



2026:CGHC:3430



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 318 of 2024

1 - State Of Chhattisgarh Through The Incharge Police Station Kanker
District North Bastar, Kanker (C.G.)

... Appellant

versus

1 - Mohd. Dabir Khan S/o Mohd. Alim Khan Aged About 46 Years R/o
Nurani Chowk, Pandri Road, Rajatalab, Raipur, P.S. Civil Lines, District
Raipur (C.G.)

... Respondent(s)

For State/Appellant : Mr. Vinod Tekam, G.A.

For Respondent : Mr. Adil Minhaj, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board

20/01/2026

1. The present acquittal appeal has been filed by the appellant against the impugned judgment of acquittal dated 30.11.2018 passed by learned Additional Sessions Judge (FTC), North Bastar, Kanker (CG) in Sessions Case No.24 of 2017, whereby the respondent-



accused has been acquitted from the offence of Section 306 of IPC.

2. The prosecution's case in brief are that the respondent is the husband of the deceased Shakira Khan. Their marriage was solemnized on 27.04.2008, and thereafter she started residing at her matrimonial home. Out of the their wedlock, one son was born. After some time of the marriage, dispute arose between them which culminated into various complaints and ultimately the mother of the deceased made an application before Paramarash Kendra, Mahila Thana, Raipur for conciliation between the parties. The parties were appearing in the proceeding of Paramarsh Kendra and in the meantime the deceased was taken back by her parents on 20.04.2017 and she was residing there at her parent's house. On 31.07.2017 she committed suicide by hanging herself inside her parents house and then FIR was registered against the respondent-accused under Section 306 of IPC for abetment of suicide to the deceased. It is allege that the father of the deceased was retired in the Year 2016 and he received huge amount of service benefit and the respondent-accused pressurizing his wife to bring money from her parents. When the deceased refuse to take money from her parents, the respondent-accused started assaulting her and she return back to her parents house. After due investigation charge-sheet was filed against the respondent-accused before the learned Chief Judicial Magistrate, Kanker, from where case was committed to the learned Trial Court for its trial.



3. The learned Trial Court has framed the charge for the offence under Section 306 of IPC which the respondent-accused denied and claimed to be tried.
4. In order to prove the charge against the respondent-accused, the prosecution has examined as many as 12 witnesses. Statement of the accused under Section 313 of Cr.P.C. has also been recorded in which he denied the circumstances that appears against him and pleaded innocence. The respondent-accused examined himself as DW/1-Mohd. Dabir Khan.
5. After appreciation of oral as well as documentary evidence led by the parties, the learned Trial Court has acquitted the respondent-accused from the offence under Section 306 of IPC holding that there is lack of evidence with respect to abetment or instigation to commit suicide to the deceased. Which is under challenge in the present acquittal appeal.
6. Learned counsel appearing for the appellant would submit that there is sufficient evidence against him that he abetted the deceased to commit suicide and the evidence of instigation is there in the record. From the evidence of P.W./2 father of the deceased, P.W./6 mother of the deceased and PW/7 sister of the deceased it clearly reveals that the deceased was regularly pressurized by her husband for demand of money from her parents as her father has receive huge amount at the time of his retirement. In such mental



state of harassment, the deceased was having no option but to commit suicide and she ultimately commit suicide.

7. He would further submits that the respondent-accused failed to give plausible explanation as to the circumstances under which the deceased met with an unnatural death and there is ample evidence of her harassment by the respondent-accused. Without considering the true aspect of the evidence of the father, mother and sister of the deceased, the respondent-accused has been acquitted by the learned Trial court which needs to be interfered and the respondent-accused is liable to be convicted.
8. On the other hand, learned counsel appearing for the respondent opposed the submissions made by the learned counsel for the appellant and submitted that the deceased has committed suicide in her parents house. Though, there was some dispute between husband and wife but she came back to parents house on 20.04.2017 but has not lodged any complaint or report to the police against any harassment. After about three months she committed suicide in her parents house. There is absolutely no evidence that for the close proximity of time the respondent-accused has made any act which instigate her or abet her to commit suicide. The evidence of the parents of the deceased are also not sufficient to hold that the act of the respondent-accused bring the case of the prosecution within the framework of abetment to commit suicide or any instigation. It is only after death of the deceased her parents



levelled allegation that the respondent-accused was demanded money from her therefore, the learned Trial Court after adverting the entire facts and circumstances of the case as well as evidence available on record, acquitted the respondent-accused which is not liable to be interfered with.

9. I have heard learned counsel for the parties and perused the evidence available on the record.
10. The unnatural death of the deceased by hanging is not in dispute in the present case and from evidence of the Dr. K.K.Dhruv PW/10 who conducted the post-mortem of the dead body of the deceased, the unnatural death of the deceased by hanging is proved. He stated in his evidence that on 31.07.2017 he conducted the post-mortem of the dead body of the deceased Shakira Khan, and found no external injuries on her body, ligature was present over neck at upper part and he opined that mode a death is asphyxia due to blockage of respiratory passage caused by hanging. But for minor discrepancies, nothing could be extracted in his cross-examination that his death was not due to hanging but for some other reason.
11. So far as the allegation of abetment of suicide is concerned, PW/2 Khalil Ahamad, the father of the deceased, stated in his evidence that the deceased was his daughter and she came back to his house after harassment given by the respondent-accused. He demanded Rs.5,00,000/- from the amount received by him at the



time of retirement on 31.07.2017. His daughter commit suicide by hanging in his house. Though, in his cross-examination he stated that the respondent-accused harassed his daughter for demand of money but, there is no allegation that on 31.07.2017 or immediately before the incident, any act of cruelty or harassment was committed by the accused. Though there may be some dispute between husband and wife for one or other reason, but that itself cannot be considered to be abetment or instigate to commit suicide to the deceased.

12. PW/6 (Famida Khan) who is the mother of the deceased and PW/7 (Shabana Khan) who is the sister of the deceased are also the witness of the same fact which PW/2 have stated. They have not stated anything against the respondent-accused that just before the date of incident the deceased was harassed or subjected to cruelty by the respondent-accused. All of them have stated that by the harassment of the respondent-accused the deceased came to their house and the respondent-accused used to come to their house and treated the deceased with the cruelty. The learned Trial Court has considered that the father of the deceased was retired in the Year 2016 and when the respondent-accused demanded money from the deceased, no report has been lodged by them with respect to her harassment. Even the proceeding for conciliation was pending before Paramarsh Kendra, Mahila Thana, Raipur, and the deceased was having ample time to get her grievance redressed by lodging report to the police or by making complaint to



the community head or to take recourse to any other mode of grievance redressal forum.

13. In the matter of **Gurucharan Singh vs. State of Punjab**, 2017 (1) SCC 433, the Hon'ble Supreme Court has held in para 20 to 30 that:

20. Section 306 of the Code prescribes the punishment for abetment of suicide and is designed thus:

"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."

21. It is thus manifest that the offence punishable is one of abetment of the commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment being the propelling causative factor. The basic ingredients of this provision are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of this constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section. 206 IPC. Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. Section 306 IPC, thus criminalises the sustained incitement for suicide.



22. Section 107 IPC defines abetment and is extracted hereunder:

"107. Abetment of a thing. A person abets the doing of a thing, who 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 doing.

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."

Not only the acts and omissions defining the offence of abetment singularly or in combination are enumerated therein, the explanations adequately encompass all conceivable facets of the culpable conduct of the offender relatable thereto.

23. Section 113A of the Indian Evidence Act, 1872 permits a presumption as to the abetment of suicide by a married woman by her husband or any relative of his, if it is proved that she had committed the act within a period of seven years from the date of her marriage and that her husband or such relative of his had subjected her to cruelty. The explanation to this Section exposits



"cruelty" to have the same meaning as attributed to this expression in Section 498A IPC. For ready reference, Section 113A of the Indian Evidence Act, 1882 is quoted hereunder as well.

"113A. Presumption as to abetment of suicide by a married woman-When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband"

Explanation For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860)."

24. In the legislative backdrop outlined hereinabove, Section 498A of the Code also demand extraction.

"498A. Husband or relative of husband of a woman subjecting her to cruelty

-Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation- For the purpose of this section, "cruelty" means-



(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

25. This provision, as the quote hereinabove reveals, renders the husband of a woman or the relative of his, punishable thereby with imprisonment for a term which may extend to three years and also fine, if they or any one of them subject her to cruelty. The explanation thereto defining "cruelty" enfolds:

a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

b) harassment of the woman, where it is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her, to meet such demand.

26. Though for the purposes of the case in hand, the first limb of the explanation is otherwise germane, proof of the willful conduct actuating the woman to commit suicide or to cause grave injury or danger to life, limb or health, whether mental or physical, is the sine qua non for entering a finding of cruelty against the person charged.



27. *The pith and purport of Section 306 IPC has since been enunciated by this Court in Randhir Singh vs. State of Punjab (2004)13 SCC 129, and the relevant excerpts therefrom are set out hereunder.*

"12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC.

13. In State of W.B. Vs. Orilal Jaiswal (1994) 1 SCC 73, this Court has observed that the courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty."

28. Significantly, this Court underlined by referring to its earlier pronouncement in Orilal Jaiswal (supra) that courts have to be extremely careful in assessing the facts and circumstances of



each case to ascertain as to whether cruelty had been meted out to the victim and that the same had induced the person to end his/her life by committing suicide, with the caveat that if the victim committing suicide appears to be hypersensitive to ordinary petulance, discord and differences in domestic life, quite common to the society to which he or she belonged and such factors were not expected to induce a similarly circumstanced individual to resort to such step, the accused charged with abetment could not be held guilty. The above view was reiterated in Amalendu Pal @ Jhantu vs. State of West Bengal (2010) 1 SCC 707.

29. That the intention of the legislature is that in order to convict a person under Section 306 IPC, there has to be a clear mens rea to commit an offence and that there ought to be an active or direct act leading the deceased to commit suicide, being left with no option, had been propounded by this Court in S.S. Chheena vs. Vijay Kumar Mahajan (2010) 12 SCC 190.

30. In Pinakin Mahipatray Rawal vs. State of Gujarat (2013) 10 SCC 48, this Court, with reference to Section 113A of the Indian Evidence Act, 1872, while observing that the criminal law amendment bringing forth this provision was necessitated to meet the social challenge of saving the married woman from being ill-treated or forcing to commit suicide by the husband or his relatives demanding dowry, it was underlined that the burden of proving the preconditions permitting the presumption as ingrained therein, squarely and singularly lay on the prosecution. That the prosecution as well has to establish beyond reasonable doubt that the deceased had committed suicide on being abetted by the person charged under Section 306 IPC, was emphasised.



14. After considering the evidence on record and the law laid down by Hon'ble Supreme Court in the above judgment, this Court is of the considered opinion that the learned Trial Court has rightly appreciated the evidence and available on record and comes to the conclusion that there is lack of evidence with respect to the abetment to commit suicide or instigate the deceased to commit suicide.

15. In the matter of **"State of Rajasthan Vs. Kistoor Ram"** reported in **2022 SCC Online SC 984**, it has been settled by the Hon'ble Supreme Court in Para 8 that:

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

16. After considering the material available on record as well as well the elaborate judgment passed by the Court below and being very much conscious of the existing legal position as held in case of Jafarudheen (supra) and Kistoor Ram (supra) that in an appeal against acquittal, if two views are possible on the basis by the evidence led by the prosecution and the trial court taking one view favoured the accused, reversion on the finding of acquittal by the



Appellate Court taking the other possible view into consideration, is not permissible in law.

17. It am therefore of the considered opinion that the judgment impugned, acquitting the accused person/ respondent is just and proper and does not call for any interference. Accordingly the acquittal appeal filed by the State against the acquittal of accused persons/ respondents from the aforesaid offences is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Arpan