

FORM A

IN THE JUVENILE JUSTICE BOARD
COOCH BEHAR

Present: **Ms. Ananya Dasgupta**, *W.B.J.S.*
Principal Magistrate,
Juvenile Justice Board
Cooch Behar
JO Code: WB01505

Smt. Runa Ganguly
Member, Juvenile Justice Board
Cooch Behar

Smt. Gita Acharjee Mangal,
Member, Juvenile Justice Board
Cooch Behar

State of West Bengal
V.S.
One Child

JVTR No: 90/2023
Regd No.GR 66/2023
CNR No: WBCB09-0000942023
In connection with Tufanganj PS Case No-936/2023 dated:
25.10.2023 under section u/s 306 of IPC

Proceeding under the Juvenile Justice (Care and Protection of Children) Act 2015
read with West Bengal Juvenile Justice (Care and Protection of Children) Rule,
2017.

[Date of the Final Order/Judgment: **-07-07-2026**]

COMPLAINANT	State of West Bengal
REPRESENTED BY	Mr. Samsul Haque Ld. P.P In- Charge,
CHILD	One
REPRESENTED BY	Mr. Utpal Paul, Ld. Advocate for the CCL

FORM B

Date of offence/act	23.10.2023
Date of FIR	25.10.2023
Date of Charge-sheet/Final Report	31.07.2024
Date of plea	07.03.2025
Date of commencement of trial/inquiry	07.04.2025
Date on which Judgment/Final order is reserved	11.02.2026
Date of the Judgment/Final Order	07.07.2026 (The Board was dissolved from 19.10.2025 to 29.06.2026)
Date of the sentencing order, if any	N.A.

Child(ren) details:

Rank of the child (ren)	Name of the Child (ren)	Date of apprehension / production	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period detention undergone during trial for purpose of section 428 Cr.P.C.
1	XXX	04.12.2023	16.12.2023	u/s 305 of IPC	Acquitted	NA	NA

FORM C

LIST OF PROSECUTION /DEFENCE/COURT WITNESSES

A. Prosecution:

Rank	Name	Nature of Evidence (Eye witness, Police witness, Medical witness, Panch Witness, Other witness)
PW-1	Sukur Karjee	Complainant
PW-2	Sunil Barman	Witness
PW-3	Kulin Barman	Witness
PW-4	Ashok Barman	Witness
PW-5	Manoj Barman	Witness
PW-6	Sujit Barman	Witness
PW-7	Dr. Tanay Mohanta	Medical Officer
PW-8	ASI Mrinal Das	U/D Officer
PW-9	S.I. Hari Pradhan	Investigating Officer

B. Defence witness, if any: No defence witness adduced.

Rank	Name	Nature of Evidence (Eye witness, Police witness, Medical witness, Panch Witness, Other witness)
DW-1	Nil	

C. Court witnesses, if any: No Court witness adduced.

Rank	Name	Nature of Evidence (Eye witness, Police witness, Medical witness, Panch Witness, Other witness)
Nil	Nil	Nil

LIST OF PROSECUTION /DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl No	Exhibit number	Description
1.	Exhibit-1	C/C of the written complaint dt. 25.10.2023
2.	Exhibit-1/1	Signature of PW-1 on the C/C of written complaint dt. 25.10.2023
3.	Exhibit 2	C/C of Statement of PW-1 recorded u/s 164 Cr.P.C before the Ld. Magistrate., Tufanganj
4.	Exhibit 3	C/C of Statement of PW-2 recorded u/s 164 Cr.P.C. before the Ld. Magistrate.
5.	Exhibit 4	Signature of PW-3 on C/C of inquest report.
6.	Exhibit 5	Signature of PW-5 on the C/C of inquest report
7.	Exhibit 6	Signature of PW-6 on the C/C of inquest report
8.	Exhibit 7	Certified copy of the post mortem report
9.	Exhibit 8	C/C of inquest report dt. 23.10.2023 of deceased duly prepared and signed by PW-8
10.	Exhibit 9	C/C of dead body challan duly prepared and signed by PW-8
11.	Exhibit 1/2	Receiving endorsement along with signature on the C/C of written complaint made by then O/C of Tufanganj P.S.
12.	Exhibit 10	Formal FIR duly filled up and signed by the then O/C of Tufanganj P.S.
13.	Exhibit 11 (Series)	Rough sketch map along with index duly prepared by PW-9
14.	Exhibit 12	Seizure List dt. 04.12.2023 duly prepared and signed by PW-9

B. Defence: No defence witness.

Sl No	Exhibit number	Description
Nil	Nil	Nil

C. Court Exhibits:

Sl No	Exhibit number	Description
Nil	Nil	Nil

D. Material Objections:

Sl No	Exhibit number	Description
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Nil	Nil	Nil
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FINAL ORDER

1. The brief fact of the case, as can be gathered from the First Information Report (hereinafter referred to as FIR) is that on 23.10.2023 the complainant’s minor daughter namely Ratna Karjee committed suicide by hanging in the house of the complainant’s father-in-law at Balaghat due to abetment by the CCL.
2. After receiving the written complaint, the Tufanganj Police Station Case No. 936/23 dated 25.10.2023 under section 306 of Indian Penal Code (herein after referred to IPC) was started.
3. On 04.12.2023 this instant file was opened at this Board for inquiry under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as “the Act”).
4. After the completion of the investigation, the final report has been submitted against the CCL u/s 305 of IPC The plea of the CCL was recorded accordingly on 07.03.2025 for offence punishable u/s 305 of IPC to which CCL denied h i s involvement in the alleged activities by pleading not guilty and claimed to be tried.
5. After recording of evidence of the prosecution, the CCL was examined under sections 313/281 of Cr.P.C. read with section 14(5) of the Act on 07.11.2025.

EVIDENCE ON RECORD

1. Nine witnesses were examined as stated above by the prosecution. T w e l v e documents have been admitted in this case from the side of the prosecution.
2. No defense witness has been produced and examined.

POINTS FOR DECISION

- i. Whether the CCL is involved into commission of activities punishable under section u/s 305 of IPC?
- ii. Whether the prosecution has been able to prove this proceeding against the CCL?

DECISION WITH REASONS

1. The points for consideration are taken up together for consideration for the sake of brevity and as they are intertwined. The facts of the case will have been considered through the evidence available in record to decide the points.

2.The complainant of this case namely, Sukur Karjee has been examined as PW-1 in this case. He deposed that he lodged this case about 1 year and 5 months against the CCL. He stated that he knows the CCL and would have recognized him if he were present before the Board. He stated that he lodged this case in respect of his only daughter Ratna Karjee who was aged about 17 years and 8 months old at the time of the alleged incident. He stated that his daughter used to stay at her grandfather's house at Balaghat and she used to go to her school from there. During Durga Puja, his daughter and the CCL had gone for pandal hopping at evening. After one day, the CCL dropped her at her grandparent's house. His in-laws informed him that his daughter has been found. The witness deposed that he and his son namely Pritam Karjee went to his in-laws house and they informed him that his daughter has gone pandal hopping along with the CCL and she has come home in an intoxicated condition. They came back home. While returning back home on their midway, his father-in-law called him over mobile phone and informed him that his daughter has committed suicide by hanging. He again went to his in-laws house and he came to know from her father-in-law that the CCL had threatened her to make her naked photos viral in internet. His father-in-law informed him that his daughter had told the same to him. Through her evidence, the C/C of written complaint dated 25.10.2023 has been marked as **Exhibit-1**. His signature on the written complaint has been marked as **Exhibit 1/1**. He further stated that police interrogated him in this case. He stated that he gave his statement before Ld. Magistrate at Tufanganj Court. Through his evidence the said statement recorded u/s 164 Cr.P.C is marked as **Exhibit 2**.

During his cross examination, he stated that the distance between his house and his in-law's house is about 14 kms. He does not know the local people who reside near his in-laws house but there are many houses. He does not remember the exact date as to when the Durga Puja was held. He admitted that his daughter informed his father-in-law before going to pandal hopping. On the next day, during day time, she came back home. At around 01:00 p.m. in the afternoon, his father-in-law informed him that his daughter has been found. On the next day of his father-in-law informing him that his daughter has been found, he went to his in-law's house. His daughter had talk with his father-in-law before committing suicide. He admitted that his father-in-law informed him over mobile phone that the CCL has threatened her to make her naked photos viral in internet. He denied that he deposed falsely in his examination-in-chief. He denied that his daughter committed suicide due to depression since she used to stay away from them. He denied that he deposed falsely.

3. Sunil Barman, the grandfather of the deceased has been examined as PW-2 in this case. He deposed that the complainant of this case is father of the deceased. The complainant filed this case 2 years He could not identify the CCL before the Board. He deposed that the alleged incident took place with regard to the complainant's daughter namely Ratna Karjee. She was 17 years old at that time. The deceased used to live at his house. Two years ago during Durga Puja she went to her father's house on the day of Saptami. Her

father's house is at Natabari. The CCL called his granddaughter multiple times on the phone and took her to see Durga Puja. She did not return the entire day. The next day around 12:00 p.m. the CCL dropped his granddaughter near his house. She was in an inebriated condition. He brought her to his house. He informed the neighbours and called her father. He tried to bring her back to consciousness. She kept taking the CCL's name. Her parents came and went back. The witness deposed that he went outside for 15 minutes. He returned and saw that the door was closed and his granddaughter was inside. He broke the door and entered the room. He saw that she was hanging from the beam tied with a saree. He called the local people. They brought his granddaughter down. Her parents came. They informed the police. The police came and took her body away. Police interrogated him in this case. He stated that he gave his statement before Ld. Magistrate at Tufanganj Court. Through his evidence the said statement recorded u/s 164 Cr.P.C is marked as **Exhibit 3**. He stated that Sabitri Barman is his wife who passed away on 08.05.2025.

During his cross examination, he stated that the distance between his house and the complainant's house is 12-13 kms. He stated that he does not know Rishab's phone number. He stated that he did not file any general diary during the time when his granddaughter went missing. He stated that Sujit Barman, Ajit Barman, Pashunath Barman, Gajen Barman and others live in his neighbourhood. He stated that Sujit Barman, Ajit Barman, Pashunath Barman and Gajen Barman were present when the CCL dropped his granddaughter. He stated that Sujit Barman, Ajit Barman, Sukumar Barman along with him took his daughter to his house. He stated that Bipul, Sukumar and himself were present when they brought down his granddaughter's body. His son-in-law came to his house within 30 minutes of informing him about his daughter's demise. He does not recollect the exact date of the incident. He deposed that he stated to the police that initially his granddaughter's parents came and went back and later when he informed them about his granddaughter's demise they came again. He stated to the police that he went outside for 15 minutes and then he returned. He denied that he deposed falsely during his examination-in-chief. He denied that he deposed falsely before the Board.

4. Kulin Barman, public witness has been examined as PW-3 in this case. He deposed that he knows the complainant who is father of the deceased. He stated that the complainant filed this case 22 months ago against the CCL. He deposed that he does not know the CCL. The alleged incident took place with regard to the complainant's daughter (his granddaughter) namely Ratna Karjee. She was 17½ years old at that time. Two years ago, during Durga Puja she went to her father's house on the day of Ashtami. Her father's house is at Natabari. The CCL called his granddaughter multiple times on the phone and took her to see Durga Puja. She did not return the entire date. Her phone was switched off. The next day the CCL dropped his granddaughter on a tempo near Sunil Barman's house. He heard that she was in an inebriated condition. He stated that Sunil Barman took her to his house. He informed the neighbours and called her father. He tried to bring her

back to consciousness. The deceased kept taking the CCL's name. Her parents came and went back. He stated that Sunil Barman went outside for 15 minutes. He returned and saw that the door was closed and his granddaughter was inside. He broke the door and entered in the room. He saw that she was hanging from the beam tied with a saree. Sunil called him and the local people. He came and saw that she was lying on the floor. They informed the police. The witness had heard that she was roaming around with Rishab on the previous day. Police came and took away her body to Tufanganj SD Hospital, where inquest was conducted. Through his evidence his signature on the inquest report is marked as **Exhibit-4**. Police interrogated him in this case.

During his cross-examination, the witness stated that it is stated in the inquest report that the deceased died by suicide because her grandfather and parents scolded her. He deposed that his house is adjacent to Sunil Barman's house. He cannot say the number of the tempo or it's driver's name. He heard from Sunil Barman that the deceased was taking CCL's name in inebriated condition.

5. Ashok Barman, public witness was examined as PW4 in this case. He deposed that he knows the complainant of this case. The complainant is his co-villager. He lodged this case about 2 years against the CCL. He heard of the CCL but does not know him by sight. The complainant lodged this case with regard to his daughter namely Ratna Karjee. He heard that the complainant's daughter had gone with the CCL on the day of the puja and returned on the next day. The CCL had dropped her on the road near her grandfather's house. The deceased was in an inebriated condition. People came and took her to her grandfather's house. The local people came to that house. Later the girl committed suicide by hanging. The police came and took her body. Police interrogated him in this case.

During his cross-examination, he deposed that he leaves for work at 09:00 a.m. and returns at 05:00 p.m. He did not see the CCL and does not know him personally. He did not personally see who dropped the girl and collected her. He heard from his relatives that the girl was in an inebriated condition. He had not narrated this incident previously before the Board and he only discussed it with relatives. The deceased's grandfather house is 100 meters away from his house. He stated that he does not know at what time people enter and leave the house. He denied that he deposed falsely during his examination-in-chief. He denied that he deposed falsely before the Board.

6. Manoj Barman, public witness was examined as PW5 in this case. He deposed that he knows the complainant who is his co-villager. The complainant lodged this case about 2 years ago against the CCL. He heard of the CCL but he does not know him by sight. The complainant lodged this case with regard to his daughter namely Ratna Karjee. He heard the complainant's daughter (deceased) had gone with the CCL on the day of the Puja and returned the next day. The CCL dropped her on the road. The deceased was in an inebriated condition. People came and took her to her grandfather's house. Then the local people came to that house. Later the girl committed suicide by hanging. The police came

and took her body. Through his evidence his signature on the C/C of inquest report was marked as **Exhibit-5**.

During his cross-examination, he stated that the police did not interrogate him. He did not tell the police that the CCL dropped the girl on the road. He did not see the CCL and does not know him personally. He has no personal knowledge as to why the deceased committed suicide. He denied that he deposed falsely in his examination-in-chief. He denied he deposed falsely before the Board.

7. Sujit Barman, public witness was examined as PW6 in this case. He stated that he knows the complainant of this case as his co-villager. He stated that the complainant lodged this case about 2 years ago against the CCL and others. He has heard of the CCL but he does not know him by sight. The complainant lodged this case with regard to his daughter namely Ratna Karjee. He heard that the complainant's daughter (deceased) had gone with the CCL on the day of Puja and returned on the next day. The CCL had dropped her on the road near her grandfather's house. The deceased was in an inebriated condition. People came and took her to her grandfather's house. The grandfather of the deceased had gone to the market buy cow fodder. During that time the girl committed suicide by hanging. The police came and took her body. Through his evidence his signature on the C/C of inquest report was marked as **Exhibit-6**.

During cross-examination, he deposed that he does not know what is stated in the inquest report. He heard the CCL's name from the deceased herself. He stated that police did not interrogate him. He did not state to the police that the CCL dropped the girl on the road. He did not see the CCL and does not know him personally. He has no personal knowledge as to why the deceased committed suicide. He denied that he deposed falsely in his examination-in-chief. He denied that he deposed falsely before the Board.

8. Dr. Tanay Mohanta, medical officer was examined as PW7 in this case. He stated that presently he is posted as Associate Professor at SSKM, Kolkata. On 24.10.2023, he was posted as Associate Professor (HOD) at MJN Medical College & Hospital. On that day, he was on duty and he collected postmortem of one deceased namely Ratna Karjee who was duly produced and identified by before him by one Constable 1339/ Jitendra Nath Roy of Tufanganj P.S. On examination, he found injuries i.e. one oblique, non-continuous, high up ligature mark found around the neck, measuring 12 X 0.5 inches, with a gap of 1 inch found 1.5 inches below the angle of mandible of left side. Ligature mark passed through the following points: 1.5 inches below the right angle of mandible, 2 inches below from the tip of the left mastoid process, 4 inches above the suprasternal notch and 0.5 inches below the chin and 1 inch below from external occipital protuberance. Skin over ligature mark was whitened, hardened, glistening and condensed. Injuries showing signs of vital reactions. Lastly, he was of the opinion that the death of Ratna Karjee was due to asphyxia which was ante mortem hanging in nature. Through his

evidence the C/C of the post-mortem report prepared and signed by him was marked as **Exhibit-7**.

The Ld. Defense declined to cross-examine him.

9. ASI Mrinal Das, the inquest officer of this case, was examined as PW8. He stated that on 23.10.2023 he was posted as ASI at Tufanganj P.S., Cooch Behar. On that day, he conducted one inquest u/s 174 Cr.P.C of one deceased Ratna Karjee (17 years) in c/w this case. He duly recorded his findings in his inquest report. Through his evidence C/C of the inquest report dated 23.10.2023 was marked as **Exhibit 8**. After conducting the inquest, the witness sent the dead body of the deceased for postmortem. Through his evidence the dead body challan was marked as **Exhibit 9**.

During his cross-examination, he deposed that he has stated in his inquest report that based on the statement of witnesses on 22.10.2023 at about 07:30 p.m. in the evening, the deceased left her house and returned the next day morning. Her parents and grandfather scolded her and thereafter she committed suicide by hanging with a nylon saree.

10. S.I. Hari Pradhan, the investigating officer of this case, was examined as PW9 in the record. He stated that on 25.10.2023 he was posted as PSI at Tufanganj P.S. Cooch Behar. On that day, the then O/C of Tufanganj PS namely SI Nakul Roy endorsed him this case for investigation. Being a colleague, he is well acquainted with the latter's handwriting. Through his evidence the C/C of the written complaint dated 16.11.2023 along with the signature is marked as **Exhibit 1/2**. After receiving the said written complaint, the then O/C as stated before, started this case being Tufanganj P.S. 936/2023 dated 25.10.2023 u/s 305 IPC. Through the evidence of PW9, the formal FIR along with its signature is marked as **Exhibit 10**. The said case was endorsed to the witness for investigation. During investigation, the witness visited the P.O. and examined all available witnesses and recorded their statement u/s 161 of Cr.P.C. He also prepared rough sketch map along with index in two sheets of paper. Through his evidence the same was marked as **Exhibit 11 series**. He also seized the birth certificate of the CCL. Through his evidence, seizure list dated 04.12.2023 prepared and signed by him is marked as **Exhibit 12**. Further, PW9 collected post-mortem report and inquest report from the concerned authority. He also collected the statements of the witnesses recorded by Ld. Magistrate u/s 164 Cr.P.C. He apprehended the CCL and produced him before the Board. He identified the CCL before the Board. After completion of investigation, and in consultation with his superior officers, he submitted charge sheet being no.585 of 2023 dt. 25.10.2023 u/s 305 of IPC against the CCL.

During his cross-examination, he deposed that the Recording Officer did not state the reason for the delay in lodging of the FIR. He has cited one inquest witness as witness in the charge sheet. He did not ascertain the ownership of cattle house not he examined him. He did not ascertain the ownership of the land marked as "C". He did not

give any endorsement to the effect that he recorded the statement u/s 161 Cr.P.C. in English after explaining the witness what was written in Bengali. He denied that he submitted charge sheet without conducting proper investigation and by doing table work at the P.S.

11. Arguments advanced by the Prosecution

The Ld. PP for the case opened the arguments by emphasizing on the evidence of the PW1, PW2 and PW3 i.e. relatives of the deceased, supported by the evidence of other witnesses. He stated that unlike other cases, in a case of abetment to the suicide under section 306, the victim (deceased) does not give evidence before the Board, and the actions of the victim (deceased) can only be understood from the evidence of other witnesses. Therefore, in a case of abetment to suicide, the Board would have to rely on the evidence of other witnesses to understand the frame of mind of the deceased and how the deceased acted on instigation offered by the CCL to commit suicide. The prosecution submitted that the deceased's frame of mind can be gleaned from the surrounding circumstances. She was in an inebriated condition, she had told the witnesses that the CCL was threatening to disseminate her photographs and most importantly, she committed suicide after spending one day with the CCL, and after the CCL dropped her. The Ld PP laid stress on the 'last seen together' theory to insist that since the deceased was last seen with the CCL before she returned home and committed the tragic act, it stands to reason that the CCL was responsible for instigating her to commit suicide.

12. Arguments advanced by the Ld. Defence

The Ld. Defence Counsel contended the prosecution's reliance on the 'last seen theory' and argued that this theory is not applicable in this case of abetment to suicide. The Ld. Defence forwarded the argument that the deceased returned home, gained consciousness, met with her parents, and thereafter committed suicide. Thus, the deceased conversed last with her family and since they saw her last, she committed suicide due to their scolding, and not due to the CCL. Ld. Defence Counsel further relied on the inquest report to support his contention that the deceased committed suicide due to her parents scolding. Finally, he stated that the inquest report does not support the guilt of the CCL, and hence the CCL should be acquitted from this case.

13. On perusal of the entire case record, the evidence of the prosecution witnesses and the arguments advanced by the prosecution and defence, the following points can be gleaned:

- Firstly, it is important to see what is stated in section 306 of the IPC. **“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.”

The word ‘abetment’ is defined under section 107 of the IPC. “**107. Abetment of a thing.**—

A person abets the doing of a thing, who—(First)— Instigates any person to do that thing; or (Secondly)— Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission 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 1.— 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.

Explanation 2.— Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

Since the deceased was a child under eighteen years of age, section 305 was alleged against the CCL. “**305. Abetment of suicide of child or insane person.**—

If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.”

- Since the ingredients of what constitutes the offence of abetment of suicide under section 306/305 of IPC are not specifically stated in the Indian Penal Code, it is important to look at relevant judgments where the same has been elaborated. In **Ramrao Kisan Rathod v. State of Maharashtra**¹, the Hon’ble High Court at Bombay stated that, “The only difference between Sections 305 and 306 of the Indian Penal Code is that Section 305 is a punishing section for abetting an insane or a child whereas Section 306 of the IPC is a punishing section for the accused who abetted any other person to commit suicide. However...the parameters for deciding the fact under Section 305 and Section 306 of the IPC are identical.” In **M Arjunan v. State, represented by Inspector of Police**² the Hon’ble Supreme Court observed that, “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

¹ AIROnline 2020 Bom 54

² 2019 (3) SCC 315

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.” The Hon’ble Supreme Court in **Geo Varghese v. State of Rajasthan and another** ³ observed that, “...14. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. 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 Vs. State of Chhattisgarh*, (2001) 9 SCC 618, has defined the word ‘instigate’ as under:- “20. 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 co relation with Section 306 IPC has been discussed repeatedly by this Court. In the case of *S.S. Cheena vs. Vijay Kumar Mahajan and Anr* (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.” The Hon’ble Supreme Court in **Ude Singh & Others v. State of Haryana** ⁴ opined that “..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 behavior 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

³ (2021) 19 SCC 144

⁴ (2019) 17 SCC 301

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.” The Hon’ble Supreme Court in **Mariano Anto Bruno & another v. The Inspector of Police** ⁵ observed that, “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.” Recently, the Hon’ble Supreme Court in **Nipun Aneja & Ors v. State of Uttar Pradesh** ⁶ opined that, “..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

⁵ 2022 SCC Online SC 1387

⁶ CrI. Apl. 654 of 2017

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.” In **Satish Sadashiv Kulkarni v. State of Maharashtra**⁷, the Hon’ble Bombay High Court opined that, “...this Court has held that for proceeding further with the trial against the accused for an offence punishable under Section 306, it is necessary for the prosecution to, at least, *prima facie* establish that the accused had an intention to aid or instigate or abet the deceased to commit suicide. In the absence of availability of such material, the accused cannot be compelled to face trial for the offence punishable under Section 306. An abetment involves mental process of instigating the person or intentionally aiding the person for doing of a thing. Without a positive act on the part of the accused in aiding or instigating or abetting the deceased to commit suicide, the said person cannot be compelled to face a trial. Unless there is clear *mens rea* to commit the offence or an active act or direct act which led the deceased to commit suicide seeing no option or the act intending to push the deceased into such a position, the trial against the accused under Section 306 of the Indian Penal Code cannot be permitted....10. On careful perusal of the entire material on record along with settled legal position, we can safely arrive at the conclusion that there is absolutely no material to connect applicant with the offence punishable under Section 306 of the Indian Penal Code. Essential ingredients to constitute "abetment" are totally missing. The act of applicant insisting his son-in-law (Santosh) to give divorce to his daughter would not amount to instigate Santosh to commit suicide. One cannot gauge mental temperament and sentiment of a person who commits suicide under stress. In absence of any material, applicant cannot be compelled to face the criminal trial.”

- Applying the principles laid down in the various judgments, some illustrations of which have been stated above, to the facts at hand in this case, the story that emerges is that the deceased (daughter of the complainant) had gone with the CCL for roaming around on the day of Durga Puja. She did not return for one day. She also did not respond to any calls by her grandfather. The next day, the CCL dropped her near her grandfather’s house. She was in an inebriated condition. Her

⁷ AIROnline 2019 Bom 1539

grandfather took her home. There, he called her parents and local people. The deceased took the CCL's name several times in that state. The parents of the deceased came, saw her and went back. Her grandfather left the house for 15 minutes. Upon his return, her grandfather came and saw that the deceased had committed suicide in that interval. Now as per the principles laid down in the above precedents cited, this Board has to determine whether the 'inciting incident' was sufficient in instigating the deceased to commit suicide as under section 305 IPC r/w 107 IPC. If the answer is in affirmative, then the next question is whether it can be proved that the CCL committed or was part of the inciting incident in question, which can be constituted as abetment to suicide under section 305 IPC.

- The evidence of the complainant is corroborated by all the other witnesses, be it related or independent witnesses. All the witnesses concur that the deceased had gone with the CCL and spend one day roaming during Durga Puja with him. They all agree that the deceased returned in an inebriated condition, that she took the name of the CCL several times and finally, finding an opportunity committed suicide when her grandfather was not at home. While these are definitely suspicious circumstances against the CCL, are they sufficient in their own to constitute an 'inciting incident'? An inciting incident should be such that the CCL should have instigated the deceased to commit suicide or done or omitted to do an act that compelled the deceased to commit suicide. In this case, there is no evidence, nothing to show what transpired in the hours when the deceased and CCL had gone roaming around Durga Puja for one day. The deceased did not tell anyone anything and she did not tell any facts that would reveal her state of mind. The complainant stated in his evidence about the CCL threatening to make naked photos of the deceased victim viral, but no such photos could be recovered to prove the same. If the photos had been recovered, it could have been assumed that the CCL threatened the deceased with the same, and that would have constituted an 'inciting incident' for the purpose of proving the offence of abetment of suicide against the CCL. However, no facts emerge to show what happened with the deceased a day prior to her fatal act. Other than the complainant, the other witnesses could not even identify the CCL before the Board, which shows that the deceased did not disclose much about her relationship with the CCL to anyone. While it is certainly suspicious that the CCL dropped the deceased in an inebriated condition, that he was with the deceased before her suicide and that the deceased took his name several times before committing the act, there is no material evidence to show that the CCL gave any provocation to the deceased to commit suicide, or that he did any act or omitted to do any act that would constitute provocation to the deceased to commit suicide.

13. As such, after perusal of the material and evidence on record, and considering the deduction drawn above, it cannot be concluded that the CCL committed the inciting

incident which instigated the deceased to commit suicide. Thus, we do not find sufficient evidence to show that the CCL has any involvement with this case. Thus, considering the evidence of the prosecution witnesses, we are of the view that the CCL has done no offence as charged against him. We also find that proper and sufficient evidence has not come forward through this inquiry to show the complicity of the CCL in commission of the alleged offence. The quality of evidence that have flowed from the prosecution side is inadequate and the same cannot be relied upon to establish any of the charges conclusively against the CCL.

14. As such, there is insufficient material before this board to conclusively hold that the CCL can be associated with the accusation of the complainant. During his examination u/s 313 Cr.P.C, the CCL has also denied any involvement on her part with the allegation.

15. Now since the prosecution failed to prove the case as put forward by them and there is no proper and cogent evidence against the CCL, we are satisfied to hold that the child brought before this Board has not committed any offence and as such, he deserves to be acquitted under section 255 (1) of the Cr.P.C. The points are decided accordingly.

16. Hence it is,

O R D E R E D

that the CCL has not committed any offence punishable under section u/s 305 of IPC and hereby he is hereby declared to be child found not in conflict with law under section 17 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

17. Though no amount of money can compensate a parent for the loss of a child, however, compensation is the only remedy that could be done in this case. In view of the observation made by the Hon'ble High Court at Calcutta in ***Bijoy @ Guddu v. State of West Bengal*** reported in 2017 Cr. L.J. 3893 and as per the Gazette Notification of Govt of West Bengal, also in view of provision of section 357A of Cr.P.C and also keeping in view of the guidelines laid down by NALSA, this Board finds that this is fit case to grant compensation of Rs. 3,00,000/- (Rupees three lakhs only) to the complainant since no interim compensation order was passed for compensation from the date of registering of the police case till the date of passing of this judgment.

18. The guardian of the CCL is hereby, discharged from the guardian bonds forthwith.

19. The seized alat, if any be disposed off after the expiry of appeal period.

20. Let a copy of this judgement be forwarded to Secretary, DLSA, Cooch Behar at once.

21. Note in the Register and CIS.

Typed, printed and corrected by me:

Sd/-
[Ms. Ananya Dasgupta]
Principal Magistrate
Juvenile Justice Board
Cooch Behar
J.O. Code: WBCB01505

Sd/-
[Ms. Ananya Dasgupta]
Principal Magistrate
Juvenile Justice Board
Cooch Behar
J.O. Code: WBCB01505

01. I agree.

Sd/-
[Smt. Gita Acharjee Mangal]
Member-I

02. I agree.

Sd/-
[Smt. Runa Ganguly]
Member-II