

**CRA-S-2198-SB-2004**

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

103**CRA-S-2198-SB-2004****Date of decision: 23.02.2026****GUGAN RAM AND ANR.****....Appellants****Versus****STATE OF HARYANA****....Respondent****CORAM:- HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL**

Present:- Mr. Nikhil Ghai, Advocate
for the appellant.

Ms. Shaveta Sanghi, DAG, Haryana.

RUPINDERJIT CHAHAL, J. (ORAL)

1. The present appeal is directed against the judgment of conviction dated 11.10.2004 and the order of sentence dated 12.10.2004 passed by the learned Sessions Court whereby the appellants Gugan Ram and Somta Devi were convicted for the offence punishable under Section 306 IPC and sentenced to undergo rigorous imprisonment for seven years each along with fine of ₹1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month. Appellant No.1-Gugan Ram was additionally convicted under Section 354 IPC and sentenced to undergo rigorous imprisonment for one year.



2. During pendency of the appeal, appellant no.1-Gugan Ram expired on 05.08.2022 and the proceedings qua him stood abated vide order dated 16.09.2025. The present appeal, therefore, survives only in respect of appellant no.2-Somta Devi (hereinafter referred to as appellant).

3. The prosecution case, in substance, is that complainant Laxman Singh, resident of Village Banbirpur, Rajasthan alleged that his niece Sushma, aged about 16 years, was the daughter of accused Gugan Ram from his first wife. After the death of her mother, Sushma had been brought up by the complainant and his family. In April 2003, Gugan Ram who had remarried the present appellant Somta Devi, took Sushma to reside with him at Village Nangal Sirohi. It was alleged that on 06.07.2003, Sushma telephonically contacted her maternal relatives in the evening and informed them that she was under severe distress and that her father had been making immoral advances towards her. She allegedly expressed apprehension of danger to her life. On 07.07.2003, when the complainant reached Village Nangal Sirohi, he came to know that Sushma had died and that her body had already been cremated without informing him or the police. On 12.07.2003, a written complaint was submitted to the SHO, Police Station Mahendragarh, on the basis of which present FIR was registered under Sections 306, 354 and 201 read with Section 34 IPC. After investigation, challan was presented and the case was committed to the Court of Sessions for trial.

4. Upon consideration of the report under Section 173 Cr.P.C., charges were framed under Sections 354, 306 and 201 read with Section 34 IPC. The accused pleaded not guilty and claimed trial.



5. The prosecution examined twelve witnesses, including PW5-Laxman Singh (complainant), PW6-Munni Devi (maternal aunt of the deceased) and PW7-Anju (cousin of the deceased), who deposed regarding the alleged telephonic disclosure made by the deceased on 06.07.2003. Formal witnesses proved registration of the case, transmission of special report, preparation of rough site plan, and custody of case property. The STD booth operator and Junior Telecom Officer were examined to prove calls allegedly made on 6th and 7th July 2003. The Investigating Officer detailed the steps taken during investigation, including recovery of partially burnt bones and ashes from the cremation ground, which were sent to the Forensic Science Laboratory. The FSL report was tendered in evidence. Certain witnesses were given up as unnecessary or as having been won over.

6. After closure of prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C. They denied all incriminating circumstances and pleaded false implication.

7. In his defence, appellant no. 1-Gugan Ram (since deceased) stated that on 06.07.2003, Sushma developed acute abdominal pain in the evening and despite home treatment, expired before she could be taken to hospital. He asserted that he immediately informed the maternal relatives telephonically from the house of Rajinder Singh, and that he again called them on the next morning. According to him, upon being told that they were unable to come immediately and that he could proceed with the cremation, the last rites were performed. He further stated that when the complainant and his family members later visited, they appeared satisfied regarding the cause of death and that the present case was lodged subsequently out of grief.



The present appellant-Somta Devi denied the allegations and claimed false implication.

8. In defence, DW1-Rohtash and DW2-Rajinder Singh were examined. DW1 deposed that upon hearing cries on 06.07.2003, he went to the house of Gugan Ram and found Sushma already dead and that Gugan Ram left to make a telephone call to inform her maternal relatives. DW2 stated that Gugan Ram came to his house on 06.07.2003 around 7 PM and again on 07.07.2003 in the morning to make telephone calls to the maternal side.

9. Learned counsel appearing for the appellant assailed the impugned judgment on both factual and legal grounds and contended that the conviction recorded by the learned trial Court is unsustainable in law. It was firstly argued that the appellant has been roped in merely because she is the stepmother of the deceased. The entire substratum of the prosecution case, even if taken at its highest, revolves around the alleged misconduct of accused Gugan Ram (since deceased). No specific overt act constituting instigation, conspiracy or intentional aiding has been attributed to the present appellant. He further submitted that the only allegation against the appellant is that when the deceased allegedly complained about her father's conduct, the appellant told her that if she felt ashamed, she could take poison and die. He contended that the alleged statement is not corroborated by any independent witness and the same does not reflect any deliberate intention to drive the deceased to commit suicide and, even if assumed to be true, amounts at best to a stray remark only.



10. Learned Counsel for the appellant further argued that the prosecution case suffers from serious procedural and evidentiary infirmities as there was an unexplained delay in lodging the FIR. The alleged occurrence took place on 06.07.2003, whereas the FIR was registered on 12.07.2003. The delay of six days has not been plausibly explained. Such delay, in a case of alleged suicide of a minor girl accompanied by serious allegations, is fatal and creates doubt regarding embellishment and afterthought. He further argued that no post-mortem was conducted. In a case alleging suicide by poison, medical examination is the most crucial piece of evidence. The failure to conduct post-mortem deprives the Court of scientific evidence regarding cause of death. He further argued that even the partially burnt bones and ashes recovered from the cremation ground were sent to the Forensic Science Laboratory and the FSL report did not detect any poison. He contended that in the absence of toxicological confirmation, the prosecution cannot assert that the death was suicidal.

11. Learned counsel for the appellant further argued that the complainant himself admitted in cross-examination that he did not know how Sushma had died and that it might be possible that she consumed poison or that she was killed. Such vague testimony demolishes the prosecution's case regarding the nature of death. He has further placed reliance upon the depositions of DW1 and DW2, who categorically deposed that telephonic intimation was given to the maternal relatives on the evening of 06.07.2003 and again on 07.07.2003. Their testimony remained unimpeached. This probabilises the defence version and negates the prosecution's allegation of concealment.



12. It was further argued that before invoking Section 306 IPC, the prosecution must first establish that the deceased committed suicide. In the absence of medical evidence, suicide cannot be presumed merely on suspicion. Learned counsel emphasized that abetment under Section 107 IPC requires Instigation, Conspiracy, or Intentional aiding. None of these elements have been established against the appellant. He further argued that no specific overt act constituting instigation, conspiracy or intentional aiding has been attributed to the present appellant and the only allegation against the appellant is that when the deceased allegedly complained about her father's conduct, the appellant told her that if she felt ashamed, she could take poison and die. He has placed reliance upon the judgment of the *Hon'ble Supreme Court in Sanju @ Sanjay Singh v. State of Madhya Pradesh, 2002 (5) SCC 671*; wherein it was held that mere utterance of words such as "go and die" during a quarrel, without any mens rea or active instigation, does not constitute abetment to suicide. He contended that the present case stands on even weaker footing. On the cumulative strength of these submissions, learned counsel prayed for acquittal by extending the benefit of doubt to the appellant.

13. Per contra, learned State counsel supported the judgment of the learned trial Court and contended that the conviction is well-founded. It was argued that the testimonies of PW5 (complainant), PW6 (Munni Devi) and PW7 (Anju) clearly establish that the deceased had telephonically disclosed her distress and the immoral conduct of her father. He further argued that the fact that the deceased expressed apprehension regarding her life indicates a continuing atmosphere of harassment. She argued that the appellant, being



the stepmother and an adult member of the household, cannot escape responsibility by terming her conduct to be not premeditated. She submitted that the alleged statement attributed to the appellant must be viewed in the backdrop of the vulnerable age of the deceased and the sensitive nature of the allegations. Learned State counsel submitted that direct evidence of instigation is rarely available in such cases and that abetment can be inferred from circumstances and conduct. It was contended that the trial Court has correctly appreciated the evidence and recorded conviction after due analysis, and no interference is warranted in appellate jurisdiction and prayed that the present appeal be dismissed.

14. Having heard the rival submissions made by the learned counsel for the parties, the following questions arise for consideration before this Court:

A. Whether the prosecution has proved, beyond reasonable doubt, that Sushma (deceased) committed suicide?

B. If so, whether the appellant-Somta abetted the commission of suicide within the meaning of Section 107 of the Indian Penal Code, thereby attracting liability under Section 306 of the Indian Penal Code?

15. At this juncture, it would be apposite to mention Section 306 IPC, which defines Abetment of suicide and reads as under:

"306 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."



16. From a bare reading of the above stated provision of law, it is apparent that to constitute an offence under Section 306 IPC, the prosecution must establish (i) that a person committed suicide and (ii) that such suicide was abetted by the accused. Consequently, there has to be abetment for commission of the crime on the part of the accused.

17. The parameters of "abetment" have been clearly enunciated in Section 107 of IPC and the same is reproduced below for ready reference:-

"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."

18. As per the said section, a person can be said to have abetted in doing a thing, if he, firstly instigates any person to do that thing; or secondly, he engages 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 an act or illegal omission, the doing of that thing.

19. It has been held by the Hon'ble Supreme Court in the matter of *Ude Singh and others v. State of Haryana, (2019) 17 SCC 301*, as follows:-



"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a 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 accusation for 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, 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 in 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 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 perceiving 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.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl,



many factors are to be considered like age, personality, upbringing, rural or urban set-ups, education, etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.”

20. More recently, the Hon'ble Supreme Court in the matter of **Geo Varghese v. State of Rajasthan and another, 2021 (19) SCC 144** has held as follows:-

"13. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under Section 309 IPC. The abetment of suicide by anybody is also an offence under Section 306 IPC. It would be relevant to set out Section 306 of the IPC which reads as under:-

"306. 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."

14. Though, the IPC does not define the word 'Suicide' but the ordinary dictionary meaning of suicide is 'self-killing'. The word is derived from a modern latin word 'suicidium', 'sui' means 'oneself' and 'cidium' means 'killing'. Thus, the word suicide implies an act of 'self-killing'. In other words, act of death must be committed by the



deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

15. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. Abetment is defined under Section 107 of IPC which reads as under:-

"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.

*16. The ordinary dictionary meaning of the word 'instigate' is to bring about or initiate, incite someone to do something. This Court in the case of **Ramesh Kumar v. State of Chhattisgarh** has defined the word 'instigate' as under:-*

"Instigation is to goad, urge forward, provoke, incite or encourage to do an act."

17. The scope and ambit of Section 107 IPC and its correlation with Section 306 IPC has been discussed repeatedly by this Court. In the



case of **S.S. Cheena v. Vijay Kumar Mahajan**, it was observed as under:-

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

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19. In the case of **M. Arjunan v. State, Represented by its Inspector of Police**, a two-Judge Bench of this Court has expounded the ingredients of Section 306 IPC in the following words:-

"The essential ingredients of the offence under Section 306 I.P.C. are : (i) the abetment; (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 act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C."

20. At this stage, we may also refer to another recent judgment of a two-Judge Bench of this Court in the case of **Ude Singh v. State of Haryana**, which elucidated on the essential ingredients of the offence under Section 306 IPC in the following words: -

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a 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 accusation for 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, 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 in 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 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 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 perceiving 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."

21. Keeping in view the above stated principles of law and the evidence led by the prosecution, this Court has to scrupulously examine as to whether the ingredients of the offence under Section 306 IPC would be attracted in the facts and the circumstances of the present case.

22. Adverting to the facts of the present case, to sustain conviction under Section 306 IPC, the prosecution must first establish that the deceased committed suicide. In the present case no post-mortem examination was conducted; the ashes and remains sent to the FSL did not reveal presence of poison; the complainant himself stated that he did not know how Sushma had died and that it might be possible that she consumed poison or that she was killed. Moreover, there is no medical or scientific evidence conclusively establishing that the death was suicidal in nature. The prosecution case rests solely on oral testimony and suspicion. In criminal jurisprudence, the foundational fact of suicide cannot be presumed. In the absence of medical evidence or cogent material, it cannot be conclusively held that the deceased committed suicide. At the threshold, the prosecution has failed to establish the foundational fact that the deceased committed suicide. In a charge under Section 306 IPC, proof of suicide is a sine qua non. Suspicion cannot substitute proof of this essential element.



23. Even assuming for the sake of argument, that the death was suicidal, the prosecution must further establish abetment as defined under Section 107 IPC. The main allegation was against Appellant No.1-Gugan Ram that he used to make immoral advances towards deceased-Sushma and the only allegation against the appellant-Somta Devi is that when Sushma complained about her father's conduct, the appellant allegedly told her that if she was ashamed, she could take poison and die. The alleged statement, even if accepted as true, at the most appears to be a stray remark. There is neither any evidence of sustained harassment by the appellant nor any proximate and live link between the alleged remark and the alleged suicide. Criminal liability under Section 306 IPC requires proof of mens rea and a clear nexus between the conduct of the accused and the act of suicide. The evidence on record does not demonstrate that the appellant intended, encouraged, or facilitated the commission of suicide. The law is well-settled that stray remarks, without intention to instigate suicide, do not amount to abetment. The prosecution has failed to establish the requisite mental element beyond reasonable doubt. The trial Court appears to have proceeded on moral suspicion rather than strict legal proof. However strong the suspicion may be, it cannot take the place of evidence. The golden thread running through criminal jurisprudence is that the prosecution must prove its case beyond reasonable doubt, and any reasonable doubt must ensue to the benefit of the accused. The Hon'ble Supreme Court in *Sanju @ Sanjay Singh Sengar's case (supra)* has held that mere utterance of words such as "go and die" does not constitute abetment unless accompanied by mens rea and a direct nexus to the suicide. The ratio of the said judgment squarely



applies to the facts of the present case. The relevant paragraphs are reproduced as under:

*"9. In **Swamy Prahaladdas v. State of M.P. & Anr., 1995 Supp. (3) SCC 438**, the appellant was charged for an offence under Section 306 Indian Penal Code on the ground that the appellant during the quarrel is said to have remarked the deceased 'to go and die'. This Court was of the view that mere words uttered by the accused to the deceased 'to go and die' were not even prima facie enough to instigate the deceased to commit suicide.*

*10. In **Mahendra Singh v. State of M.P., 1995 Supp. (3) SCC 731**, the appellant was charged for an offence under Section 306 Indian Penal Code basically based upon the dying declaration of the deceased, which reads as under :*

"My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning."

11. This court, considering the definition of 'abetment' under Section 107 Indian Penal Code found that the charge and conviction of the appellant for an offence under Section 306 is not sustainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of the abetment are attracted on the statement of the deceased.



12. In Ramesh Kumar v. State of Chhattisgarh, (2001)9 SCC 618 : 2001(4) RCR (Criminal) 537 (SC), this Court while considering the charge framed and the conviction for an offence under section 306 Indian Penal Code on the basis of dying declaration recorded by an Executive Magistrate, in which she had stated that previously there had been quarrel between the deceased and her husband and on the day of occurrence she had a quarrel with her husband who had said that she could go wherever she wanted to go and that thereafter she had poured kerosene on herself and had set fire. Acquitting the accused this Court said :

"A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. 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 for abetting the offence of suicide should be found guilty."

24. Further, there is an unexplained delay of six days in lodging the FIR. The defence evidence regarding telephonic intimation to the maternal relatives of deceased-Sushma has remained unimpeached and renders the



prosecution version doubtful. The possibility of deliberation and embellishment cannot be ruled out.

25. In the present case, the cumulative effect of absence of medical evidence, failure to prove suicide, unexplained delay in FIR, credible defence evidence, lack of mens rea and proximate instigation creates substantial doubt regarding the guilt of the appellant-Somta.

26. This Court is, therefore, constrained to hold that the prosecution has failed to discharge the burden cast upon it and the appellant-Somta is entitled to the benefit of doubt.

27. Accordingly, the conviction and sentence recorded against appellant-Somta Devi cannot be sustained and is hereby set aside. The appellant stands acquitted of all charges. Her bail bonds, if any, shall also stand discharged.

(RUPINDERJIT CHAHAL)
JUDGE

23.02.2026

Puneet....

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| i) | Whether speaking/reasoned? | : | Yes |
| ii) | Whether reportable? | : | Yes |