which left the deceased with no other option except to commit suicide. Viewed from the armchair of the appellant, the exchanges with the deceased, albeit heated, are not with intent to leave the deceased with no other option but to commit suicide. This is the conclusion we draw taking a realistic approach, keeping the context and the situation in mind. Strangely, the FIR has also been lodged after a delay of two months and twenty days.

20. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for Section 306 IPC [Now Section 108 read with Section 45 of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed more in the breach. Section 306 IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law laid down by this Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306 of 'the I.P.C'.

24. In **Madan Mohan Singh v. State of Gujarat**¹¹, it is held that *in order to bring out an offence under Section 306 of 'the I.P.C.,' specific abetment as contemplated by Section 107 of 'the I.P.C.,' on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306 of 'the I.P.C.'*

25. In **Ramesh Kumar v. State of Chhattisgarh**¹² the Hon'ble Apex Court while examining different shades of the meaning of "instigation" at Paragraph No.20 reads as under:

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

26. In **Ayyub v. State of Uttar Pradesh**¹³ the Hon'ble Apex Court at Paragraph Nos.19 and 21 held as under:

"19...By a long line of judgments, this Court has reiterated that in order to make out an offence under Section 306 IPC, specific abetment as contemplated by Section 107

¹¹ (2010) 8 SCC 628

¹² (2001) 9 SCC 618

¹³ 2025 INSC 168

IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC [See Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707 and M. Mohan vs. State, (2011) 3 SCC 626 and Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618].

21. We find none of the ingredients required in law to make out a case under Section 306 IPC to be even remotely mentioned in the charge-sheet or are being borne out from the material on record. The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased Tanu with no other alternative but to put an end to her life. The surrounding circumstances, particularly the prior lodgment of the FIR by the first appellant against the family of Tanu for the death of his son Ziaul Rahman, does indicate an element of desperation on the part of the respondent no. 2 to somehow implicate the appellants. Reliance of the statements recorded under Section 161 Cr.P.C. belatedly on 07.11.2022, 08.11.2022 and 22.11.2022, only reinforces our suspicion viz. one-sided, partial and inimical investigation. Under these circumstances, proceeding with the trial against the appellants in the charge-sheet as filed will be a gross abuse of process.”

27. In **Nipun Aneja v. State of Uttar Pradesh**¹⁴ the Hon'ble Apex Court at Paragraph Nos.19, 21, 22, 23, and 24 held as under:

“19...This Court in Ude Singh v. State of Haryana, (2019) 17 SCC 301, held that in order to convict an accused under Section 306 of the IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. It was observed as under:-

¹⁴ 2024 SCC OnLine SC 4091

"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 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."

21. *The ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large, the expectations and obligations are prescribed by law, rules, policies and regulations.*

22. *The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence &*

accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.

23. (a) On the date of the meeting, i.e., 03.11.2006, did the appellants create a situation of unbearable harassment or torture, leading the deceased to see suicide as the only escape? To ascertain this, the two statements of the colleagues of the deceased referred to by us were sufficient.

(b) Are the appellants accused of exploiting the emotional vulnerability of the deceased by making him feel worthless or underserving of life leading him to commit suicide?

(c) Is it a case of threatening the deceased with dire consequences, such as harm to his family or severe financial ruin to the extent that he believed suicide was the only way out?

(d) Is it a case of making false allegations that may have damaged the reputation of the deceased & push him to commit suicide due to public humiliation & loss of dignity.

24. The aforesaid are just illustrations that could be considered as abetment under the law in the facts & circumstances of a given case."

28. In **Arjunan v. State**¹⁵ the Hon'ble Apex Court, while explaining the necessary ingredients of Section 306 of 'the I.P.C.,' in detail, at Paragraph No.7 it is held as under:

"7... The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 IPC."

29. In **Netai Dutta v. State of West Bengal**¹⁶ the Hon'ble Apex Court at Paragraph Nos.5, 6, and 7 held as under:

"Where an employee of a company was transferred from one place to another. However, he failed to join. Thereafter, he sent a letter of resignation expressing his grievance against stagnancy to salary and unpleasant situation. The company accepted the resignation. Thereafter, the said employee committed suicide. He left behind a suicide note, alleging therein that Netai Dutta and, one Paramesh Chatterjee engaged him in several wrong doings. The same was alleged as, torture. The brother of the deceased filed complaint, against Netai Dutta and others under Section 306 of the IPC. A learned Single Judge of the High Court of Calcutta declined to quash the complaint. In appeal, however, this Court while quashing the complaint, at paragraphs 5 and 6 observed as under:

"5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the work place. But, it may also be noticed that the deceased after his

¹⁵ (2019) 3 SCC 315

¹⁶ (2005) 2 SCC 659

transfer in 1999 had never joined the office at 160 B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16-2-2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306. IPC would stand only if there is an abetment for the commission of the crime. The parameters of the "abetment" have been stated in Section 107 of the Penal Code, 1860. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing: or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission taken place in pursuance of that conspiracy, or the person should have intentionally aided any act or illegal omission. The explanation to. Section 107 says that any willful misrepresentation or willful concealment of a material-fact which he is bound to disclose, may also come within the contours of "abetment"

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any-act or incidence where by the appellant herein is alleged to have, committed any willful act or omission or intentionally aided or instigated the deceased) Pranab Kumar Nag to committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag."

7. The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned single Judge seriously erred in holding that the first information report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein."

30. In **Geo Varghese v. State of Rajasthan**¹⁷ the Hon'ble Apex Court at Paragraph Nos.15 and 16 held as under:

"15...The ordinary dictionary meaning of the word 'instigate' is to bring about or initiate, incite someone to do something. This Court in Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618, has defined the word 'instigate' as under:"20.

¹⁷ (2021) 19 SCC 144

Instigation is to goad, urge forward, provoke, incite or encourage to do "an act".

16. *The scope and ambit of Section 107 IPC and its correlation with Section 306 IPC has been discussed repeatedly by this Court. In the case of S.S. Cheena v. Vijay Kumar Mahajan (2010) 12 SCC 190, it was observed 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 the Supreme 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".

31. In **Mariano Anto Bruno v. The Inspector of Police**¹⁸ the Hon'ble Apex Court at Paragraph No.44 held as under:

"44... 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 their 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."

32. On a careful analysis and scrutiny of the dying declaration of Chilukuri Mariyamma, it can be easily discerned that there was no instigation done by any of the Petitioners goading Chilukuri Mariyamma to commit suicide. There is no evidence that they had intentionally aided her to commit suicide. There is

¹⁸ 2022 SCC OnLine SC 1387

no evidence that the Petitioners committed abetment of suicide by criminal conspiracy. On a scrupulous examination of the facts and circumstances of the case, especially dying declaration of the deceased, there was no positive action proximate to the time of suicide on the part of the Petitioners which lead or compelled the deceased to take the extreme step of committing suicide. Therefore, the conviction under Section 306 of 'the I.P.C.,' sustained by the learned Trial Court and upheld by the learned Appellate Court are not valid and legally acceptable inasmuch as there was no positive act on the part of the Petitioners to instigate or intentionally aided Chilukuri Mariamma to commit suicide.

33. None of the witnesses of the prosecution had spoken that the Petitioners had entertained a clear *mens rea* to cause the deceased to commit suicide. There was neither an active act of direct or indirect on the part of the Petitioners which lead the deceased to commit suicide seeing no option. Beating the deceased by the Petitioners on yester-night cannot be presumable that they intended to push the deceased into such position that she should commit suicide. As the Petitioners suspected the fidelity of the deceased, they beat her yester-night of the death of Chilukuri Mariamma, but she had felt insulted and resorted to the extreme step.

34. There was no evidence that the Petitioners instigated Chilukuri Mariamma to commit suicide. There was no evidence to the effect that the

Petitioners either goaded or provoked or instigated or encouraged her to commit suicide. Therefore, it may not be right to hold that the Petitioners were guilty of abetment of suicide. The deceased felt insulted or humiliated as her brother-in-law and husband beat her on the pretext that she had not kept her matrimonial piousness. The action of the Petitioners is otherwise not ordinarily expected to induce similarly circumstanced person to commit suicide, the deceased was hypersensitive, as such, it would not be appropriate and proper to convict the Petitioners for abetment of suicide.

35. The prosecution could not establish the guilty mind of the Petitioners and in furtherance of that state of mind they abetted Chilukuri Mariyamma to commit suicide. There was no visible and conspicuous presence of element of *mens rea* in the case. The act and words of the petitioners, however, insulting or humiliating the deceased by stating that why should she live, as she was leading an immoral life, will not by itself constitute abetment of suicide. The words of the petitioners spoken to the deceased only once, a single instance i.e., on the preceding night of committing suicide, cannot constitute the petitioners exploiting the vulnerability of the deceased, making her feel worthless or undeserving of life, leading her to commit suicide. The prosecution failed to establish that the petitioners, by their acts and their continuous course of conduct, created a situation which led Chilukuri Mariyamma to perceive no other option except committing suicide.

36. In the result, the Criminal Revision Petition is allowed, setting aside the impugned judgment of the learned Appellate Court dated 21.12.2010 in Crl.A.No.29 of 2009 on the file of learned VI Additional District and Sessions Judge (F.T.C) Krishna, Machilipatnam. Consequently, the judgment of the learned Trial Court in S.C.No.300 of 2008 dated 09.03.2009 on the file of the learned Assistant Sessions Judge, Nandigama, is also set aside. There shall be no order as to costs.

As a sequel, interlocutory applications, if any pending, shall stand closed.

Dr. Y. LAKSHMANA RAO, J

Dt: 16.06.2025

Note: LR copy to be marked

B/o

KMS