



2026:CGHC:10633

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 487 of 2019

1 - Bhagwati Prasad Upadhyay S/o Shri Narbada Prasad Upadhyay Aged About 59 Years R/o Village Chingli, Chowki Jalbandha, Police Station Kahiragarh, District Rajnandgaon, Chhattisgarh, District : Rajnandgaon, Chhattisgarh

... Appellant

versus

1 - State Of Chhattisgarh Through The Police Station Parpodi, District Bemetara, Chhattisgarh, District : Bemetara, Chhattisgarh

2 - Mamta Tiwari W/o Ganesh Tiwari Aged About 40 Years R/o House No. 380, Housing Board Colony, Bhilai, Police Station Jamul, District Durg, Chhattisgarh, District : Durg, Chhattisgarh

3 - Mamta Tiwari W/o Late Pokhanlal Tiwari Aged About 48 Years R/o Village Tumdipar, Police Station Parpodi, District Bemetara, Chhattisgarh, District : Bemetara, Chhattisgarh

4 - Premlata Tiwari W/o Janardan Tiwari Aged About 44 Years R/o Village Bendarchua, Police Station Parpodi, District Bemetara, Chhattisgarh, District : Bemetara, Chhattisgarh

5 - Ganesh Tiwari S/o Bharat Lal Tiwari Aged About 48 Years R/o L I G li 32 Acre Housing Board Colony, Bhilai, District Durg, Chhattisgarh, District : Durg, Chhattisgarh

6 - Ankit Tiwari S/o Ganesh Tiwari Aged About 19 Years R/o L I G li 32

Acre Housing Board Colony, Bhilai, District Durg, Chhattisgarh, District :
Durg, Chhattisgarh

... Respondent(s)

(Cause title as taken from the CIS)

For Appellant	:	Ms. Sharmila Singhai, Sr. Advocate assisted by Ms. Kanchan Kalwani, Advocate
For State/Respondent No.1	:	Ms. S. Upasane, G.A.
For Respondents No. 2 to 6	:	Ms. Pooja Loniya, Advocate appears on behalf of Mr. Ajay Kumar Chandra, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal

Judgment on Board

28/02/2026

1. In the present acquittal appeal filed by the complainant under Section 372 of the Code of Criminal Procedure, 1973 against the impugned judgment of acquittal dated 12.04.2019 passed by learned Sessions Judge, Bemetara, District – Bemetara (C.G.) in Sessions Case No.08/2018, whereby the respondents/accused persons have been acquitted from the offence under Section 306 of IPC.
2. The brief facts of the case are that deceased Ragini was married with Pradeep Tiwari on 19.06.2007 and out of their wedlock two children were born. The respondent No.2/accused Mamta Tiwari, wife of Ganesh Tiwari and the respondent No.3/accused Mamta Tiwari, wife of late Pokhanlal Tiwari are the sister-in-law (Jethani), The respondent No.4/accused Premlata Tiwari is the mother-in-

law of the deceased and the respondent No.5/accused Ganesh Tiwari is brother of deceased's husband and the respondent No.6/accused Ankit Tiwari is the nephew of the deceased. The deceased Ragini has committed suicide on 21.10.2017 in her matrimonial house by hanging herself in the ceiling fan with saree. Merg was intimated to the Police on 22.10.2017 at about 03:00 a.m. which is Ex.P/11. The inquest of the dead body (Ex.P/3) was prepared in presence of the witnesses and the dead-body was sent for its postmortem to the Community Health Center, Saja, District Bemetara, where the postmortem of the dead body of the deceased was conducted by Dr. A. K. Verma (PW-11), who found no external injuries on her body and opined that the cause of death is cardio-respiratory arrest caused by constriction of air passage due to hanging and nature of death is suicidal. His postmortem report is Ex.P/12. FIR (Ex/14) was registered against the accused persons under Sections 306 and 34 of IPC. The spot map was prepared by Police is Ex.P/8 and the spot map prepared by the Patwari is Ex.P/9. From the spot the ligature i.e. the saree, one sickle and two mobile phones have been seized vide seizure memo Ex. P/11. A query was raised from the Doctor about the ligature, then the Doctor has opined that the death could be possible by the said ligature and his query report is Ex.P/15. Statements of the witnesses under Section 161 of CrPC have been recorded and further completion of usual investigation charge-sheet was filed before the learned

Judicial Magistrate First Class, Saja District Bemetara for the offence under Section 306 and 34 of IPC. The case was committed before the learned Sessions Judge, Bemetara for its trial.

3. Learned trial Court has framed charges under Section 306 of IPC against the accused persons. They denied the charges leveled against them and claimed trial.
4. The prosecution has examined as many as 12 witnesses. Statements of the accused persons under Section 313 of the CrPC have also been recorded in which they denied the circumstances that appears against them, pleaded innocent and have submitted that they have been falsely implicated in the offence. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has acquitted the respondents/accused persons from the alleged offence holding that the prosecution has failed to prove its case beyond reasonable doubt and there are no evidence with respect to any abatement or commit suicide to the deceased. The said judgment of acquittal is under challenge in the present acquittal appeal.
5. Learned counsel for the appellant would submit that the prosecution has duly proved its case beyond reasonable doubt, but for minor omission or contradiction the evidences of

prosecution witnesses are fully reliable. The evidence of parents of the deceased as well as brother of the deceased clearly demonstrate the instigation and abatement to commit suicide. A few days back from the date of incident the brother of the deceased visited to the house of the deceased, who saw the incident that the deceased was being beaten by the accused persons. There was continues course of conduct about harassment on demand of dowry and for other reasons. The deceased was regularly harassed and beaten by the accused persons for which she was no other option except to commit suicide and ultimately did so. There are sufficient and overwhelming corroborative evidence available on record to convict the respondents/accused persons yet they have been acquitted. Therefore, the impugned judgment of their acquittal is perverse and the same is liable to be set-aside.

6. On the other hand, learned counsel appearing for the respondents/accused persons supported the impugned judgment of acquittal and have submitted that there are material omission and contradiction in the evidence of prosecution witnesses and the learned trial Court has rightly acquitted the accused persons. He would further submits that there is no allegation that in the close proximity of the incident the accused persons have harassed the deceased for which she committed suicide. The husband and parents in law are not the accused persons in the

case, in fact the deceased was residing with her husband happily and only to settle their personal score they have been made as an accused and ultimately acquitted in absence of sufficient cogent and clinching evidence. The consideration of the learned trial Court is absolutely justified under the facts and circumstances of the case which need no interference.

7. Learned counsel appearing for the State would submit that against the judgment of acquittal the State has filed the acquittal appeal and challenged the same.
8. I have heard learned counsel for the parties and peruse the record of the trial Court.
9. From perusal of the impugned judgment of acquittal it transpires that the learned trial Court has acquitted the respondents/accused persons after considering the evidence of witnesses who are the parents in law and brother in law of the deceased.
10. The learned trial Court has observed in its judgment that from the evidence of Bhagwati Prasad Upadhyay (PW-2), Santoshi Devi Upadhyay (PW-5) and Khileshwar Upadhyay (PW-6), it transpires that the deceased was residing with her husband happily, but her in-laws were having grievance with her. The witnesses have not stated anything against her father in law and mother in law. There are certain allegation of making sarcastic comments upon the

deceased by the respondents/accused persons, but it was more than two and half years back from the date of her death which cannot be considered to be instigation or abatement to commit suicide. While considering the evidence of the witnesses the learned trial Court has also observed that though the brother of the deceased (PW-6) has stated that he had gone to the house of the deceased at the time of Dhanteras and he saw the incident of maar-pit with her but it was missing in the evidence of her parents that Khileswar Upadhyay has gone to the house of the deceased on that occasion. Further from the 161 CrPC statement of Khileshwer Upadhyay, it transpires that he had gone to house of the deceased in the year 2016 and not in the year 2017, whereas in her evidence he stated that he has gone to the house of the deceased at the time of Dhanteras festival in the year 2017 which is vital contradiction in his evidence with respect to the time gap between visiting the house of the deceased as well as the date of incident. From the evidence of the witnesses nothing comes on record that within the closed proximity of the time the deceased was being harassed or being beaten by the accused persons which bring the accused persons under the definition of guilty for abatement to commit suicide or instigate the deceased to commit suicide.

11. Smt Jayabai Janghel (PW-1) is the neighbour of the deceased who has turned hostile and not supported the prosecution's case.

Bhagwati Prasad Upadhyay (PW-2) is the father of the deceased, he stated in his evidence that at the time of delivery of second child of the deceased, he received a telephonic call from her matrimonial house and at that time his daughter was subjected to cruelty and maar-pit by the accused persons. In the later part of his examination in chief he stated that before two and half year of the death of his daughter, the accused persons were beaten his daughter and he convinced them not to beat her daughter. He admitted that the deceased was an employee at Gram Panchayat Singhori and she was working as 'Rojgar Sahayak'. Even in his detailed examination and cross examination the prosecution could not impugned any material which shows that it can be considered that the deceased has been harassed in close proximity of time just before her death. Santoshi Devi (PW-5) is the mother of the deceased and she too has raised the general and omnibus allegation against the accused persons that they were harassing the deceased by which she committed suicide. There is no specific instance stated by this witnesses which brought the accused persons under the offence of instigation to commit suicide. Khileshwar Updhyay (PW-6) is the brother of the deceased and he too have made general and omnibus allegation of harassment on the deceased.

12. Pradeep Tiwari (PW-8) is the husband of the deceased, he stated in his evidence that after having their dinner from both of them

have gone to sleep. At about 10:30 at night, when he woke up due to excessive heat, he saw that his wife had committed suicide by hanging in the ceiling fan by saree. He called his family members and then merged was informed to the police. There is no allegation against her husband that he too have committed offence or any cruelty with his wife. From perusal of the evidence of the witnesses this Court is of the considered opinion that the consideration of the learned trial Court is one of the plausible view taken in favour of the accused persons for acquittal from the alleged offences. Thus, taking into consideration the findings recorded by the trial court, I do not find any reason to admit the acquittal appeal.

13. To constitute the offence of abetment to commit suicide, the law is settled by the Supreme Court in case of ***Gurucharan Singh Vs. State of Punjab***, 2017(1)SCC 433, in which it was observed as under:-

“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 these 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 306 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-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 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.

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."

14. Recently in **Mahendra Awase Vs. State of Madhya Pradesh, 2025(4)SCC 801**, the Supreme Court held 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.

13. In *Swamy Prahaladdas vs. State of M.P. and Another*, [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:-

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

14. In *Madan Mohan Singh vs. State of Gujarat and Another*, (2010) 8 SCC 628, this Court held that in order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306.

15. In *Amalendu Pal alias Jhantu vs. State of West Bengal*, (2010) 1 SCC 707, this Court held as under:-

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence

adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. 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 there 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."

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.

17. M. Mohan vs. State, (2011) 3 SCC 626 followed Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618, wherein it was held as under-

41. This Court in SCC para 20 of Ramesh Kumar has examined different shades of the meaning of "instigation". Para 20 reads as under: (SCC p. 629) "20. 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 and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

In the said case this Court came to the conclusion that there is no evidence and material available on record where from

an inference of the appellant accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn."

18. Thereafter, this Court in Mohan (supra) held:-

45. 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 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 this act must have been intended to push the deceased into such a position that he/she committed suicide."

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. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.

15. Applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of State of **Rajasthan Vs. Kistoora Ram, 2022 SCC OnLine SC 984**, has held as under:-

"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. In ***Jafarudheen and Others Vs. State of Kerala, 2022 (8) SCC***

440, the Hon'ble Supreme Court has considered the scope of interference in appeal against acquittal in judgment at para 25, which reads as under:-

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

17. Further, in case of ***Central Bureau of Investigation Vs. Shyam***

Bihari & Others, 2023 (8) SCC 197, the Hon'ble Supreme Court has held in para 27 of its judgment that :-

“27. It is trite law that in an appeal against acquittal, the power of appellate court to re-appreciate evidence and come to its own conclusion is not circumscribed by any limitation. But it is equally settled that the appellate court must not interfere with an order of acquittal merely because a contrary view is permissible, particularly, where the view taken by the trial court is a plausible view based on proper appreciation of evidence and is not vitiated by ignorance/misreading of relevant evidence on record.”

18. After considering the material available on record as well as the elaborate judgment passed by the learned trial court and being

very much conscious of the existing legal position as held in case of **Kistoora Ram, Jafarudheen** and **Shyam Bihari** (Supra) that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law. Therefore, I am of the considered opinion that the judgment impugned acquitting the respondents/accused persons is just and proper and does not call for any interference.

19. Accordingly, the acquittal appeal fails and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE