

Form A

District : Malda	
<u>IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE, CHANCHAL, MALDA.</u>	
Present : Shri Joy Sankar Roy (WB00858) Additional Sessions Judge, Chanchal, Malda.	
[Date of the Judgment : The 02 nd day of June, 2026]	
<u>Sessions Trial No. 01(02)/2023</u> Sessions Case No. 158 of 2022	
(Arising out of Harishchandrapur P.S. Case No. 61/2021 dated 21-01-2021, G.R. Case No. 190/2021 under Section 306/34 of Indian Penal Code)	
(Details of FIR /Crime and Police Station)	
Complainant	STATE OF WEST BENGAL
REPRESENTED BY	NAME OF THE ADVOCATE- Shri Chinmoy Mishra
ACCUSED	A1. NAME WITH ALL PARTICULARS: Noor Alam, S/o- Lt. Afiluddin, aged 32 years, Muslim, resident of Bangrua, PS Harishchandrapur, District Malda.
REPRESENTED BY	NAME OF THE ADVOCATES- Shahensha Alam

Form B

Date of Offence	17-01-2021
Date of FIR	21-01-2021
Date of Charge-sheet	30-04-2021
Date of Framing of Charges	01-02-2023
Date of commencement of Evidence	29-01-2024
Date on which Judgment is reserved	16-05-2026
Date of the Judgment	02-06-2026
Date of the Sentencing Order, if any	Not Applicable

Accused details

Rank of the Accused	Name of Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose
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							of Section 428, Cr.P.C.
A1	Noor Alam	Surrendered on 01.03.2021	31.03.2021	306 of I.P.C	Acquitted	N.A.	01.03.2021 to 31.03.2021

Form C

LIST OF PROSECUTION/ DEFENCE/ COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1	Nurul Islam	Complainant
PW 2	Anwar Ali	Seizure list witness
PW 3	Kajal Khatun	Independent witness
PW 4	Majiful Islam	Seizure list witness

B. Defence witnesses, if any: Not Examined

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW 1	NIL	NIL
DW 2	NIL	NIL

C. Court witnesses, if any: Not Examined

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW 1	NIL	NIL
CW 2	NIL	NIL

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit-1/1	Signature of PW-2 on the seizure list dated 21.01.2021.
2	Exhibit-2	Statement under Section 164 CrPC of PW-4.
3	Exhibit-3/1	Signature of PW-4 on the surathal report.

4	Exhibit-1/2	Signature of PW-4 on the seizure list dated 21.01.2021.
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B. Defence : NIL

Sr. No.	Exhibit Number	Description
1	Exhibit-	NIL
2	Exhibit-	NIL

C. Court Exhibits : NIL

Sr. No.	Exhibit Number	Description
1	Exhibit-	NIL
2	Exhibit-	NIL

D. Material objects: NIL

Sr. No.	Material Object Number	Description
1	MO 1	NIL
2	MO 2	NIL

J U D G M E N T

The Charge:

1. The sole accused stands charged for abetting Aduri Khatun to commit suicide by consuming poison, thereby committing the offences punishable under Section 306 of the IPC.

The First Information Report:

2. This case had its genesis in the written complaint lodged before the Inspector-in-Charge, Harishchandrapur PS. On the basis of the said written complaint Harishchandrapur P.S. Case No. 61/2021 dated 21-01-2021 was registered under Section 306/34 of the I.P.C.

The facts of the case:

3. The facts of the case in a nutshell is that the victim Aduri Khatun, then aged about 19 years was the daughter of the de facto complainant, Nurul Islam. Aduri had a relationship of love and affair with accused Dildar since long. They even indulged themselves in physical relationship. The de facto

complainant disclosed everything to the father of the accused Dildar, who demanded Rs. 15 lakhs as dowry. On 17.01.2021, the accused Dildar disclosed that he used Aduri and was not ready to marry her. Accused Dildar not only humiliated Aduri but clearly disclosed that he would not marry Aduri in any circumstances. Knowing this Aduri on 17.01.2021 at about 11:45 p.m. at her own house consumed poison. The family members of Aduri took her to Harishchandrapur Hospital, from where she was shifted to Chanchal SS Hospital. Aduri died on 19.01.2021 at about 12 o'clock in the noon during her treatment at Chanchal SS Hospital. The charge against the present accused is for abetting the principal accused, case against whom was sent to Juvenile Justice Board, Malda. As the de facto complainant was busy in performing the last rites of Aduri, there was a delay in lodging the FIR and thus, the criminal law was set in motion.

The Investigation:

4. Soon after the case was registered, SI Bikash Halder of Harishchandrapur PS took up its investigation as the 1st I.O. of this case.
5. During investigation he visited the place of occurrence, prepared its rough sketch map with index, examined several witnesses and recorded their statements u/s 161 Cr.P.C. He seized alamat of the case, sent requisition to the OC, SOG, Malda and collected phone call details, sent the witnesses before Ld. Court for recording their statements judicially under Section 164 CrPC. He also collected the Post Moterm Report of the deceased Adari Khatun. During investigation of the case, it was found that the age of the principal accused Dildar was below 18 years and as such, the case against CCL Dildar was sent to the learned Principal Magistrate, Juvenile Justice Board, Malda for trial. Upon completion of his investigation, the IO submitted a charge sheet under Section 306/34 of IPC against the other accused Noor Alam.
6. Thereafter, the case record was transferred to SI Koushik Sarkar of

Harishchandrapur PS as the 2nd I.O. of this case. During investigation he collected the report of CDR and CAF. Upon completion of the investigation the 2nd IO submitted a supplementary charge sheet under Section 306/34 of IPC.

The Charge-sheet:

7. Upon completion of investigation, the charge-sheet was submitted under Section 173 Cr.P.C. for committing the offence punishable under Section 306/34 of IPC against the present accused.
8. As the case is exclusively triable by this Court, Ld. ACJM, Chanchal, Malda committed the case to this Court of Sessions and the cognizance was taken by this Court.

Framing of Charge:

9. Upon consideration of the record of the case and the documents submitted therewith and after hearing the submission of the accused and the prosecution in this behalf this court presumed that the accused has committed the offence which is exclusively triable by this court, framed in writing a charge against the accused under Section 228 of Cr.P.C. for committing the offence punishable under Section 306 of IPC. The charge was read over and explained to the accused and the accused is asked whether he pleaded guilty of the offence charged or claimed to be tried. The accused pleaded not guilty and claimed to be tried.

The Trial:

10. In order to prove the charge against the accused, prosecution has examined as many as 4 witnesses. Documents have been marked as Exhibit 1/1 to 3/1.
11. The defence side chose not to adduce any defence witness on his behalf. He remained content with cross-examination of the prosecution witnesses and denial thereof.

Examination of the accused:

12. As mandated under Section 313 of the Cr.P.C., the accused was given due

opportunity to personally explain the circumstances appearing against him in evidence. All the incriminating facts, circumstances and evidence were put to him as appeared in the testimonies of prosecution witnesses and the corresponding documents. Thereafter, he was called on for his defence. However, no oral or documentary evidence was produced by him in defence.

Defence Case:

13. Defence plea as it appears from the trend of cross-examination of prosecution witnesses and examination of the accused under Section 313 of the Cr.P.C. is one of complete innocence of the accused. According to the accused, he has been falsely implicated in this case.

POINTS FOR DETERMINATION

14. The following points for determination arise in this case :-
- (i) Whether the accused abetted Aduri Khatun to commit suicide by consuming poison, thereby committed the offence punishable under Section 306 of the IPC;*
 - (ii) Whether the prosecution is able to prove the charges against the accused beyond reasonable doubt.*

DECISION WITH REASONS:

15. All the points, taken up for consideration and determination seem to be related with each other and they are taken up collectively for discussion and adjudication for the sake of brevity of the judgment and to refrain from repetition.

ARGUMENT:

16. Learned Public Prosecutor argued that although the case against the principal accused has been split and he has been sent to JJB Malda, but the present accused abetted the principal accused in committing the offence. Due to active instigation and abetment, the victim Aduri committed suicide. He submitted that the prosecution has been able to prove the case against the accused and prays for conviction of the accused.
17. Learned advocate for the accused vehemently argued that the prosecution is

under duty bound obligation to prove each and every ingredient of the offences of which the accused is charged with; mere allegation is not suffice to prove the contention. He contended that the prosecution has miserably failed to prove any of the charges splashed against the accused and he deserves acquittal under the canopy of benefit of doubt.

18. It is cardinal rule of criminal jurisprudence that the accused always has a presumption of innocence in his favour and the prosecution must prove the ingredients of the offences with which the accused is charged beyond reasonable doubt. Now, let us scrutinize the evidence adduced by the prosecution during the trial in its entirety to find out as to whether the accused has committed the alleged offences beyond reasonable doubt or not.

PROSECUTION EVIDENCE:

19. PW-1, Nurul Islam, the complainant deposed in his evidence that he lodged the complaint with IC Harishchandrapur, PS against the accused. He lodged the complainant as per the instruction of his co-villager. He further deposed that his daughter Aduri Khatun committed suicide by consuming poison.
20. PW-2 Anwar Ali is a seizure list witness. He identified the signature on the seizure list dated 21.01.2021 and the same has been marked as Exhibit- 1/1. He does not know how Aduri Khatun died.
21. PW-3 Kajal Khatun is an independent witness. In her evidence she could not say how Aduri died.
22. PW-4, Mafijul Islam, stated in his evidence that Aduri Khatun died long ago by consuming poison. He identified his signature on the statement under Section 164 CrPC recorded by the learned Magistrate and marked the same as Exhibit -2. He also identified the signature on the surathal report and seizure list dated 21.01.2021 and marked the same as Exhibit 3/1 and Exhibit 1/2, respectively. However, he could not say why Aduri consumed poison and who were responsible for it. It appears from his cross-examination that he stated before the Magistrate what was tutored by police. He signed on the

surathal report and seizure list dated 21.01.2021 as per instruction of police.

He could not say what was written on those documents.

Appreciation of Evidence vis-a-vis legal propositions:

23. The essential ingredients of the offence under Section 306 IPC are as follows:
 1. There was suicide of a person;
 2. It was committed in consequence of abetment by the accused.
24. In *Wazir Chand vs. State reported in AIR 1989 SC 378*, the Hon'ble Supreme Court observed that from reading Sections 306 and 107 together it is clear that if any person instigates any other person to commit suicide and as a result of such instigation the other person commits suicide the person causing the instigation is liable to be punished under Section 306 of IPC for abetting the commission of suicide.
25. Needless to say that, neither the contents of the written complaint has been proved in this case by the evidence of the complainant himself nor the other witnesses examined by the prosecution has corroborated the written complaint. The written complaint itself has not been proved and marked as an Exhibit in this case.
26. Although, it has come to surface from the evidence on record that the victim Aduri Khatun died by consuming poison but none of the prosecution witnesses could say who abetted or instigated Aduri Khatun to consume the poison and thereby committing suicide.
27. When there is no direct evidence in regard to actual abetment by the accused, the charge under Section 306 IPC cannot be held to have been proved.
28. PW-4 in his previous statement recorded under Section 164 CrPC narrated that the accused demanded dowry and as the principal accused refused to marry the victim, she committed suicide. In his previous statement, PW-4 has not stated anything that the present accused abets the commission of such suicide by the victim. Be that as it may, no implicit reliance can be

placed on such previous statement of PW-4 as he stated before the Magistrate what was tutored by police.

29. There is no evidence that the deceased commit suicide at the instigation of the present accused. Demanding money from the victim's father by itself does not at all proved any intention to abet the victim to commit suicide.

Conclusion:

30. On the basis of the discussion made above, I am of the view that the prosecution has utterly failed in proving the charge against the accused beyond reasonable doubt.
31. The points undertaken for consideration are replied accordingly.
32. Hence, it is

ORDERED

that the accused namely, (A1) Noor Alam is found not guilty of the charge punishable under Sections 306 of the Indian Penal Code and he is hereby acquitted from this case under Section 235(1) of the Code of Criminal Procedure.

Accused is permitted to remain on same bail bond till expiry of six months from the date of this order as provided under Section 437A of the Code of Criminal Procedure.

The seized alamats, if any, be disposed of in accordance with law after the period of appeal is over.

Regarding acquittal of accused, the victim has a right to prefer an appeal under proviso to Section 372 of the Code of Criminal Procedure and, if necessary, she may avail free legal aid.

Copy of judgment be forwarded to the Sub-Divisional Legal Services Authority at Chanchal and the District Magistrate, Malda.

Dictated & Corrected by me

Sd/-
(Joy Sankar Roy)
Additional Sessions Judge
Chanchal, Malda.

Sd/-
(Joy Sankar Roy)
Additional Sessions Judge,
Chanchal, Malda.