

Session Case No: 29/2021

State of Rajasthan Vs Hadmannath Etc.

Date of Judgment:11.3.2026

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**IN THE COURT OF SESSIONS JUDGE, MERTA [NAGOUR] RAJASTHAN**

[PO: Arun K Beriwal, District & Sessions Judge,Merta ]

Session Case No: 29/2021

**[Targeted Case No:09]**

**In the matter of:**

State of Rajasthan Through It's Public Prosecutor, Merta [Rajasthan]	
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**Vs**

1. Hadmannath S/o: Gulabnath Aged: 43 years	
2. Shaymnath S/o: Gulabnath Aged: 35 years	
3. Madhunath S/o: Gulabnath Aged: 40 years	
<b><u>All the accused are R/o:</u></b> Nrisingh Basni,PS: Thanwla Distt.Nagaur [Rajasthan]	<p>Accused persons</p>

**Present:** Shri Abhimanyu Sharma Ld. P.P.for State.

Shri Harish Bhati Advocate for Defense.

Reserved on : 25.2.2026

Pronounced on: 11.3.2026

### **J U D G M E N T**

1. This Judgment will dispose off the instant Session case no:29/2021 which was committed to this Court vide order whereby the accused persons-Hadmannath, Shyamnath & Madhunath were sent for trial before this Court on allegation of having committed offence u/s.306 & 120-B of I.P.C.

### **Brief Facts**

2. The case of Prosecution as per **complaint/Ex:P-2** filed by one-**Madannath/PW:2** being the Father of victim-Indra Devi alleging that on 18.10.2020 at Village Basni accused-Shyamnath made a telephonic call to the complainant/Madannath & informed that his daughter has fallen into the 'well' and he must reach there forthwith. On receiving such a call, the complainant alongwith his relatives and neighbors reached the spot at village Seshda, Narsingh Basni & found that the victim-Indra Devi was lying dead on the floor near the house & Police team was also present. In this backdrop, a complaint was made by the Madannath in PS: Thawla and a case u/s. 306/120-B IPC was got registered thereon.
3. That on prima-facie satisfaction on the basis of material on record, charges were framed by this Court against the accused-persons u/s. 306 /120-B IPC to which they pleaded not guilty & claimed trial.

### **Prosecution Witnesses:** [PW:1 to PW:18]

4. The prosecution in support of its case examined 18 witnesses details whereof are as under:-

PW:1/Gopal @ Prakash [**Son of victim; turn hostile**],

PW-2/Madan nath [Father of victim Witness to Ex:P-2 to Ex:P-7 ],

PW:3/Sonki [Mother of victim,Witness to Ex:D-2],

PW:4/Mukesh Nath;[Uncle of victim, Witness to Ex:P-3 to Ex:P- 4  
& Ex:P-6 to Ex:P-7 ]

PW:5/Jagdish Nath [Uncle of victim, Witness To Ex:P-5 ]

PW:6/Unkarnath [Relative of victim, Witness to Ex:P-3 to Ex:P- 4  
& Ex:P-6 to Ex:P-7 ][ Ex:D-1 ]

PW:7/ Ramesh Nath[ Witness to Ex:P-3,Panchnama]

PW-8/Likshmannath[Relative of victim]

PW:9/Tulsinath [ Witness to Ex:P-3,Panchnama]

PW-10/Harju Devi [Neighbor]

PW-11/Mukesh Nath [neighbor. Witness to Ex:D-3];

PW-12/Ashok Nath [Brother of victim Witness to Ex:D-4];

PW-13/Rama Devi [Aunty of victim, Witness to Ex:D-5 ]

PW-14/Mahendra [**Relative of victim;turn hostile**]

PW-15/Dindayal [IO,witness to Ex:P-2 to Ex:P 7 & Ex:P-9].

PW-16/Hariram [const.,witness to Ex:10 to Ex:P-12]

PW-17/Dr. Rajendra Choudhary [M.O. witness to Ex:P 13]

PW-18/Heeralal [IO witness to Ex:P-10 to Ex:P-12 & Ex:P-13 &  
who filed charge-sheet]

5. The Prosecution got exhibited the **Exhibits P-1 to P-13 and Exhibits D-1 to D-5 were got exhibited by the Defense which are as under:-**

Ex:P-1/161 Cr.P.C statement of Gopal @ Prakash

Ex:P-2/complaint dt: 18.10.2020

Ex:P-3/Panchnama dead body

Ex:P-4/Report of condition of dead-body

Ex:P-5/Report of handing over Jewellery weared on dead-body

Ex:P-6/Naksa-mauka

Ex:P-7/Report of handing over dead-body

Ex:P-8/161 Cr.P.C statement of Mahendra

Ex:P-9/F.I.R.

Ex:P-10/Arrest memo of accused/Hadmannath

Ex:P-11/Arrest memo of accused/Shyamnath

Ex:P-12/Arrest memo of accused/Madhunath

Ex:P-13/PMR

**Exhibit: D1 & D-2**

Ex:D-1/161 Cr.P.C statement of Madannath

Ex:D-2/161 Cr.P.C statement of Sonki

Ex:D-3/161 Cr.P.C statement of Mukeshnath

Ex:D-4/161 Cr.P.C statement of Ashoknath

Ex:D-5/161 Cr.P.C statement of Ramadevi

**Statement of accused u/s. 313 Cr.P.C**

6. The statement of accused u/s. 313 of Cr.P.C was got recorded before this Court and all the circumstances appearing against the accused persons were put to them in respect of the alleged offences. All the accused persons have made bald denial to the circumstances appearing against them and stated that false case of murder has been filed. **However, no opportunity was availed by them to lead defense evidence.** Only reliance is placed on **Ex:D-1 to D-5.**

**Prosecution version:**

7. The principal submission of Ld. Counsel for Prosecution is that as per testimony of various witnesses i.e. **PW-2/Madan nath** [Father of victim Witness to Ex:P-2 to Ex:P-7 ], **PW:3/Sonki** [Mother of victim, Witness to Ex:D-2], **PW:4/Mukesh Nath**[Uncle of victim, Witness to Ex:P-3 to Ex:P- 4 & Ex:P-6 to Ex:P-7, **PW:5/Jagdish Nath** [Uncle of victim, Witness To Ex:P-5 ] **PW:6/Unkarnath** [Relative of victim, Witness to Ex:P-3 to Ex:P- 4 & Ex:P-6 to Ex:P-7 ][ Ex:D-1 ] **PW:7/Ramesh Nath** [ Witness to Ex:P-3,Panchnama],**PW-8/Likshmannath**[Relative of victim], **PW-10/Harju Devi** [Neighbor], **PW-11/Mukesh Nath** [neighbor. Witness to Ex:D-3], **PW-12/Ashok Nath** [Brother of victim Witness to Ex:D-4],**PW-13/Rama Devi** [Aunty of victim, Witness to Ex:D-5 ],

**PW-15/Dindayal** [I.O,witness to Ex:P-2 to Ex:P 7 & Ex:P-9] & **PW-18/Heeralal** [I.O. witness to Ex:P-10 to Ex:P-12 & Ex:P-13 & who filed charge-sheet] the case stands proved against all the accused persons u/s. 306/120-B of I.P.C.

### **Submissions of Defense/Accused persons**

8. The Ld. Counsel for Defense/Accused vehemently submitted at length on the following aspects:
  - i. Discrepancies: Variation & contradiction in statements of witnesses and Serious omission/Lapses in investigation.\_
  - ii. There is no eye-witness and no Call detail record to show acquaintance of accused persons- Hadmannath, Shyamnath & Madhunath with the Victim/Indra Devi.
  - iii. Testimony of neighbour & family member witnesses cannot be relied upon so far as it is hearsay in nature.
  - iv. Motive of crime not established at all by the State. The victim- Indra Devi was staying with the accused persons as a family member for more than 11 years since her marriage and they have two sons & one daughter out of the marriage.
  - v. Presence of accused on crime scene has not been witnessed by anyone & no tower location has been placed on record.
  - vi. Accused cannot be convicted on basis of 'last seen theory' alone the son of victim i.e. PW:1/Gopal @ Prakash has turned hostile.

### **Points for determination**

9. The point for determination before this court is as to:-
  - A. Whether the accused persons- Hadmannath, Shyamnath & Madhunath instigated & abetted the victim/Indra Devi to commit suicide by jumping in the 'well' on 18.10.2020 on the spot of crime ?
  - B. Whether testimony of a hostile witness i.e. PW:1/Gopal @ Prakash & PW:14/Mahendra can be relied upon in the backdrop of section 154 Evidence Act ?

- C. Whether foundational facts or a prima-facie case has been established by the State showing presence of accused on crime spot to invoke the provisions of section 106 of Evidence Act,1872 against the accused persons- Hadmannath, Shyam nath & Madhunath ?

**Appreciation of case on all points for determination:-**

10. The testimony of **PW:1/Gopal @ Prakash [son of victim]** is a child witness and thus question were put to him before recording his testimony to ascertain as to whether he comprehends the meaning & import of stating truth & effect of telling a lie. On being satisfied with his comprehension, this court got recorded his evidence which shows that his mother Indra Devi had **“a mistake in her head”**.

Although, this **PW:1/Gopal @ Prakash [son of victim]** turned hostile & as an eye-witness he had deposed that he saw his mother jumping in the ‘well’ & committed suicide. He has also deposed that he lives with his father-Shyamnath & other family members happily.

Similarly, **PW:14/Mahendra** [turned hostile] being a relative of victim has deposed that he is not aware of any quarrel with the victim and the accused persons. Thus, the testimony of this witness - **PW:1/Gopal @ Prakash [son of victim]** is admissible in part so far as it corroborates the version of the State u/s. 154 of Evidence Act,1872.

11. The testimony of **PW:1/Gopal @ Prakash [son of victim]** is corroborated in a way with the version of **Dr.Rajendra Chuadhary/PW:17** wherein he has deposed that on day of incident i.e.18.10.2020 as regards the MLC of Victim-Indra Devi who was examined medically by this doctor as under:-

“उसकी मृत्यु का कारण मृत्यु से पहले पानी में डूबने के कारण दम घुटने से हुई थी, जो प्रकृति के सामान्य अनुक्रम में मृत्यु कारित करने के लिए पर्याप्त था।”

12. A bare perusal of the testimony of **Dr.Rajendra Chuadhary/PW:17** makes it crystal clear as day that on 18.10.2020 he medically examined the victim and found her death by asphyxia due to drowning in the 'well'.

**Foundational facts established to invoke section 106 Evidence Act,1872:-**

13. Thus, a 'prima-facie' case and all foundational facts has to be established by the Prosecution/State in order to attract the provisions of section 106 of Evidence Act,1872 as held by Hon'ble Supreme court.
14. In **Mir Mohammad case [Criminal Appeal No. 437 of 2015]**, the Hon'ble Supreme court clarified as to what constitutes a prima-facie case to make Section 106 of the Evidence Act applicable, wherein at paras 36 and 37 respectively it was observed as under:-

"In this context we may profitably utilize the legal principle embodied in Section 106 of the Evidence Act which reads as follows: **"When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."**

The section is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt. But the section would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the court to draw a different inference."

15. Further in the case of **Ram Gulam Chaudhary & Ors. Vs. State of Bihar**, (2001) 8 SCC 311, wherein the Court made the following observations in paragraph 24 as under:

"Even otherwise, in our view, this is a case where Section 106 of the Evidence Act would apply. Krishnanand Chaudhary was bru

tally assaulted and then a chhura-blow was given on the chest. Thus chhura-blow was given after Bijoy Chaudhary had said "he is still alive and should be killed". The appellants then carried away the body. **What happened thereafter to Krishnanand Chaudhary is especially within the knowledge of the appellants.** The appellants have given no explanation as to what they did after they took away the body. Krishnanand Chaudhary has not been since seen alive. In the absence of an explanation, and considering the fact that the appellants were suspecting the boy to have kidnapped and killed the child of the family of the appellants, it was for the appellants to have explained what they did with him after they took him away. When the abductors withheld that information from the court, there is every justification for drawing the inference that they had murdered the boy. Even though Section 106 of the Evidence Act may not be intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt, but the section would apply to cases like the present, where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding death."

16. This court finds that the following foundational facts before invoking the principles enshrined under Section 106 of the Evidence Act, 1872:-
  - a) The offence took place inside the four walls of the house in which Victim/Indra Devi wherein she was found dead & accused persons- Hadmannath, Shyamnath & Madhunath were there.
  - b) When the Investigating Officer reached the house, he found the deceased/Indra Devi lying dead near the house.
  - c) Dead body of Indra Devi/victim was got medically examined on by **Doctor-Rajendra Chaudhary vide Ex:P-13/PMR** as per which victim died by asphyxia due to drowning in 'wel;'

d) Even the testimony of a hostile witness[PW:1/Gopal @ Prakash] can be appreciated in the backdrop of his 161 Cr.P.C statement to police so far as it corroborates the case of the State u/s. 154 of Evidence Act,1872.

17. In **Madan Singh Vs. State of Rajasthan**, 1979 SCC (Cri) 56, it was observed that where the evidence of the Investigating Officer who discovered the material objects is convincing, the evidence as to discovery need not be rejected on the ground that the panch-witnesses did not support the prosecution version. Similar view was expressed in **Mohd. Aslam Vs. State of Maharashtra**, (2001) 9 SCC 362. In **Anter Singh Vs. State of Rajasthan**, (2004) 10 SCC 657, it was further held: -

“Even while discarding the evidence in the form of discovery panchnama, the conduct of the appellant herein would be relevant u/s.8 of the Evidence Act. The evidence of discovery would be admissible as conduct under Section 8 of the Evidence Act quite apart from the admissibility of the disclosure statement under Section 27 of the Evidence Act.”

18. In **A.N. Venkatesh and Anr. v. State of Karnataka**, (2005) 7 SCC 714: the Hon’ble Supreme Court took the view-

“By virtue of Section 8 of the Evidence Act, the conduct of the accused person is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact. The evidence of the circumstance, simpliciter, that the accused pointed out to the police officer, the place where the dead body of the kidnapped boy was found and on their pointing out the body was exhumed, would be admissible as conduct under Section 8 irrespective of the fact whether the statement made by the accused contemporaneously with or antecedent to such conduct falls within the purview of Section 27 or not as held by this Court in *Prakash Chand v. State (Delhi Admn.)* [(1979) 3 SCC 90 : 1979 SCC (Cri) 656 : AIR 1979 SC 400]. Even if we hold that the

disclosure statement made by the accused-appellants (Ex. P-15 and P-16) is not admissible under Section 27 of the Evidence Act, still it is relevant under Section 8. ...”

19. The statement before the Investigating Officer can be used for contradiction but only after strict compliance with Section 145 of the Evidence Act, that is, by drawing attention to the parts intended for contradiction.

**Section 145 of the Evidence Act reads as under:**

**“Cross-examination as to previous statements in writing.**

“A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.”

20. In this case the attention of such witness[PW:1/Gopal] must be called to those parts of it which are to be used for the purpose of contradicting him, before the writing can be used. While recording the deposition of this witness the attention of witness was drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need of further proof of contradiction and it will be read while appreciating the evidence. If he denies having made that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition.
21. If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the court cannot ‘suo-motu’ make use of statements to police not proved in compliance with Section 145 of the Evidence Act, that is, by drawing attention to

the parts intended for contradiction.” See: **V.K. Mishra v. State of Uttarakhanda** (2015) 9 SCC 588.

**'Last-seen' doctrine as a link subject to corroboration:-**

22. In **Rambraksh Vs. State of Chhattisgarh** (2016) 12 SCC 251, the Hon'ble Court observed that the last seen theory applies only when the time gap between the last seen point and the discovery of the death is so small that no one else could have committed the crime. Even then, this circumstance alone is insufficient and the prosecution must establish a complete chain of circumstances proving the accused's guilt. In the said decision, this Court held as under: -

“Normally, **last seen theory comes into play where the time gap, between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead, is so small that possibility of any person other than the accused being the perpetrator of the crime becomes impossible.** To record a conviction, the last seen together itself would not be sufficient and the prosecution has to complete the chain of circumstances to bring home the guilt of the accused.”

23. Further this Court in the case of **Krishnan alias Ramasamy & Os Vs. State of Tamil Nadu** (2014) 12 SCC 279 while relying on its judgment in **Arjun Marik Vs. State of Bihar** 1994 Supp (2) SCC 372 observed:-

“21. The conviction cannot be based only on circumstance of last seen together with the deceased. In **Arjun Marik v. State of Bihar** 1994 SCC (Cri) 1551 this Court held as follows: (SCC p. 385, para 31) “31. Thus the evidence that the appellant had gone to Sitaram in the evening of 19-7-1985 and had stayed in the night at the house of deceased Sitaram is very shaky and inconclusive. Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent

only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.”

24. In this case, there is no witness who has last-seen the the accused persons- Hadmannath, Shyamnath & Madhunath with the victim-Indra Devi on 18.10.2020 except PW;1/Gopal @ Prakash who has turned hostile. There is no other eye witness who may have seen the victim with the accused persons and thus, the onus to prove cannot be shifted upon the accused persons u/s. 106 of Evidence Act,1872.

**Testimony of other material witnesses:-**

25. The testimony of **PW:2/Madananth[Father of victim]** is also hearsay in nature as he was not present at the crime scene. However this witness **PW:2/Madananth[Father of victim]** has clearly deposed:-

“ आज से करीब डेढ़-दो वर्ष पहले मेरी पुत्री की दिमागी हालत खराब हुई थी, अजखुद कहा कि उसके साथ हुई मारपीट के कारण उसकी दिमागी हालत खराब हुई थी। मैंने मेरी पुत्री की दिमागी हालत का ईलाज प्रभुसिंह जी डॉक्टर साहब से करवाया था, जिसकी पर्चियां उसके ससुराल वालों के पास मे हैं।”

This version of **PW:2/Madananth[Father of victim]** is also corroborated by the version of **PW:1/Gopal [son of victim]** who has deposed that **“his Mother has mistake in her head”**. Thus, merely because one of the accused had said after the incident that they have murdered his daughter-Indra Devi – This may not be sufficient to infer act of abetment or instigation u/s. 306/120-B I.P.C.

26. There is neither any disclosure statement of accused persons- Hadmannath, Shyamnath & Madhunath u/s. 27 Evidence Act,1872 nor any discovery of new fact/facets of the case pursuant thereto.
27. There is no FSL report or viscera report on record of this court.

28. That **PW:4/Mukesh nath & PW:6/Omkar nath** are independent witnesses to Naksa mauka of spot of incident.
29. Further, **PW:16/Hariram being witness to arrest vide Ex:P-10 to Ex:P-12** has deposed qua arrest of accused persons from the spot.
30. The nature of testimony of **PW-2/Madan nath** [Father of victim Witness to Ex:P-2 to Ex:P-7 ], **PW:3/Sonki** [Mother of victim,Witness to Ex:D-2], **PW:4/Mukesh Nath**[Uncle of victim, Witness to Ex:P-3 to Ex:P- 4 & Ex:P-6 to Ex:P-7, **PW:5/Jagdish Nath** [Uncle of victim, Witness To Ex:P-5 ] **PW:6/Unkarnath** [Relative of victim, Witness to Ex:P-3 to Ex:P- 4 & Ex:P-6 to Ex:P-7 ][ Ex:D-1 ] **PW:7/Ramesh Nath** [ Witness to Ex:P-3,Panchnama],**PW-8/Likshmannath**[Relative of victim], **PW-10/Harju Devi** [Neighbor], **PW-11/Mukesh Nath** [neighbor. Witness to Ex:D-3], **PW-12/Ashok Nath** [Brother of victim Witness to Ex:D-4],**PW-13/Rama Devi** [Aunty of victim, Witness to Ex:D-5 ] is apparently hearsay in nature and none of the witnesses have deposed anything specific about the persistent act of abetment or instigation by the accused persons which may be sufficient to drive her to commit suicide. The mere fact that victim-Indra Devi came back from her father's house to her matrimonial home a couple of days back would not imply 'per-se' that the accused persons have instigated or abetted the victim-Indra Devi to commit suicide.
31. That **PW:15/Dindayal** is the IO of the case and has deposed in his Chief-examination about the statement recorded by him during investigation. That another IO **PW:18/Hiralal** has carried out arrest, got PMR done and filed charge-sheet.

**Discrepancies: Variation & contradiction in statements of witnesses:**

32. In the case of **Lal Bahadur & Ors Vs. State [NCT of Delhi]** 2013 (1) Criminal [SC] 683 the Hon'ble Supreme Court held that: "In all criminal

cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon."

33. In **Judendra Singh Vs. State of UP** 2012 (2) Criminal [SC] 9 reliance is placed upon earlier judgment of **Appabhai & Anr Vs. State of Gujarat** AIR 1988 SC 696 ,wherein the Hon'ble Supreme Court has ruled thus: "The Court while appreciating the evidence must not attach undue importance to minor discrepancies. The discrepancies which do not shake the basic version of the prosecution case may be discarded. The discrepancies which are due to normal errors of perception or observation should not be given importance. The errors due to lapse of memory may be given due allowance...."

34. In **Bibhuti Nath Goswami Vs. Shiv Kumar Singh** (2004) 9 SCC 186[At p. 192] **Hon'ble Supreme Court** held that: "Exaggerations per-se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility."

The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited. **Further, relationship cannot be a factor to affect credibility of a witness.**

[**State v. Saravanan**, (2008) 17 SCC 587, **Arumugam v. State** (2008) 15 SCC 590, **Mahendra Pratap Singh v. State of U.P.** (2009) 11 SCC 334, and **Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra.** (2010) 13 SCC 657.]

35. In the present case, there are a bundle of evidence linking the accused persons- Hadmannath, Shyamnath & Madhunath with the commission of act of abetment of suicide by Victim/Indra Devi which are outlined as under:-

- i. The Presence of accused persons- Hadmannath, Shyamnath & Madhunath on the spot of crime on 18.10.2020 is evident from various reports.
- ii. Further, **PW:1/Gopal** being the son of Victim/Indra Devi has clearly deposed as if he was physically present on the spot of crime & he saw his mother committing suicide by jumping in the 'well' and the fact that his mother had mistake in her head.
- iii. The **PW:17/Dr.Rajednra Chaudhary** conducted **Ex:P-13/PMR** of Victim/Indra Devi on same day i.e. 18.10.2020 & recorded the cause of death to be asphyxia caused by drowning in the 'well'.
- iv. The foundational facts of presence of accused persons- Hadmannath, Shyamnath & Madhunath on spot of crime on 18.10.2020 was prima-facie established by State, but since there is no eye-witness to the crime or 'last seen' the onus of proof would not shift on accused persons- Hadmannath, Shyamnath & Madhunath u/s. 106 of Evidence Act,1872.
- v. The accused persons- Hadmannath, Shyamnath & Madhunath has only made bald denial to all the incriminating circumstances appearing against her during the course of trial in her statement u/s. 313 Cr.P.C which is an additional link to corroborate her involvement in the crime.

From the above crux of evidence, the case of State stands proved by '**preponderance of probability**' but "**not beyond all reasonable**

**doubts”** which is a pre-condition to record a conviction of any accused in a criminal trial.

There is no CDR analysis, no witness of last seen & no direct evidence of instigation or abetment to suicide.

**Ingredients of offence u/s. 306 IPC**

36. There can be no doubt with respect to the position that to bring home a charge under Section 306, IPC it is incumbent upon the prosecution to establish:-

- a) That the victim of the offence committed suicide;
- b) That the accused abetted the commission of suicide;
- c) That the abetment attracts the ingredients u/s.107,IPC.

Section 107 IPC defines the offence of abetment and it is constituted by any of the following:-

- (a) instigation to commit the offence; or
- (b) engaging in conspiracy to commit it; or
- (c) intentionally aiding a person to commit it.

37. Now, bearing in mind the scope and ambit of Section 107, IPC and its co-relation with Section 306, IPC and the decision of Hon'ble Supreme Court in **M. Mohan Vs. State represented by the Deputy Superintendent of Police** (2011) 3 SCC 626 & in **Madan Mohan Singh Vs. State of Gujarat** (2010) 8 SCC 628 and referring to an earlier decision in **Chitresh Kumar Chopra Vs. State (Govt. of NCT of Delhi)**,(2009) 16 SCC 605 the Hon'ble Supreme Court in M. Mohan's case (supra) analysed the meaning of the word '**abetment**' and held in paragraphs 44 & 45 thus:-

“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 are clear that in order to convict a person under Section 306 IPC there has to be a clear mensrea 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."

38. The positive act of instigation is a crucial element of abetment. While dealing with an issue of a similar nature, the Hon'ble Supreme Court in the case of **Ramesh Kumar Vs. State of Chhattisgarh** (2001) 9 SCC 618 , laid down the parameters of what would be constituted to be an act of instigation. The Court observed as follows:-

**"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 & specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out."

39. In **Prabhu vs. State represented by Inspector of Police & Anr.** 2024 SCC Online SC 137 the Hon'ble Supreme Court further observed that **broken relationships and heart breaks are part of everyday life and that breaking-up of the relationship would not constitute any 'instigation' or 'abetment of suicide'** inasmuch as in order to constitute 'Instigation' it must be shown that the accused had by his acts and omissions or by continued course of conduct created such

circumstances that the deceased was left with no other option except to commit suicide.

In this case, there is no direct evidence adduced by the prosecution to prove that the accused-appellant has in any way instigated or provoked the deceased to commit suicide. **The accused on asking of the deceased had simply refused to marry her which is not a positive act on his part with any intention to abet the crime of suicide.**

40. In **Ramesh Kumar Vs. State of Chhattisgarh** (2001) 9 SCC 618, a three Judges Bench of this Court dealt with a case of suicide by the wife, where the husband in anger uttered-

**'You are free to do whatever you wish and go wherever you like'.**

Thereafter, the wife committed suicide. The Hon'ble Supreme Court, after examining the meaning of 'instigation' which is an essential element for 'abetment of suicide', observed that such words, uttered out of emotion, do not constitute 'mensrea' and do not amount to intentionally inciting the other party to actually do an act which may result in the commission of self-killing/suicide.

41. In **Swamy Prahaladdas Vs. State of M.P. & Anr**, 1995 Supp (3) SCC 438, the appellant remarked to the deceased that **'go and die'** and the deceased thereafter committed suicide. This Court held that :-

".... Those words are casual nature which are often employed in the heat of moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite 'mensrea' on the assumption that these words would be carried out in all events...."

42. 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 @ 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]. These principles have been reiterated recently by the Hon'ble Supreme Court in **Mahendra Awase Vs. The State of Madhya Pradesh**, 2025 INSC 76.

43. In the case of **Yadwinder Singh @Sunny Vs State of Punjab** 2025 LiveLaw (SC) 1058 wherein the Hon'ble Supreme Court quashed the criminal prosecution in case of failure of boy to fulfill the promise of marriage and consequent act of suicide by the Girl by holding at para 18-21 as under:-

"18. ..In the case on hand, even if we believe that the appellant due to opposition and pressure from his family declined to get married with the deceased, it could not be said that he led to a situation by which the deceased was left with no other option but to commit the suicide.

The appellant could not be said to have intended the consequences of his act namely suicide. **It is very sad to note that a young girl took the extreme step of ending her life. It is possible that she might have felt hurt.**

**One sensitive moment took away the life of a young girl.**

However, as judges we should not allow our minds get bogged with such thoughts. We are obliged to decide the matter on the basis of the evidence on record. In other words whether the

allegations levelled constitute any offence. **Mere refusal to marry even if true by itself would not amount to instigation as explained under Section 107 of the IPC.**

19. We are of the view that putting the accused to trial on the basis of the evidence on record would be nothing short of travesty of justice. Trial would be an empty formality.
20. In the result, this appeal succeeds and is hereby allowed.
21. The First Information Report bearing No. 273 of 2016 dated 07.11.2016 stands quashed. As a result, the proceedings of Sessions Case No. 728 of 2018 pending in the Court of the Additional Sessions Judge, Amritsar, Punjab are also hereby quashed.
44. Thus, this Court is of considered view that Prosecution/State has not been able to sustain & prove the charges of **'abetment to suicide of Victim/Indra Devi' by the accused persons- Hadmannath, Shyamnath & Madhunath u/s. 306/120-B I.P.C,1860.**

#### **FINAL JUDGMENT**

45. That in view of cumulative, thoughtful & due perusal of the various facets of the ocular, medical and documentary evidence on record; the documents exhibited during the course of Trial, and keeping in view the fact that the Prosecution has not been able to establish the guilt of the accused beyond all reasonable doubts qua the offence of abetment to suicide.

46. The upshot of the above is that **accused persons- Hadmannath, Shyamnath & Madhunath are hereby acquitted for offences of abetment of suicide by victim-Indra Devi u/s. 306/120-B of I.P.C,1860 by giving them the benefit of doubt.**

Thus, the **accused-persons-Hadmannath, Shyamnath & Madhunath stands acquitted and they are hereby directed to be set at liberty forthwith if not wanted in any other case.** Bail bonds of accused persons stands canceled.

47. **Let the acquitted accused persons- Hadmannath, Shyamnath & Madhunath filed a personal bond u/s.437-A CR.P.C bounding themselves down for a period of 6 months of Rs. 2 lakhs each & one surety of Rs. 1 Lakh each** that in case of appeal against acquittal having been preferred by the State they will cause thier personal appearance or through their counsel on receipt of notice/summons thereof.

Pronounced in open Court & typed by me.

11.3.2026

(Arun K Beriwal)