



2026:CGHC:13352



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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No.176 of 2022

State Of Chhattisgarh Through Police Station Chakradharnagar, District :
Raigarh, Chhattisgarh

... Appellant/Prosecution

versus

1 - Heeramani Patel S/o Punnilal Patel, Aged About 21 Years R/o Late Lakhiram Medical College, Raigarh, District : Raigarh, Chhattisgarh

2 - Ankit Patel, S/o Basant Kumar Patel, Aged About 21 Years R/o Panchwati Colony, Boirdadar, House No. 44, Police Station Chakradharnagar, District : Raigarh, Chhattisgarh

... Respondents/Accused

For Appellant	:	Shri Dharmesh Shrivastava, Dy.AG appears along with Ms. K. Radhika, Panel Lawyer
For Respondent No.1	:	Ms. Aditi Joshi, Advocate appears on behalf of Ms. Madhunisha Singh, Advocate
For Respondent No.2	:	Shri Rajeev Shrivastava, learned Senior Advocate appears along with Shri Dhani Ram Patel and Ms. Anu Mishra, Advocates

Single Bench: Hon'ble Shri Justice Sanjay S. Agrawal

Judgment on board

19/03/2026

1. This appeal has been preferred by the Appellant/State under Section 378 of the Code of Criminal Procedure, 1973, questioning the legality and propriety of the judgment dated 30/03/2019 passed by the learned Fifth Additional Sessions Judge, Raigarh (C.G.) in



Sessions Trial No.08/2015, whereby, the respondents have been acquitted with regard to the offence punishable under Section 306 IPC and Section 4 of the Chhattisgarh Prohibition of Ragging in Educational Institutions Act, 2001(hereinafter referred to as “the Act, 2001”).

2. From perusal of the record, it appears that a merged intimation (Ex.P-1) was lodged by one Praveen Kumar on 08/11/2014 before the Police Station Chakradhar Nagar, Raigarh, stating therein that his Roommate, namely, Nishant Upadhyay has committed suicide by hanging himself and, on the next day, a written report (Ex.P-8) was lodged by the deceased's father, namely, Anup Kumar Upadhyay, alleging therein that his son had informed to his mother through Facebook chat that he was harassed by his seniors, namely, Heeramani Patel and Ankit Patel, while consuming liquor and was also assaulted by them. Based upon the alleged informations, an FIR (Ex.P-90) was registered on 10/11/2014 against the respondents and others for the offence punishable under Section 306/34 of IPC read with Section 4 of the Act, 2001. During the course of investigation, the dead body of the deceased was sent for autopsy, which was conducted by Dr. D.K. Toppo (PW-2), who vide his postmortem report (Ex.P-3) opined the cause of death to be asphyxia occurred due to hanging and after completion of the usual investigation, the respondents have been charge-sheeted with regard to the offence mentioned herein-above, which was denied by them and claimed to be tried.



3. After considering the evidence led by the prosecution, the trial Court arrived at a conclusion that the respondents were not the authors of the alleged crime and accordingly, they have been acquitted from the charges mentioned herein-above and being aggrieved, the instant appeal has been preferred.
4. Learned Counsel appearing for the appellant/State submits that the finding recorded by the trial Court holding that the respondents are not the authors of the alleged crime, is apparently contrary to the materials available on record, inasmuch as, the evidence led by the prosecution, particularly the statement of the parents of the deceased and Roommate of him, has not been scanned in its proper manner and thereby, erred in acquitting them as such.
5. On the other hand, learned counsel appearing for the respondents while supporting the judgment of acquittal, submits that, even if the statement of all the prosecution witnesses as a whole is accepted, even then, it cannot be said that the deceased was harassed and maltreated and because of that, he has committed suicide by hanging himself. It is contended further that since the prosecution has failed to establish the ingredients provided under Section 107 of IPC, the respondents have, therefore, rightly been acquitted from the commission of the alleged crime. In support, learned counsel appearing for the respondent No.2 has placed reliance upon the decision rendered by the Supreme Court in the matter of ***Mahendra Awase vs. State of Madhya Pradesh***, reported in ***(2025) 4 SCC 801***.



6. I have heard learned counsel appearing for the parties and perused the entire record.
7. From perusal of the record, it appears that the respondents have been charge-sheeted with regard to the offence punishable under Section 306/34 IPC read with Section 4 of the Act, 2001, on the allegation that the deceased, namely, Nishant Upadhyay was harassed by them. It appears from a bare perusal of the written report (Ex.P-8) lodged by the father of the deceased that his son had informed to his mother through Facebook chat, that the respondents i.e. Heeramani Patel and Ankit Patel while consuming liquor had assaulted and physically harassed him, owing to which, the respondents have been charge-sheeted as such.
8. In order to establish the alleged allegations, the Roommate of the deceased, namely, Praveen Kumar was examined as PW-1 and from perusal of his statement, as revealed from para 8 of his cross-examination, it appears that he was neither informed by the deceased nor anyone that any kind of ragging is being done in the hostel, nor was informed by the deceased that he was tortured by respondent No.2-Ankit Patel on account of the ragging being done by him. It, thus, appears from his testimony that, though he was a Roommate of the deceased, but has not stated that he was harassed and maltreated by the respondents while consuming liquor, as was alleged by the deceased's father in his report (Ex.P-8), lodged on 09/11/2014.



9. Anup Upadhyay (PW-5) is the father of the deceased and it appears from para 9 of his cross-examination that whatever talk was made between his wife and son through the Facebook chat, the name of the accused persons were not disclosed. It is to be seen further, as revealed from his alleged report (Ex.P-8), that his son had informed to his mother that he was harassed by the respondents while consuming liquor, but in his statement, as revealed from para 15, it, however, appears that he was informed by the deceased (son) that he was harassed and assaulted by the respondents. His statement is, therefore, cannot be relied upon in order to attribute the respondents for the commission of the alleged crime. The mother (Smt. Priti Upadhyay) of the deceased was examined as PW-7, but she has, however, not supported the prosecution story and, likewise the deceased's child friend, namely, Aishwarya Singh (PW-14) has failed to support the prosecution version, as revealed from para 14 of her testimony.
10. What is, therefore, reflected from the testimonies of the aforesaid witnesses, that none of them have, however, supported the alleged allegations as made in the written report (Ex.P-8), lodged by the deceased's father on 09/11/2014.
11. At this juncture, it is to be seen the principles laid down by the Supreme Court in the matter of **Mahendra Awase** (supra), relied upon by learned counsel appearing for the respondent No.2, wherein, while interpreting the provisions prescribed under Sections



306 and 107 of IPC, it was observed at paragraphs 12, 16 and 19, as under:-

12. "As is clear from the plain language of the sections to attract the ingredient of Section 306, the accused should have abetted the commission of a suicide. A person abets the doing of a thing who Firstly - instigates any person to do that thing or Secondly - engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing or Thirdly - intentionally aids, by any act or illegal omission, the doing of that thing.

16. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

19. As has been held hereinabove, to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide....."

12. In view of the principles laid down by the Supreme Court in the above-referred matter, it is, thus, evident that in order to bring a case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate



the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

13. However, in the instant matter, as observed herein-above, no cogent and reliable evidence has been placed by the prosecution, so as to hold that the respondents have abetted or instigated the deceased for taking such an extreme step of committing suicide on the said fateful day for the commission of offence under Section 306 IPC and Section 4 of the Act, 2001.
14. In view of the aforesaid background, I do not find any substance in this appeal, which is accordingly dismissed

SD/-
(Sanjay S. Agrawal)
Judge