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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 656 of 2024

1 - State Of Chhattisgarh Through The Incharge, Police Station Kusmunda, District Korba Chhattisgarh.

... appellant (s)

versus

1 - Dhansai Sahu S/o Late Tijram Sahu Aged About 52 Years R/o Village Gumpa, Post Office Hardibazar, Police Station Kusmunda, District Korba Chhattisgarh.

2 - Sanjay Sahu S/o Dhansai Sahu Aged About 22 Years R/o Village Gumpa, Post Office Hardibazar, Police Station Kusmunda, District Korba, Chhattisgarh.

3 - Smt. Guruvarin Bai W/o Dhansai Sahu Aged About 47 Years R/o Village Gumpa, Post Office Hardibazar, Police Station Kusmunda, District Korba Chhattisgarh.

4 - Smt. Anita Sahu W/o Shiva Sahu Aged About 22 Years R/o Village Gumpa, Post Office Hardibazar, Police Station Kusmunda, District Korba Chhattisgarh.

5 - Smt. Anupa Sahu W/o Prahlad Sahu Aged About 28 Years R/o Village Gumpa, Post Office Hardibazar, Police Station Kusmunda, District Korba, Chhattisgarh.

... Respondent(s)

For appellant (s)	:	Mr. Ashutosh Trivedi, Panel Lawyer
For Respondent(s)	:	None

S.B. Hon'ble Shri Justice Ravindra Kumar Agrawal**Order on Board****24.02.2026**

1. The present is an acquittal appeal under Section 378 (1) of the Cr.P.C. filed by the State against the impugned judgment of acquittal dated 04.12.2018 passed by learned Additional Sessions Judge, Katghora, Dist- Korba in Sessions Trial No. 5/2017 whereby the respondent accused persons have been acquitted from the offence under Section 306/34 and 323/34 of IPC.
2. The brief facts of the case are that on 12.09.2016, the deceased had gone to the house of the respondent/ accused persons without informing her parents, but the respondent/ accused persons do not accept her. When the parents of the deceased were in search of her, they found her outside of the house of the accused persons and she was crying there. When they asked from the deceased about the reason of her cry, she disclosed that she was in love affair with the respondent No. 2 Sanjay and on being his call, she came there but they found the deceased in the house of the accused persons and when they asked to come back, she refused, by saying that she wanted to marry with the accused Sanjay and wanted to reside with him and then the parents of the deceased returned back to their house. At about 5 pm, the parents of the deceased was informed by the villagers that the deceased was setting outside of the house of the accused persons and crying. When they again went there they found their daughter crying and then she informed that the mother, sister, father and sister-in-law of Sanjay has assaulted her and thrown her out from their house. She was depressed and somehow, they convinced her and took her back. On

the next day i.e. 13.09.2016 at about 3 pm, she committed suicide by setting her ablaze by pouring kerosene oil in her parents house. The family members somehow extinguished fire and took her to district hospital, Korba. While shifting from Korba to Bilaspur hospital, she died on the way at about 9.30 pm. At the time when deceased was admitted at Korba hospital, dying declaration was recorded by the Executive Magistrate Smt. Karuna Aher (PW/8). Murg was intimated to the Police. The dead body of the deceased was sent for its postmortem to District Hospital, Korba, where postmortem of the dead body of the deceased was conducted by Dr. O.S. Kavar (Pw/10) who gave the postmortem report (Ex-P/9). While conducting the postmortem, the doctor has noticed 99% burn injuries and opined that cause of death is shock due to 99% burn and it was suicidal in nature. Statement of the witnesses under Section 161 of Cr.P.C. were recorded and after completion of usual investigation, charge-sheet was filed before the learned Judicial Magistrate, First Class, Pali, Dist- Korba. The case was committed to the court of learned Session Judge, Korba from where it has been transferred to the learned trial Court for its trial.

2. The learned trial court has framed the charge against the accused persons for the offence under Sections 323/34, 306/34 of IPC. The respondent/ accused persons denied the charge and claimed trial.
3. In order to prove the charge against the accused persons, the prosecution has examined as many as 13 witnesses. Statement of the respondent/ accused persons under Section 313 of Cr.P.C. has also been recorded in which they denied the circumstances appear against them, pleaded innocence and submitted that they have been falsely implicated in the offence.

4. After appreciation of the oral as well as the documentary evidence produced by the prosecution, the learned trial court has acquitted the respondent/ accused persons holding that the dying declaration (Ex-P/7) cannot be relied upon as there was no certification of doctor before recording of the dying declaration that she was fit state of mind to give statement. Further that the deceased herself had gone to the house of accused persons and despite convincing her, she was not convinced and insisted to reside with the respondent No. 2 with whom she allegedly having love affair which was objected by his other family members and therefore, there is no ingredients of any abatement to commit suicide or any instigation as the alleged incident was occurred on 12.09.2016 and the deceased has committed suicide on the next day i.e. 13.09.2016 in her own house and therefore, by giving the benefit of doubt, the accused persons have been acquitted which is under challenge in the present acquittal appeal.
5. Learned counsel for the appellant/ State would submit that the prosecution has proved its case beyond reasonable doubt. There are overwhelming evidence against the respondent/ accused persons that they instigated the deceased to commit suicide and there are ample evidence to abatement to commit suicide. He would also submit that (PW/8) Smt. Karuna Aher, Executive Magistrate has clearly stated in her evidence that before recording the dying declaration of the deceased, she obtained the certification from the Dr. Ravikant Singh Rathore (PW/13) about fitness to give statement and thereafter, she recorded her dying declaration yet, the learned trial Court has erroneously considered that before recording of the dying declaration there was no certification of the doctor that she was fit state of mind to

give statement. He would further submit that the incident was occurred in closed proximity that on 12.09.2016 the deceased went to the house of the accused persons on being called by the respondent No. 2 with whom she was in love affair but the deceased was being beaten by his family members and thrown her out from their house. She feels defame and sorrow and went in depression yet she was being taken to her parents house by her parents and then she committed suicide on the next day. In the such close proximity of time, it cannot be said that there was sufficient time for the deceased to get convinced. The act of the respondent/ accused persons itself demonstrate that their act are very well defines the abatement to commit suicide of the deceased. Therefore, the impugned judgment of acquittal may be set aside and the accused persons may be convicted for the alleged offence.

6. No one appears on behalf of the respondent/ accused persons to defend their case.
7. I have heard learned counsel for the State and perused the record of the trial Court.
8. From perusal of the impugned judgment of acquittal, it transpires that the learned trial Court has disbelieve the dying declaration (Ex-P/7) recorded by the Executive Magistrate (PW/8) Smt. Karuna Aher by holding that before recording the dying declaration, there was no certification of the doctor and it was obtained only after recording of the dying declaration. From perusal of the evidence of PW/8, Smt. Karuna Aher, Executive Magistrate, it transpires that when she received permission for recording dying declaration of the deceased at District Hospital, Korba, she went there and obtained the certification from the doctor about her mental condition to give statement. She obtained the

certification about 6.40 pm and thereafter, she recorded her dying declaration (Ex-P/7). In para 7 of her cross-examination, she stated that 15 min. time was being taken in recording the dying declaration and at that time, only the doctor was present there.

9. PW /13 Dr. Ravikant Singh Rathore, has stated in his evidence that at the time when Smt. Karuna Aher, Executive Magistrate, recording the dying declaration of the deceased, he was being called. He is not stated in his examination of chief that before starting recording dying declaration of the deceased he was being called and the certification has been obtained from him about the mental condition of the patient. In para 6 of his cross-examination, he stated that the Executive Magistrate has not met him before recording of the dying declaration and has not obtained any certification before recording of the same. He further stated that he has mentioned that time as 6.40 pm which is the time after recording of the dying declaration. He further admitted in para 7 that he has given certification in the document Ex-P/7 after recording of the dying declaration.
10. From perusal of the document (Ex-P/7), it clearly reveals that in the top of dying declaration, the time has been mentioned as 6.40 pm and in the bottom of the document Ex-P/78 there is certification of the doctor that the patients G.C. is very poor but she is conscious and oriented and able to give statement and the time mentioned by the doctor is 6.40 pm. When the Executive Magistrate specifically stated in her statement that 15 min. time was taken in recording the dying declaration then at the top of the dying declaration it should be before 6.40 pm and in the bottom of the dying declaration it should be after 15 min. of 6.40 pm. Then conjointly read the evidence of Executive

Magistrate and the doctor (PW/13), I found that there are contradictions in certification by the doctor and recording of the dying declaration as to whether certification was prior to recording of the dying declaration or certification was given after recording of dying declaration which has been appreciated by the learned trial Court in para 21 of its judgment.

11. Further from the 161 Cr.P.C. statement of the father of the victim (Ex-P/14) it transpires that when they were in search of their daughter, she was found in the house of the accused persons, they had gone there and tried to convince her but she refused to come with them and stayed there in the house of the accused persons. It is the allegation that the deceased is having love affair with the respondent No. 2 Sanjay but her parents refused to accept it. That was the reason that they asked to go away from their house and not permitted her to reside there. Further in the dying declaration (Ex-P/7) that at the time when she had gone to the house of respondent, Sanjay was not there and then the parents of the deceased left her in the house of the accused persons and in the evening when they again received information that the deceased was sitting outside in the house and crying, they took her back with them. When the parents of the deceased came into know about the incident that the deceased was being assaulted by the accused persons and disowned her, they have not made any complaint to any person or Police authority and took back the deceased with them. On the next day, the deceased committed suicide. There is no evidence on record that the accused was also having involvement with the deceased with the same intensity as the deceased was. It transpires that the love affair between the deceased and respondent No. 2 was not accepted by the other accused persons and when the

respondent No. 2 was not in his house, they are refused to accept the deceased in their house and asked to go back to her own house. The learned trial Court has also considered that despite raising objection by the accused persons, the deceased was insisted to reside with their house and then she was being scolded by them. The learned trial Court further considered that in all these affairs and sequence of the events, there was no any ingredients of abatement to commit suicide or instigate the deceased to commit suicide.

12. 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 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 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.”

13. 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.

14. From the aforesaid law laid down by the Supreme Court and the evidence available on record, it would certainly not be held that the respondent accused, by his act, created the circumstances which left the deceased with no other option, except to commit suicide.
15. The trial court after adverting entire evidence considered that prosecution could not prove his case beyond reasonable doubt and comes to the conclusion that there is lack of evidence with respect to abetment to commit suicide or instigate the deceased to commit suicide. The view taken by the trial court is one of the plausible view which cannot be said to be perverse or illegal under the facts and circumstances as well as evidence available on record
16. Recently, 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"** reported in **2022 SCC Online SC 984**, has held as follows:-

"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."

17. The Hon'ble Supreme Court in the matter of **Jafarudheen and Ors Vs. State of Kerala, (2022) 8 SCC 440**, 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 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 analysed. 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 as double presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

18. After considering the material available on record as well as the well-reasoned judgment passed by the learned trial court and being very much conscious of the existing legal position as held in case of **Kistoora Ram** (Supra) and **Jafarudheen** (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. I therefore, of the considered opinion that the judgement impugned acquitting the accused/respondent is just and proper and does not call for any interference.
19. For the foregoing reasons, the acquittal appeal is devoid of merits and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)

JUDGE