

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. Appeal No. 192 of 2015****Reserved on: 02.07.2026****Date of Decision: 13.07.2026**

Gyatari Devi ...Appellant**Versus****State of H.P.** ...Respondent

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No*****For the Appellant : Ms Anjali Soni Verma, Advocate.****For the Respondent/State: Mr Ajit Sharma, Deputy Advocate General.**

Rakesh Kainthla, Judge

The present appeal is directed against the judgment of conviction dated 30.04.2015, and order of sentence dated 19.05.2015 passed by learned Additional Sessions Judge-II, Kangra at Dharamshala, District Kangra, H.P. (learned Trial Court) vide which the appellant (accused before learned Trial Court) was convicted of the commission of offences punishable under Sections 498A and 306 of the Indian Penal Code (IPC), 1860 and sentenced as under:



<i>Sections</i>	<i>Sentences</i>
Section 498A of the IPC	The accused was sentenced to undergo simple imprisonment for six months, pay a fine of ₹5000/-, and, in default of payment of the fine, to undergo simple imprisonment for one month.
Section 306 of the IPC	The accused was sentenced to undergo simple imprisonment for two years, pay a fine of ₹15,000/- and, in default of payment of the fine, to undergo simple imprisonment for three months.
Both the substantive sentences of imprisonment were ordered to run concurrently.	

(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present appeal are that the police filed a charge sheet against the accused for the commission of offences punishable under Sections 498A and 306 of the IPC. It was asserted that Meenu Devi (since deceased) was the daughter of the informant Kaushalya Devi (PW1). She was brought up by her maternal uncle, Milap Chand (PW2). Meenu Devi was married to Kushal Kumar as per Hindu Rites and Customs. Kushal Kumar worked at Badi. His father, Malal Ram, was a shepherd who used to remain away from his home. The accused,



Gyatri Devi, mother-in-law of Meenu, used to reside with Meenu. Meenu told her mother that the accused used to taunt her by saying that even a cow has a rope around her neck, but she had nothing. Her father had not provided anything to her, and if she were to live separately, how would she cook the food? The accused used to suspect the character of Meenu and prevent her from talking to the neighbours. Meenu called her mother, Kaushlya, on 14.12.2008 at about 05.00 p.m. and demanded ₹250/-. Kaushalya talked to her brother, who was scheduled to visit the matrimonial home of Meenu on 15.12.2008. However, the accused Gyatri Devi informed Kaushalya (PW1) on 14.12.2008 at about 10 a.m. that Meenu had consumed poison. The matter was reported to the police. An entry (Ext.PW7/A) was recorded in the Police Station. ASI Laxman Das (PW7) went to the hospital to verify the correctness of the information. He filed an application (Ext.PW4/A) for the medical examination of Meenu. Dr Raj Kumar (PW4) examined Meenu and found that her pulse was not palpable, BP was not recordable, her peripheries were cold to the touch, she was unconscious and responding to painful stimuli. As per his opinion, the patient had consumed an organophosphorus poison. He issued the MLC (Ext.PW4/B). Subsequently, Meenu died. An inquest on the dead



body of Meenu was conducted, and a report (Ext. PB) was issued. The post-mortem examination of Meenu was conducted by Dr H.S. Sabharwal (PW5), who found that the cause of death was suspected organophosphorus poisoning. He preserved the samples and issued the report (Ext.PW5/B). SI Laxman Dass (PW7) recorded the informant's statement (Ext.PW1/A) and sent it to the police station, where FIR (Ext.PW6/A) was registered. The photographs of the dead body (Ext.P1 to Ext.P3) were taken. Viscera was sent to the FSL, and the report of analysis (Ext.PA) was issued, stating that traces of organophosphorus insecticide were detected in the viscera. The statements of witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before learned Judicial Magistrate First class-II, Palampur, District Kangra, who committed it to the Court of Sessions for trial. The case was subsequently assigned to the learned Additional Sessions Judge, Dharamshala (learned Trial Court).

3. Learned Trial court framed the charges against the accused for the commission of offences punishable under Sections 498A and 306 of the IPC, to which she pleaded not guilty and claimed to be tried.



4. The prosecution examined seven witnesses to prove its case. Kaushalya Devi (PW1) is the mother, Milap Chand (PW2) is the uncle and Reenu (PW3) is the sister of the deceased. Dr Raj Kumar (PW4) conducted the medical examination of the deceased. Dr H.S. Sabharwal (PW5) conducted the post-mortem examination of Meenu. ASI Duni Chand (PW6) signed the FIR. SI Laxman Dass (PW7) investigated the matter.

5. The accused, in her statement recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.), admitted that a telephonic call was made by her to the informant regarding the consumption of poison by Meenu. She stated that witnesses had falsely deposed against her. She was innocent and was falsely implicated. She did not produce any evidence in her defence.

6. Learned Trial Court held that the testimonies of the informant, uncle, and sister of Meenu proved that she was subjected to abuses and taunts. She was unable to pay ₹250/- and had to borrow this money from her mother. This fact proved that she was not being treated properly by her mother-in-law and was not provided with all the necessities of life. The accused had created the circumstances in which the deceased was left with no option but to take her life. She had committed suicide within 7



years of her marriage, and a presumption would apply. The accused failed to rebut the presumption. Therefore, the learned Trial Court convicted the accused and sentenced her as aforesaid.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed the present appeal, asserting that the learned Trial Court erred in appreciating the material placed before it. The testimonies of the informant and other witnesses contradicted each other on material particulars. No person from the vicinity was examined to corroborate the informant's version regarding the harassment. There was no specific demand for dowry or any specific particulars of the harassment. Therefore, it was prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

8. I have heard Ms Anjali Soni Verma, learned counsel for the petitioner and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

9. Ms Anjali Soni Verma, learned counsel for the petitioner/accused, submitted that the learned Trial Court erred in convicting and sentencing the accused. The testimony of the



informant was highly vague. She had not given any particulars of the harassment, and her testimony was not corroborated by Milap Chand (PW2). The learned Trial Court convicted the accused based on the fact that she had asked for ₹250/- from her mother. But there is no evidence that even the accused had this much money with her, and that she had failed to provide the money despite the demand made by Meenu to her. The presumption under Section 113-A of the Indian Evidence Act can be applied only when there is evidence of cruelty. The prosecution had failed to lead satisfactory evidence of the cruelty, and the learned Trial Court erred in applying the presumption. Therefore, she prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

10. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the testimonies of the informant, her brother, and her daughter proved that Meenu was subjected to harassment. She was being compared to a cow and was not provided with money even for her treatment. Learned Trial Court had rightly held that these circumstances proved that the deceased was left with no other option but to take away her life. Therefore, he prayed that the present appeal be dismissed.



11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. It was laid down by the Hon'ble Supreme Court in *Neelu Chopra v. Bharti*, (2009) 10 SCC 184: (2010) 1 SCC (Cri) 286: 2009 SCC OnLine SC 1693 that the Court has to see that particulars of the offences committed by every accused and the role played by the accused in committing the offence are given in the complaint made to the police. It was observed: -

“9. To lodge a proper complaint, the mere mention of the sections and the language of those sections is not the be-all and end-all of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing that offence.

10. When we see the complaint, it is sadly vague. It does not show as to which of the accused has committed what offence, and what is the exact role played by these appellants in the commission of the offence. There could be said that something is against Rajesh, as the allegations are made against him more precisely, but he is no longer and has already expired. Under such circumstances, it would be an abuse of the process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein, on the basis of a vague and general complaint which is silent about the precise acts of the appellants.” (Emphasis supplied)

13. Similarly, it was held in *Abhishek v. State of M.P.*, 2023 SCC OnLine SC 1083: 2023 INSC 779 that the tendency of false implication by way of general omnibus allegations, if left



unchecked, would result in the misuse of the process of law. It was observed:

“13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in *Kahkashan Kausar alias Sonam v. State of Bihar* [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash an FIR registered for various offences, including Section 498A IPC. *Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law.* On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife, and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused, and such an exercise ought to be discouraged.

14. In *Preeti Gupta v. State of Jharkhand* (2010) 7 SCC 667, this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. *It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, such as allegations of harassment by the husband's close relations, who*



were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in *Neelu Chopra v. Bharti* (2009) 10 SCC 184, this Court observed that the mere mention of statutory provisions and the language thereof for lodging a complaint is not the 'be all and end all' of the matter, as *what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence.* These observations were made in the context of a matrimonial dispute involving Section 498A IPC." (Emphasis supplied)

14. It was held in *Achin Gupta v. State of Haryana*, 2024 SCC OnLine SC 759:2024 INSC 369 that asking a person to face criminal allegations without any specific instance of criminal misconduct amounts to an abuse of the process of the Court. It was observed:

"18. The plain reading of the FIR and the chargesheet papers indicates that the allegations levelled by the First Informant are quite vague, general and sweeping, specifying no instances of criminal conduct. It is also pertinent to note that in the FIR, no specific date or time of the alleged offence/offences has been disclosed. Even the police thought it fit to drop the proceedings against the other members of the Appellants' family. Thus, we are of the view that the FIR lodged by Respondent No. 2 was nothing but a counterblast to the divorce petition & also the domestic violence case.

25. *If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but an abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to thorough scrutiny to find out, prima facie, whether there is any grain of truth in the*



allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.” (Emphasis supplied)

15. It was further held that in matrimonial disputes, the parents, including the close relatives, make a mountain out of a molehill, and every matrimonial conduct amounting to nuisance does not constitute cruelty. It was observed: -

“32. Many times, the parents, including the close relatives of the wife, make a mountain out of a molehill. Instead of salvaging the situation and making every possible endeavour to save the marriage, their action, either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about the destruction of the marriage over trivial issues. The first thing that comes to mind for the wife, her parents and her relatives is the Police as if the Police is the panacea of all evil. No sooner does the matter reach the Police than even if there are fair chances of reconciliation between the spouses, they would get destroyed. The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance of each other's faults, to a certain bearable extent, has to be inherent in every marriage. Petty quibbles and trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is said to have been made in heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper-sensitive approach would prove to be disastrous for the very institution of marriage. In matrimonial disputes, the main sufferers are the children. The spouses fight with such venom in their hearts that they do not think even for a second that if the marriage were to



come to an end, then what would be the effect on their children? Divorce plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that, instead of handling the whole issue delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the husband to ransom so that he could be squeezed by the wife at the instigation of her parents, relatives or friends. In all cases where the wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct which may cause annoyance to the other may not amount to cruelty. Mere trivial irritations and quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty”

16. Similarly, it was held in *Mamidi Anil Kumar Reddy v. State of A.P.*, 2024 SCC OnLine SC 127; 2024 (2) SCR 252 that the phenomenon of false implication by a general omnibus allegation in the case of a matrimonial dispute is not unknown to the Court. It was observed: –

“14. In the considered opinion of this Court, there is significant merit in the submissions of the Learned Counsel for the Appellants. A bare perusal of the complaint, statement of witnesses and the charge sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are taken in their entirety, they do not *prima facie* make out a case against the



Appellants. The material on record neither discloses *any* particulars of the offences alleged nor discloses the specific role/allegations assigned to *any* of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In *Kahkashan Kausar alias Sonam v. State of Bihar* (2022) 6 SCC 599, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation, if left unchecked, would result in the abuse of the process of law.

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17. Considering the dicta in *Mahmood Ali* (supra), we find that the High Court, in this case, has failed to exercise due care and has mechanically permitted the criminal proceedings to continue despite specifically finding that the allegations are general and omnibus in nature. The Appellants herein approached the High Court on *inter alia* grounds that the proceedings were re-initiated on vexatious grounds and even highlighted the commencement of divorce proceedings by Respondent No. 2. In these peculiar circumstances, the High Court had a duty to consider the allegations with great care and circumspection so as to protect against the danger of unjust prosecution.”

17. It was laid down by the Hon’ble Supreme Court in *Kailashben Mahendrabhai Patel v. State of Maharashtra*, 2024 SCC OnLine SC 2621, that general and vague allegations of cruelty made against the husband and his relatives are not sufficient to constitute cruelty. It was observed: -



“10.1 The tendency to make general, vague, and omnibus allegations is noticed by this Court in many decisions. In *Usha Chakraborty v. State of W.B.* 2023 SCC OnLine SC 90, this court observed that:

“16... the respondent alleged commission of offences under Sections 323, 384, 406, 423, 467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said allegation and the ingredients to attract them, as adverted to hereinbefore, would reveal that the allegations are vague and they do not carry the essential ingredients to constitute the alleged offences.... The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegations against the appellants herein in respect of the aforesaid offences. The factual position thus would reveal that the genesis as well as the purpose of criminal proceedings are nothing but the aforesaid incident, and further that the dispute involved is essentially of a civil nature. The appellants and the respondents have given a cloak of a criminal offence in the issue...”

10.2 Similarly, dealing with allegations lacking in particulars and details, in *Neelu Chopra v. Bharti* (2009) 10 SCC 184, this court observed that:

“7. ...what strikes us is that there are no particulars given as to the date on which the ornaments were handed over, as to the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint, and it is a general and vague complaint that the ornaments were sometimes given in the custody of the appellants, and they were not returned. What strikes us more is that even in Para 10 of the complaint, where the complainant says that she asked



for her clothes and ornaments, which were given to the accused, and they refused to give these back, the date is significantly absent.”

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12. The complaint also refers to a small incident where the complainant's brother accompanied her to the matrimonial house when appellants no. 1 and 3 are alleged to have refused to take her back, but on persuasion by her brother, she was allowed to stay. There is also a vague allegation that, when the complainant gave birth to a second child, appellants 1 and 2 came and “quarrelled” with the complainant, her brother, and her parents and threatened them. This Court had occasion to examine the phenomenon of general and omnibus allegations in the cases of matrimonial disputes. In *Mamidi Anil Kumar Reddy v. State of A.P. 2024 SCC OnLine SC 127*, this Court observed that:

“14. ...A bare perusal of the complaint, statement of witnesses and the charge sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are taken in their entirety, they do not prima facie make out a case against the Appellants. The material on record neither discloses any particulars of the offences alleged nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In *Kahkashan Kausar alias Sonam v. State of Bihar*, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that such a situation, if left unchecked, would result in the abuse of the process of law.”

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13.1 In *Kahkashan Kausar v. State of Bihar* (2022) 6 SCC 599, this Court noticed the injustice that may be caused when parties are forced to go through the tribulations of a trial based on general and omnibus allegations. The relevant portion of the observation is as follows:

“11. ... In recent times, matrimonial litigation in the country has also increased significantly, and there is greater disaffection and friction surrounding the institution of marriage now more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-A IPC as instruments to settle personal scores against the husband and his relatives.

18. ... upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all the accused harassed her mentally and threatened her with terminating her pregnancy. Furthermore, no specific and distinct allegations have been made against either of the appellants herein, i.e. none of the appellants has been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can, at best, be said to have been made out on account of small skirmishes... However, as far as the appellants are concerned, the allegations made against them, being general and omnibus, do not warrant prosecution.

21. ...it would be unjust if the appellants are forced to go through the tribulations of a trial, i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo a trial. It has been highlighted by this Court in varied instances that a criminal trial leading to an eventual acquittal also inflicts severe



scars upon the accused, and such an exercise must, therefore, be discouraged.”

18. This position was reiterated in *Dara Lakshmi Narayana v. State of Telangana*, 2024 SCC OnLine SC 3682, wherein it was observed:

18. A bare perusal of the FIR shows that the allegations made by respondent No. 2 are vague and omnibus. Other than claiming that appellant No. 1 harassed her and that appellant Nos. 2 to 6 instigated him to do so, respondent No. 2 has not provided any specific details or described any particular instance of harassment. She has also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.

19. This position was reiterated in *Geddam Jhansi v. State of Telangana*, 2025 SCC OnLine SC 263, wherein it was observed:

“31. Invoking criminal process is a serious matter with penal consequences involving coercive measures, which can be permitted only when the specific act(s) which constitute offences punishable under the Penal Code or any other penal statute are alleged or attributed to the accused and a *prima facie* case is made out. It applies with equal force when criminal laws are invoked in domestic disputes. Criminalising domestic disputes without specific allegations and credible materials to support the same may have disastrous consequences for the institution of family, which is built on the premise of love, affection, cordiality and mutual trust. The institution of family constitutes the core of human society. Domestic relationships, such as those between family members, are guided by deeply ingrained social values and cultural expectations. These relationships are often viewed as sacred, demanding a higher level of respect, commitment, and emotional investment compared



to other social or professional associations. For the aforesaid reason, the preservation of family relationships has always been emphasised. Thus, when family relationships are sought to be brought within the ambit of criminal proceedings, rupturing the family bond, courts should be circumspect and judicious and should allow invocation of the criminal process only when there are specific allegations with supporting materials that clearly constitute criminal offences.

32. We have to keep in mind that in the context of matrimonial disputes, emotions run high, and as such in the complaints filed alleging harassment or domestic violence, there may be a tendency to implicate other members of the family who do not come to the rescue of the complainant or remain mute spectators to any alleged incident of harassment, which in our view cannot by itself constitute a criminal act without there being specific acts attributed to them. Further, when tempers run high and relationships turn bitter, there is also a propensity to exaggerate the allegations, which does not necessarily mean that such domestic disputes should be given the colour of criminality.

33. It goes without saying that genuine cases of cruelty and violence in the domestic sphere, which do happen, ought to be handled with utmost sensitivity. Domestic violence typically happens within the four walls of the house and not in the public gaze. Therefore, such violence is not noticed by the public at large, except perhaps by the immediate neighbours. Thus, providing visible evidence by the victim of domestic violence may not be easily forthcoming and producing direct evidence may be hard and arduous, which does not necessarily mean that domestic violence does not occur. In fact, to deal with this pernicious phenomenon, stringent statutes like the Protection from Domestic Violence Act, 2005, have been enacted with a very expansive meaning and scope of what amounts to domestic violence. Since violence perpetrated within the domestic sphere by close relatives is now criminalised, entailing serious consequences on the perpetrators, the courts have to be careful while dealing with such cases by examining whether



there are specific allegations with instances against the perpetrators and not generalised allegations. The purpose and mandate of the law to protect the victims of domestic violence is of paramount importance, and as such, a balance has to be struck by ensuring that while perpetrators are brought to book, all the family members or relatives are not indiscriminately brought within the criminal net in a sweeping manner.

34. For a matrimonial relationship that is founded on the basis of cordiality and trust to turn sour to an extent to make a partner hurl allegations of domestic violence and harassment against the other partner, would normally not happen at the spur of the moment, and such an acrimonious relationship would develop only in the course of time. Accordingly, such a situation would be the culmination of a series of acts which turn, otherwise, an amicable relationship into a fractured one. Thus, in such cases involving allegations of domestic violence or harassment, there would normally be a series of offending acts, which would be required to be spelt out by the complainant against the perpetrators in specific terms to rope such perpetrators in the criminal proceedings sought to be initiated against them. Thus, mere general allegations of harassment without pointing out the specifics against such perpetrators would not suffice, as is the case in respect of the present appellants.

35. We are, thus, of the view that in criminal cases relating to domestic violence, the complaints and charges should be specific, as far as possible, as against each and every member of the family who is accused of such offences and sought to be prosecuted, as otherwise, it may amount to misuse of the stringent criminal process by indiscriminately dragging all the members of the family. There may be situations where some of the family members or relatives may turn a blind eye to the violence or harassment perpetrated on the victim and may not extend any helping hand to the victim, which does not necessarily mean that they are also perpetrators of domestic violence unless the circumstances clearly indicate their involvement and instigation. Hence, implicating all such relatives without



making specific allegations and attributing offending acts to them and proceeding against them without *prima facie* evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence would amount to abuse of the process of law.”

20. The prosecution evidence has to be appreciated as per the parameters laid down by the Hon’ble Supreme Court.

21. The informant Kaushalya Devi (PW1) stated that the behaviour of the accused with Meenu was not good. She used to abuse Meenu. Meenu called her (the informant) and demanded ₹250/-. Informant's brother talked to Meenu on the telephone. Subsequently, Meenu committed suicide. The accused used to talk to Meenu, and she was not allowed to mix with anyone.

22. The testimony of this witness is not satisfactory. She has not affirmed her allegations made in the complaint on oath. She has made a general allegation that the behaviour of the accused with Meenu was not good. It was laid down by the Hon’ble Supreme Court in *Kamal & others vs. State of Gujarat & anr.* 2025 INSC 504, that when the allegations of the harassment were limited to taunts without the details, the same are not sufficient to infer the cruelty. It was observed: -

“11. What is important, for the purposes of deciding this case, is that in the FIR, there is no specific allegation of the demand of dowry by the accused. Further, the allegation of



harassment of the complainant at the instance of the parents-in-law is limited to extending taunts and custody-related issues of minor children. However, there is no disclosure about the nature of those taunts. Admittedly, the second respondent was married to the first appellant in the year 2005, and for the last several years, since before lodging the FIR, the complainant had been working and staying in rented accommodations at different places. Besides that, the FIR was lodged on 20.07.2019, just three days after service of summons of the divorce proceedings initiated by the first appellant. In these circumstances, we will have to consider whether the impugned proceedings are vexatious and mala fide, particularly in the context of a matrimonial dispute where time and again, Courts have been cautioned to be circumspect to obviate malicious prosecution of family members of the main accused.

12. Even if we assume that there are some allegations of assault and of physical and mental torture of the complainant, they are against the husband. As against the parents-in-law, the allegations are only of extending taunts and of not parting with the money for managing household expenses. Specific details in respect of those taunts have not been disclosed. Moreover, a few taunts here and there are a part of everyday life, which, for the happiness of the family, are usually ignored. Interestingly, as per her own allegations in the FIR, the complainant admits that when she reported those issues to her parents and uncle, she was counselled to be patient. In the circumstances, in our considered view, no case to proceed against the parents-in-law, namely, the second and third appellant, is made out.”

23. Therefore, the testimony of Kaushlya is not sufficient to conclude that the accused used to harass Meenu.

24. Kaushlaya Devi (PW1) admitted that Meenu was being looked after by her uncle, Milap Chand (PW2), from her childhood,



and she was more attached to her uncle. She also admitted that Meenu used to visit her maternal uncle, Milap Chand (PW2), after her marriage. Thus, the informant's testimony establishes the affinity of Meenu towards her uncle.

25. Milap Chand (PW2) stated that Meenu was his niece. He received a call from his sister that Meenu was demanding ₹250/-. He telephoned Meenu. Meenu disclosed that she was suffering from pain in her back, and she required ₹250/- for her treatment. He promised to pay the money in the morning. Later, he found that Meenu had committed suicide.

26. This witness has nowhere stated anything about the harassment of Meenu or that the accused used to taunt her for bringing insufficient dowry. Therefore, his testimony does not establish the prosecution's version that the accused used to harass Meenu, which compelled her to commit suicide.

27. Learned Trial Court held that the demand of ₹250/- made by Meenu from the informant or her uncle shows that she was not being provided the necessary amenities of life, and that is why she had to demand money from her mother or her uncle. This finding cannot be sustained. It is an admitted position that the



husband of the accused was a shepherd, and he used to remain away from his home. The husband of Meenu was serving at Baddi. Meenu and the accused were residing together. No person has deposed about the source of income of the accused or Meenu. Thus, it is not known whether the accused had sufficient money with her, and she had failed to provide money to Meenu for her treatment. In the absence of evidence of the financial condition of the accused, it is difficult to say that the accused had not provided the financial assistance to Meenu, and she was compelled to borrow money from her relatives.

28. It was submitted that the amount of ₹250/- is not large, and anybody would be in possession of that amount. This submission cannot be accepted. Even Meenu's mother did not have this much money with her, and she had to call her brother. This shows the economic condition of Meenu's family and her parents-in-law. The Courts cannot apply the standards to which they are accustomed without realising the difficulties being faced by others. In the present case, there is no evidence of the income of the accused, and it cannot be said that they had not deliberately provided ₹250/- to Meenu.



29. Reenu Devi (PW3) stated that the accused Gyatri Devi used to taunt Meenu for insufficient dowry. Meenu was not allowed to talk to anyone, and the accused used to doubt her. Meenu became fed up with the behaviour of the accused and committed suicide. She stated in her cross-examination that she used to visit her sister at least once a week, and she used to be alone in the house.

30. The testimony of this witness is also vague. She stated that Meenu had disclosed that the accused used to taunt her for bringing insufficient dowry. But she has not given the particulars of the dowry demanded by the accused. Hence, her testimony is insufficient to convict the accused.

31. There is no other evidence to show that the accused was harassing Meenu, and she has created such circumstances that Meenu has left with no option but to commit suicide. It was laid down by the Hon'ble Supreme Court in *Naresh Kumar versus the State of Haryana (2024) 3 SCC 573* that the prosecution is required to prove that the accused had created such circumstances that the deceased was left with no other option but to commit suicide. It was observed:



“17. This Court in *Geo Varghese v. State of Rajasthan* [*Geo Varghese v. State of Rajasthan*, (2021) 19 SCC 144], considering the provisions of Section 306 IPC along with the definition of abetment under Section 107 IPC, observed as under: (SCC pp. 149-50, paras 14-16)

“14. Section 306IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. ...

15. The ordinary dictionary meaning of the word “instigate” is to bring about or initiate, incite someone to do something. This Court in *Ramesh Kumar v. State of Chhattisgarh* [*Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618: 2002 SCC (Cri) 1088], has defined the word “instigate” as under: (SCC p. 629, para 20)

‘20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”.’

16. The scope and ambit of Section 107 IPC and its correlation with Section 306 IPC have been discussed repeatedly by this Court. In *S.S. Chheena v. Vijay Kumar Mahajan* [*S.S. Chheena v. Vijay Kumar Mahajan*, (2010) 12 SCC 190: (2011) 2 SCC (Cri) 465], it was observed as under: (SCC p. 197, para 25)

‘25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, a conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court are clear that 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 that act must have been intended to push the deceased into such a position that he committed suicide.”



18. This Court in *M. Arjunan v. State* [*M. Arjunan v. State*, (2019) 3 SCC 315; (2019) 2 SCC (Cri) 219], while explaining the necessary ingredients of Section 306 IPC in detail, observed as under: (SCC p. 317, para 7)

“7. The essential ingredients of the offence under Section 306 IPC are (i) the abetment and (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language, will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such an act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, the accused cannot be convicted under Section 306 IPC.”

19. This Court in *Ude Singh v. State of Haryana* [*Ude Singh v. State of Haryana*, (2019) 17 SCC 301; (2020) 3 SCC (Cri) 306], held that to convict an accused under Section 306IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. It was observed as under: (SCC pp. 321-22, para 16)

“16. In cases of alleged abetment of suicide, there must be proof of direct or indirect acts (s) of incitement to the commission of suicide. It could hardly be disputed that the question of the cause of suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of an accusation of abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, a mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide, and such an offending action ought to be proximate to the time of



occurrence. Whether a person has abetted the commission of suicide by another or not could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted the commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused, by his acts and by his continuous course of conduct, creates a situation which leads the deceased to perceive no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of *mens rea* on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused, and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts while taking note of all the surrounding



factors having bearing on the actions and psyche of the accused and the deceased.”

20. This Court in *Mariano Anto Bruno v. State* [*Mariano Anto Bruno v. State*, (2023) 15 SCC 560: 2022 SCC OnLine SC 1387], after referring to the above-referred decisions rendered in the context of culpability under Section 306 IPC, observed as under: (SCC para 45)

“45. ... 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, a conviction in terms of Section 306 IPC is not sustainable.”

21. This Court in *Gurcharan Singh v. State of Punjab* [*Gurcharan Singh v. State of Punjab*, (2020) 10 SCC 200: (2021) 1 SCC (Cri) 417], observed that whenever a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted in doing that thing. To prove the offence of abetment, as specified under Section 107IPC, the state of mind to commit a particular crime must be visible to determine the culpability.

22. This Court in *Kashibai v. State of Karnataka* [*Kashibai v. State of Karnataka*, (2023) 15 SCC 751: 2023 SCC OnLine SC 575], observed that to bring the case within the purview of “abetment” under Section 107IPC, there has to be an evidence with regard to the instigation, conspiracy or intentional aid on the part of the accused and for the purpose proving the charge under Section 306IPC, also there has to be an evidence with regard to the positive act on the part of the accused to instigate or aid to drive a person to commit suicide.

23. Had there been any clinching evidence of incessant harassment on account of which the wife was left with no other option but to put an end to her life, it could have been



said that the accused intended the consequences of his act, namely, suicide. A person *intends* a consequence when he (1) *foresees* that it will happen if the given series of acts or omissions continues and (2) *desires* it to happen. The most serious level of *culpability*, justifying the most serious levels of *punishment*, is achieved when both these components are actually present in the accused's mind (a “subjective” test).

24. For *intention in English law*, Section 8 of the Criminal Justice Act, 1967, provides the frame in which the mens rea is assessed. It states:

“A court or jury, in determining whether a person has committed an offence,

(a) shall not be bound in law to infer that he intended or foresaw a result of his actions by reason only of its being a natural and probable consequence of those actions, but

(b) shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the circumstances.”

Under Section 8(b), therefore, the jury is allowed wide latitude in applying a hybrid test to impute intent or foresight on the basis of all the evidence.

25. It is now well settled that in order to convict a person under Section 306 IPC, there has to be a clear mens rea to commit the offence. Mere harassment is not sufficient to hold an accused guilty of abetting the commission of suicide. It also requires an active act or direct act that led the deceased to commit suicide. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous.

32. This position was reiterated in *Patel Babubhai*

Manohardas and others vs State of Gujarat 2025 INSC 322, wherein it

was observed:



15. Attempt to commit suicide is an offence in India. Section 309 IPC says that whoever attempts to commit suicide and does any act towards such an act shall be punished with simple imprisonment for a term which may extend to one year or with a fine or with both. However, once suicide is carried out, the offence is complete. Considering the nature of the offence, obviously, such a person would be beyond the reach of the law. Therefore, the question of penalising him would not arise, but whoever abets the commission of such a suicide would be penalised under Section 306 IPC. The punishment prescribed under Section 306 IPC is imprisonment of either description for a term which may extend to 10 years, and shall also be liable to a fine. What Section 306 IPC says is that if any person commits suicide, then whoever abets the commission of such suicide shall be punished as above.

16. Therefore, the crucial word in Section 306 IPC is 'abets'. 'Abetment' is defined in Section 107 of the IPC. As per Section 107 IPC, a person would be abetting the doing of a thing if he instigates any person to do that thing, if he encourages one or more persons in any conspiracy for doing that thing or if he intentionally aids by any act or illegal omission in doing that thing. There are two explanations for Section 107. As per Explanation 1, even if a person, by way of wilful misrepresentation or concealment of a material fact which he is otherwise 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 thing. Explanation 2 clarifies that whoever does anything to facilitate the commission of an act, either prior to or at the time of the commission of the act, is said to aid in the doing of that act.

17. Section 114 IPC is an explanation or clarification of Section 107 IPC. What Section 114 IPC says is that whenever any person is absent but was present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such an act or offence and would be liable to be punished as an abettor.



18. In *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618, this Court held that to 'instigate' means to goad, urge, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. Where the accused, by his act or omission or by his continued course of conduct, creates a situation that the deceased is left with no other option except to commit suicide, then 'instigation' may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be 'instigation'

19. Elaborating further, this Court in *Chitresh Kumar Chopra versus State (Govt. of NCT of Delhi)* (2009) 16 SCC 605 observed that to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by 'goadings' or 'urging forward'. This Court summed up the constituents of 'abetment' as under:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, the presence of *mens rea* is the necessary concomitant of instigation.

20. *Amalendu Pal alias Jhantu versus State of West Bengal* (2010) 1 SCC 707 is a case where this Court held that in a case of alleged abetment of suicide, there must be proof of direct or indirect act(s) 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 deceased to commit suicide, conviction in terms of Section 306 IPC would not be sustainable. A similar view has been expressed



by this Court in the case of *Ude Singh versus State of Haryana (2019) 17 SCC 301*

21. After considering the provisions of Sections 306 and 107 of IPC, this Court in *Rajesh versus State of Haryana (2020) 15 SCC 359* held that a conviction under Section 306 IPC is not sustainable 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.

22. Abetment to commit suicide involves a mental process of instigating a person or intentionally aiding a person in the doing of a thing. Without a positive proximate act on the part of the accused to instigate or aid in committing suicide, a conviction cannot be sustained. Besides, in order to convict a person under Section 306 IPC, there has to be a clear *mens rea* to commit the offence.

23. This Court in *Amudha versus State 2024 INSC 244* held that there has to be an act of incitement on the part of the accused proximate to the date on which the deceased committed suicide. The act attributed should not only be proximate to the time of suicide but should also be of such a nature that the deceased was left with no alternative but to take the drastic step of committing suicide.

24. Again, in the case of *Kamaruddin Dastagir Sanadi versus State of Karnataka (2024) SCC Online SC 3541*, this Court observed that discord and differences in domestic life are quite common in society. The commission of suicide largely depends upon the mental state of the victim. Until and unless some guilty intention on the part of the accused is established, it is ordinarily not possible to convict the accused for an offence under Section 306 IPC.

25. *Prakash versus State of Maharashtra. 2024 INSC 1020* is a case where this Court, after analysing various decisions on the point, summed up the legal position in the following manner:

14. Section 306 read with Section 107 of the IPC has been interpreted, time and again, and its principles are well established. To attract the offence of abetment to suicide, it is important to establish proof of direct or



indirect acts of instigation or incitement of suicide by the accused, which must be in proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear *mens rea* to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide.

25.1. In the aforesaid judgment, this Court referred to its earlier decision in *Sanju @ Sanjay Singh Sengar versus State of M.P. (2002) 5 SCC 371* and held that in a given case, even a time gap of 48 hours between the use of abusive language by the accused and the commission of suicide would not amount to a proximate act.”

33. In the present case, the evidence on record is insufficient to conclude that the accused had created such circumstances that the deceased was left with no other option but to commit suicide, and the learned Trial Court erred in convicting the accused of the commission of an offence punishable under Section 306 of the IPC.

34. Learned Trial Court relied upon Section 113-A of the Indian Evidence Act. It was laid down by the Hon’ble Supreme Court in *Naresh Kumar versus the State of Haryana (2024) 3 SCC 573* that the presumption under Section 113 A of the Indian Evidence Act will only apply when there is proof of the cruelty. It was observed: -

“29. Section 113-A of the Evidence Act requires proof : (1) that her husband or relatives subjected her to cruelty and (2)



that the married woman committed suicide within a period of seven years from the date of her marriage.

30. Although it is not necessary for us to refer to Section 113-B of the Evidence Act, which raises a presumption as to dowry death, yet, to indicate the fine distinction between the two presumptions, we are referring to Section 113-B. In Section 113-A, the legislature has used the word “may”, whereas in Section 113-B, the word used is “shall”.

31. In this appeal, we are concerned with Section 113-A of the Evidence Act. The mere fact that the deceased committed suicide within a period of seven years of her marriage, the presumption under Section 113-A of the Evidence Act, would not automatically apply. The legislative mandate is that where a woman commits suicide within seven years of her marriage, and it is shown that her husband or any relative of her husband had subjected her to cruelty, the presumption under Section 113-A of the Evidence Act may be raised, having regard to all other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

32. What is important to note is that the term “the court may presume, having regard to all other circumstances of the case that such suicide had been abetted by her husband” would indicate that the presumption is discretionary, unlike the presumption under Section 113-B of the Evidence Act, which is mandatory. Therefore, before the presumption under Section 113-A is raised, the prosecution must show evidence of cruelty or incessant harassment in that regard.

33. The court should be extremely careful in assessing evidence under Section 113-A for finding out if cruelty was meted out. If 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 would not be satisfied for holding that the accused charged of abetting the offence of suicide was guilty.



34. Section 113-A has been interpreted by this Court in *Lakhjit Singh v. State of Punjab* [*Lakhjit Singh v. State of Punjab*, 1994 Supp (1) SCC 173: 1994 SCC (Cri) 235], *Pawan Kumar v. State of Haryana* [*Pawan Kumar v. State of Haryana*, (1998) 3 SCC 309: 1998 SCC (Cri) 740] and *Shanti v. State of Haryana* [*Shanti v. State of Haryana*, (1991) 1 SCC 371: 1991 SCC (Cri) 191].

35. This Court has held that from the mere fact of suicide within seven years of marriage, one should not jump to the conclusion of abetment unless cruelty was proved. The court has the discretion to raise or not to raise the presumption because of the words “may presume”. It must take into account all the circumstances of the case, which is an additional safeguard.

36. In the absence of any cogent evidence of harassment or cruelty, an accused cannot be held guilty of the offence under Section 306 IPC by raising a presumption under Section 113-A.”

35. In the present case, the evidence regarding the cruelty is not satisfactory, and no reliance can be placed upon Section 113-A of the Indian Evidence Act.

36. No other point was urged.

37. In view of the above, the judgment and order passed by the learned Trial Court are not sustainable. Hence, the present appeal is allowed. Judgment and order passed by the learned Trial Court are set aside, and the accused is acquitted of the charged offences. The fine amount, if deposited, be refunded after the expiry of the period of limitation for filing the appeal in case no



appeal is preferred, and in case of appeal, the same be dealt with as per the orders of the Hon'ble Supreme Court.

38. In view of the provisions of Section 437-A of the Code of Criminal Procedure [Section 481 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)], the appellant/accused is directed to furnish his personal bond in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the appellant/accused, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

39. The record of the learned Trial Court be returned with a copy of this judgment for the information of the learned Trial Court.

40. Appeal stands disposed of along with pending miscellaneous application(s), if any.

(Rakesh Kainthla)
Judge

13th July, 2026
(Nikita)