

**HIGH COURT OF TRIPURA  
AGARTALA  
Crl. A. No.10 of 2023**

**Sri Saikat Debnath,**  
S/O - Sunil Debnath,  
R/O : Vill. Kulai, P.S. – Ambassa,  
Dist.- Dhalai, Tripura

-----Convict-appellant

Versus

**The State of Tripura**

-----Respondent

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|-----------------------------------------|---|----------------------------------------------------------------------------------------------------------|
| For Appellant(s)                        | : | Mr. P. K. Biswas, Sr. Adv,<br>Mr. Rishiraj Nath, Adv,<br>Mr. Pujan Biswas, Adv,<br>Mr. Chinfru Mog, Adv. |
| For Respondent(s)                       | : | Mr. Raju Datta, P.P.                                                                                     |
| Date of hearing                         | : | 18.07.2024                                                                                               |
| Date of delivery of<br>Judgment & Order | : | 29.07.2024                                                                                               |
| Whether fit for<br>reporting            | : | YES                                                                                                      |

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**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order**

This appeal is directed against the judgment dated 08.06.2023 and order of sentence dated 09.06.2023 delivered by Learned Addl. Sessions Judge, Court No.5, West Tripura, Agartala in connection with S.T.(T-II) No.25 of 2017 whereby and whereunder the convict-appellant has been convicted and sentenced to suffer R.I for 3 years and to pay fine of Rs.20,000/- in default, to suffer RI for further 2 months.

**2.** Heard Learned Senior Counsel Mr. P. K. Biswas assisted by Learned Counsel Mr. Rishiraj Nath, Learned Counsel Mr.

Pujan Biswas and Learned Counsel Mr. Chinfru Mog representing the appellant and also heard Learned P.P. Mr. Raju Datta for the State-respondent.

**3.** Before coming to the conclusion let us discuss about the subject matter of the prosecution filed before the Learned Court below.

**4.** The case of the prosecution in short, was that on 10.10.2015 one Krishna Majumder(Nama) lodged a complaint to the East Agartala Women Police Station alleging inter alia that on 09.10.2015 at about 10.30-11.30 hours the sister of the complainant/informant namely Sujata Majumder committed suicide due to mental torture upon her by the accused Saikat Debnath. On the basis of that, O/C of the concerned P.S. registered East Agartala women P.S. case no.2015/WEA/067 under Section 306 of IPC and the case was endorsed to IO for investigation and on completion of investigation being prima facie satisfied, I.O laid charge-sheet against the accused-appellant under Section 306 of IPC. Before the Court of sessions, formal charge under Section 306 of IPC was framed against the accused-appellant and the same was explained to him in Bengal to which he pleaded not guilty and claimed to be tried. Hence, the trial commenced.

**5.** During trial, to substantiate the charge prosecution has adduced in total 16 nos. of witnesses and the prosecution also tendered and relied upon some documentary evidence which were marked as exhibits in this case. The defence case of the

appellant was that of total denial and as such during examination under Section 313 of Cr.P.C. the accused-appellant desired his willingness to adduce witnesses in support of his defence and accordingly, two witnesses on behalf of the accused were adduced by the defence side and finally, on conclusion of trial, Learned Court below found the accused-appellant to be guilty and convicted him accordingly.

Challenging that judgment, the present appellant has preferred this appeal.

**6.** To substantiate the charge, Learned Court below determined the following point for decision:

***Whether accused Sri Saikat Debnath abetted the commission of suicide by deceased Sujata Majumder?***

In this regard, now let us discuss the evidence on record of the prosecution and the defence adduced before the Learned Court below during trial of the appellant.

**7.** PW-1, Sri Gopan Datta, PW-2, Sri Nani Gopal Saha and PW-3, Sri Hiralal Das in course of their examination-in-chief only deposed that the deceased committed suicide but they could not say anything furthermore about the case of the prosecution.

**8.** PW-4, Smt. Barnali Bhowmik deposed that in the year 2015 she was prosecuting her study at Acharja Prafulla Chandra School in Class-XI at Gurkhabasti, Agartala and Sujata Majumder was studying with her. Subsequently, she heard that

she died by committing suicide but she could not say anything furthermore about this case.

**9.** PW-5, Smt. Papi Debnath deposed that at the time of incident Sujata was continuing her study with her in Class-XII in Acharjee Prafulla Chandra Roy Smriti Vidya Mandir and she heard that she died but she could not say how she died. Before her death, the deceased used to tell that one Saikat Debnath was disturbing her and infact she heard that the said fact from another student but not from Sujata.

During cross-examination, she stated that she did not hear the fact from Sujata that Saikat was troubling her and further stated that she never seen Saikat Debnath.

**10.** PW-6, Smt. Krishna Majumder is the informant of this case. She deposed that Sujata Majumder was her younger sister. On 09.10.2015 around 10:30 am she committed suicide by hanging in the house. She was prosecuting her study at Indranagar High School, Agartala. The house of the aunt of accused Saikat Debnath is situated near by Indranagar High School. He frequently used to visit his aunt's house at Indranagar and during that time her sister gradually developed friendship with Saikat. Ultimately that friendship turned into a love affair. Subsequently, her sister came to know that nature and character of Saikat was not good. Then she tried to cut off the relation but Saikat often used to make disturbance to her over telephone. Once they tried to make understand Saikat not to do such act but he did not pay any interest to their advise.

Then Saikat threatened Sujata if she does not continue her relation with Saikat, he would spread her indecent photographs in social media. He also threatened that he can do anything as he is a journalist and is working in a newspaper namely "Pratibadi Kalam" and gradually, on his continuous disturbance her sister went into a depression. Before her death she did not like to talk with anybody. As a result, she committed suicide by hanging and on this issue, she lodged a complaint at East Agartala Women P.S. on 10.10.2015. Her complaint was written by one police personnel. Then she signed as informant and it was written as per her narration. She identified her signature which was marked as Exhibit-1. Further deposed that during investigation she was examined by police and she stated everything to police.

During cross-examination, she admitted that on 09.10.2015 i.e. on the day of incident, she gave a written information to the O/C, East Agartala women PS on the basis of which one UD case No.22/15 was registered. She identified her signature on the same which was marked as Exhibit-A and the contents of written information which was marked as Exhibit-A/1. She further stated that in her first written information, she did not raise any allegation against anybody and further admitted that her mother and sister put their signatures in inquest report. She also stated that during investigation police seized certain pages of diary written by Sujata by her own handwriting.

**11.** PW-7, Smt. Chandra Majumder deposed that on 09.10.2015 her sister Sujata committed suicide. When she was prosecuting her study at Indranagar H.S(+2) School one Saikat Debnath always used to disturb her on her way to School. House of the aunts of Saikat is situated just behind Indranagar H.S(+2) School. He frequently used to visit his aunt's house and on that occasion always used to cause disturbance to Sujata. He proposed Sujata for love with him and he introduced himself as a reporter of "Pratibadi Kalam" a daily newspaper. At that time, her sister was in Class-IX, she agreed with the proposal of Saikat. Subsequently, as soon as Sujata realized that Saikat was not a good man and always used to make his profession to influence others. So, her sister tried to come out from the relation but Saikat was not ready for that. Always Saikat used to follow her and disturb her whenever she used to go to her School or to the house of private tutor and due to such disturbance, the people used to laugh on her relation with Saikat. Then she gradually confined herself in the house. She did not used to speak too much with others. Over telephone Saikat used to ask her to die by committing suicide. They asked her as to why she confined herself in the house and did not speak to others then the victim told the entire facts to them. She also told them that due to disturbance of Saikat peoples were laughing on her and she was not feeling well. Thereafter, the witness and her husband met with Saikat and asked him as to why he was disturbing Sujata frequently and whether he

intends to marry her or not but Saikat completely denied the facts. Her mother also met Saikat but he denied the fact. He also threatened that he is a reporter of a daily dainik namely "Pratibadi Kalam" and he has just passed his time by relation with Sujata and will not marry her. Being compelled about three or four months prior to her death once she lodged a complaint against Saikat at East Agartala Women P.S. Police called him and in their presence he apologized for his conduct and assured that in future he would not do any such conduct to Sujata. Then they withdraw the case out of fear and to avoid social stigma. Then Saikat increased the volume of his disturbance and told that he will spread the photographs of Sujata in social media. Ultimately, as the disturbance of Saikat become unbearable to her she committed suicide by hanging. Just previous day of her death, Sujata told her and her husband that she was unable to bear any further disturbance of Saikat and not feeling well. On the following day, she committed suicide by hanging. On 14.10.2015 police seized one black colour micromax mobile phone along with one memory card(32 GB) of Sujata at PS complex. She herself and her husband brought the aforesaid articles at PS. She signed in the seizure list as witness and identified her signature which was marked as Exhibit-2. She further deposed that on 11.10.2015 police seized one page of diary with some writings of Sujata, one diary of 2009 and one CD cassette at PS complex. She herself and her husband brought those articles at P.S. She signed as witness in the said

seizure list and identified her signature which was marked as Exhibit-3.

During her cross-examination, she stated that she was living with her husband in her matrimonial home at Jagatpur. The distance between her matrimonial house and her parent's house is about 10 minutes walking distance. At the time of incident, she was at her matrimonial home. At about 10:30/11 am she got the information. Within 20 minutes she arrived at her parent's house. She found her husband, mother and some neighbouring people of adjacent house. From one of her maternal aunt of adjacent house and later on also from her mother she came to know that Sujata entered into bathroom and closed the door. As she was getting late and was not responding from inside, door was broken and she was found hanging in bathroom. Just immediately after her arrival, police arrived at PO. Her elder sister Krishna Majumder was staying at Charilam and she arrived in the house around 1 pm. Further stated that after coming of Krishna, one written information was given to police and again volunteered that as soon as police arrived to PO, her husband and mother verbally lodged complaint to police. In presence of her, her husband and mother, police prepared surathal report on the dead body of her deceased sister and all of them put their signatures as witness in that report. Again stated that frequently she visited her parent's house. Again stated for about 4/5 days after the incident police regularly visited their house but her statement

was recorded by police on 14.10.2015. Again admitted that her mother and her younger sister Sujata used to live in their parent's house prior to incident. Again stated that sometimes her mother used to rebuke her due to her relation with Saikat. Again stated that in her statement she did not disclose as to when and by whom alleged CD was prepared.

**12.** PW-8, Sri Pabitra Roy was declared hostile by the prosecution and his portion of statement was marked as Exhibit-4 (subject to confirmation by IO).

**13.** PW-9, Smt. Sima Biswas deposed that on 10.10.2015 she was posted at East Agartala Women PS in the capacity of Officer-in-charge. On that day she received one written ejahar from one Krishna Majumder Nama and on the basis of said written ejahar registered East Agartala Women PS FIR No.2015/WEA/067/15 dated 10.10.2015 under Section 306 of IPC against Sri Saikat Debnath and endorsed the case to ASI Sandhya Debbarma for investigation. She identified endorsement on the body of ejahar which was marked as Exhibit-1/1 and the printed FIR form was marked as Exhibit-5. Prior to that, on 09.10.2015 Krishna Majumder Nama lodged a written information about the suicide of her younger daughter Sujata Majumder. On the basis of said information being O/C of East Agartala Women, she registered one UD case No.22/15 under Section 174 of Cr.P.C. She identified her endorsement on the body of said written information dated 09.10.2015(Ext.A)

which was marked as Exhibit-6 and identified the FIR in reference to UD case No.22/2015 which was marked as Exhibit-7. Further stated that ASI Sandhya Debbarma was endorsed to investigate the UD case registered on the information of suicide.

During cross-examination, she was declined to cross-examine by the appellant.

**14.** PW-10, Smt. Purnima Majumder deposed that deceased Sujata is her daughter. On 09.10.2015 in the morning at about 10:30/11 a.m. she died by hanging. At that time she was prosecuting her study in Class-XII at Acharya Prafulla Chandra School. When she was prosecuting her study in class-IX that time she was a student of Indranagar Class-XII School. One Saikat Debnath of Ambassa, used to reside at the same time in his aunt's house at Indranagar. Saikat Denbath used to work in "Pratibadi Kalam" and his father's name is Sunil Debnath. When Sujata was in Class-IX Saikat proposed her for love and she agreed. Saikat used to disturb her all the time even on telephone also. Then Sujata decided to get rid of from that relation of love with Saikat. Once she lodged a complaint against Saikat at East Agartala Women PS and in her presence one Woman Police officer called Saikat and asked him not to disturb Sujata. After sometimes, he again started disturbing her daughter. He told Sujata that he would spread her photographs in Facebook unless she continues her relation with Saikat. She was also asked to die by Saikat. Sujata ultimately used to keep her mobile switched off. Then Saikat used to call her in her

mobile and told slang languages about Sujata. She was extremely depressed and told her that she has no will to live further due to disturbance of Saikat. Before 6/7 months of her death once she called Saikat and personally told him not to disturb Sujata. Ultimately, on the day of fateful incident she went to Latrine. After sometimes when there was no response then after breaking the door of latrine she was found hanging. She also stated that Saikat was responsible for her death.

During cross-examination, she stated that police personnel prepared surathal report over the dead body of Sujata in her presence and she signed as a witness. Again stated that after the incident police seized diary/khata of Sujata and she was not aware about the contents of diary. Again stated that Saikat used to maintain relation with another girl namely Piyali. Again volunteered that at the same time he used to continue relation with two girls. She again admitted that she visited the house of piyali. Further stated that Siddharta Roy Choudhury is the husband of her daughter namely Chandra Majumder. She denied the suggestion made by the defence that Siddharta used to take Sujata in their house for stay due to her assault. At that time, witness volunteered that every parents rebuke their child and sometimes she also used to rebuke Sujata as mother.

**15.** PW-11, Sri Siddharta Roy Choudhury deposed that on 11.10.2015 police seized one page of diary, one complete diary of 2009 and one CD cassette in connection with this case.

Mobile discussion between Sujata and Saikat was recorded in the said CD cassette. He signed as a witness in the seizure list which was marked as Exhibit-3/1. Sujata died on 09.10.2015. On 14.10.2015 police seized one mobile and memory card of Sujata. He signed as witness in the seizure list and identified the same which was marked as Exhibit-2/1. He further deposed that he caused to transfer the mobile discussion in between Sujata and Saikat from memory card into CD on 11.10.2015. Police prepared surathal report on the dead body of Sujata in his presence and he identified his signature which was marked as Exhibit-8. Then the witness stated that when Sujata was prosecuting her study in Class-IX, love affair developed in between Saikat and Sujata. Subsequently, when Sujata realized that Saikat is not a good man at all, she tried to come out from that relationship. Then Saikat started to disturb her. Even on mobile phone also often Saikat used to disturb Sujata. She informed the matter to them. They called Saikat and tried to make him understand not to disturb Sujata in future. But again Saikat started disturbing Sujata frequently. Then the matter was informed to police. Saikat was called at East Agartala Women PS and was asked not to make disturbance to Sujata. Even thereafter, again Saikat started disturbing and he told Sujata that unless she build up her relation with him he would spread his naked photographs in facebook, whatsapp, etc. At that point of time she looked very upset and was very depressed. They enquired the matter from Sujata when she

replied that she was defamed in her friend's area by Saikat and he was continuously disturbing her and ultimately, on 09.10.2015 she committed suicide.

During cross-examination, he deposed that on 11.10.2015 his wife Chandra Majumder produced the page of diary at PS which was seized by police. He did not go through the contents of diary to know as to whether there is any allegation against Saikat or not in that diary. He further stated at the time of producing CD to police his wife did not produce the memory card and the mobile phone to police at the same time and admitted that he used to visit his in-laws house frequently. He was confronted with the statement that he stated to police that he knew everything from Sujata whatever he stated before the Court was also learnt from Sujata but that portion of statement was not found in his statement recorded by IO. Again stated that they never arranged for treatment of Sujata by doctor due to her depression.

**16.** PW-12, Sri Suman Kumar Chakraborty deposed that on 16.11.2015 he was posted as Deputy Director in SFSL. On that day his office received one sealed packet from Dy.SP(CAW), Agartala, containing exhibits in connection with East Agartala Women PS case no.67/15 which was endorsed to him for examination and opinion. There were five exhibits marked as Exhibit-A to E. The exhibit A to C examined in toxicology division and D and E examined in Bio/Sera Division. The exhibits were examined in toxicology division from 14.03.2016

to 22.03.2016 and on examination the exhibits were negative for the presence of common group of pesticides. The remnants has been returned under separate sealed cover and the report was marked Exhibit-9 as a whole and the forwarding report of director was marked as Exhibit-9/1.

**17.** PW-13, Sri Shyam Gopal Josohara deposed that mother of Sujata is his maternal sister and by that relation Sujata is his neice. On 09.10.2015 Sujata committed suicide by hanging in their house. Whenever Sujata used to meet with him she disclosed that one Saikat Debnath always disturbing her on the way to school as well as on the way to her private tutor. He used to give proposal of love to her. She also told him that Saikat used to disturb her by mobile phone also. One day in his presence Saikat slapped Sujata. He tried to make him understand when he was also threatened by Saikat and identified the appellant in the Court. Further stated that Saikat used to work in Pratibadi Kalam, a local daily newspaper. He always used to threat Sujata over telephone by telling that her pictures shall be uploaded in media. About one week back to her death Sujata told him that Saikat threatened her by telling that she has no other alternative but to die. As a result, Sujata committed suicide.

During cross-examination, he stated that with effect from 09.10.2015 to 18.10.2015, he was available in his house at Agartala. He visited the house of Sujata during that period and met police. He further stated that he had no idea about the

fact that inspite of knowing his affair with piyali, Sujata used to disturb Saikat to engage with her.

**18.** PW-14, Dr. Sabyasachi Nath deposed that in between 08.12.2015 to 25.02.2016 he being the Sr. Scientific Officer-cum-Assistant-Chemical Examiner examined blood sample which was marked as Exhibit-D and a page of diary stained with blood marked as Exhibit-E being received on 16.11.2015 from the Toxicology division. On examination, he opined that blood stain of human origin could be detected in the exhibit which was marked as Exhibit-E but its group also could not be determined. And blood group of Exhibit-D could not be determined. Subsequently, he prepared the report dated 03.03.2016 and signed by him and the report on identification marked as Exhibit-10.

**19.** PW-15, Dr. Prasenjit Das deposed that on 09.10.2015 being the Junior Resident, Department of FMT, AGMC and GBP Hospital accompanied with Junior Resident Dr. Anamika Das, they conducted postmortem examination over the dead body of deceased Sujata Majumder, identified by ASI Sandhya Rani Debbarma. After examination they opined that the cause of death was asphyxia due to hanging. He identified the report which was marked as Exhibit-11. According to this witness, after receipt of report from the Toxicology department, TSFSL, they prepared the report dated 03.04.2016 containing final opinion and identified the final report which was marked as Exhibit-12. According to him, the toxicological analysis report

were negative for presence of common organo Chloro, organophosphorus and carbamate group of pesticides. There was also no concomitant poisoning.

During cross-examination by the appellant, he deposed that during postmortem examination, no external antemortem injury was seen over the dead body except the multiple scratch marks, 17 nos. ranging in measurement from 0.2 x 1 cm upto 0.5 cm x 0.1 cm which were present in on the dorsum of left hand over an area of 8 cm x 6 cm, over dorsum of right hand over an area of 6 cm x 4 cm and over some part of forehead and tip of nose. The injuries found on the dead body may be caused due to scuffling.

**20.** PW-16, Smt. Mamataj Hasina deposed that on 13.10.2015 she was posted at East Agartala Women PS as WSI of police. On that day as per order of SP, West, she took up the investigation of this case. During investigation on perusal of the record, she found that the FIR was filled up by Inspector of Police, OC East Agartala Women PS and she knows her handwriting and signature. Initially the investigation of this case was endorsed to ASI Sandhya Debbarma but she died about 5/6 years back. Sandhya Debbarma prepared inquest report over the dead body of deceased Sujata Majumder. She identified the inquest report which was marked as Exhibit-8/1 as a whole and identified the signature of Sandhya Debbarma on the said inquest report which was marked as Exhibit-8/2. On 11.10.2015 at 18:05 hours at East Agartala Women PS

Sandhya Rani Debbarma seized one diary by preparing seizure list. She identified the said seizure list which was marked as Exhibit-3/2 as whole and her signature on the said seizure list which was marked as Exhibit-3/4. On 11.10.2015 Sandhya Rani Debbarma visited the PO, prepared handsketch map and index and identified handsketch map and index which were marked as Ext.13 as a whole in 2 sheets and these are her signatures on the said hand sketch map and index which were marked as Exhibit-13/1 and Exhibit-13/2 respectively. On 10.10.2015 Sandhya Debbarma examined four witnesses namely Krishna Majumder, Hiralal Das, Sibendra Roy and Siddharth Roy. On 09.10.2015 at 16:35 hours Sandhya Debbarma seized viscera, stomach, small intestine, liver, spleen, kidney and blood sample by preparing seizure list. She identified the seizure list which was marked as Exhibit-14 as a whole and identified her signature on the said seizure list which was marked as Exhibit-14/1. On 13.10.2015 Sandhya Debbarma handed over this case to her for investigation as per order of SP, West. On 13.10.2015 she visited PO and examined witnesses namely Purnima Majumder, Gopen Datta and Nanigopal Saha. On 14.10.2015 at about 10:05 hours at East Agartala Women PS she seized one black colour micromax mobile and memory card of 32 GB by preparing seizure list and identified the seizure list which was marked as Exhibit-2/2 as a whole. She identified her signature on the said seizure list which was marked as Exhibit-2/3. On 14.10.2015 she examined witnesses namely Siddhart Roy

Choudhury, Chandra Majumder and Pabitra Roy. On 15.10.2015 she examined witnesses namely Priyanka Das and Papi Debnath. On 16.10.2015 she examined witnesses namely Shyam Gopal Jasura and Barnali Bhowmik. On 16.11.2015 she sent seized articles to the SFSL for examination and on 25.07.2016 she received SFSL report. After completion of investigation she laid charge-sheet against the appellant. She further deposed that PW-8, Pabitra Roy stated her that on 09.10.2015 one Siddharth Roy came to his shop and asked him to transfer the material of memory card into a CD and accordingly he made CD and identified the statement which was marked as Exhibit-4.

During cross-examination, she stated that she cannot remember the name of the person of the house where she conducted raid in search of accused and the same was also not mentioned in CD and she has not examined any person of the house where she conducted raid. During investigation, it was revealed that a previous complaint was filed by victim against accused Saikat Debnath at East Agartala Women PS. She has not seized the complaint and has not sent the seized mobile to the SFSL and she cannot say whether there was any incriminating material against the accused in the seized mobile as the same was not reflected in the case diary. She did not send the CD to SFSL and there was no mentioning in the CD whether any incriminating material was found in the CD or not. On 13.10.2015 she examined Purnima Majumder. As per

postmortem report, there was no other antemortem injuries over the body except the multiple scratch marks 17 in number ranging in measurement from 0.2 x 1 cm upto 0.5 cm x 0.1 cm which were present on the dorsem of left hand over an area of 8 cm x 6 cm over dorsum of right hand over an area of 6 cm x 4 cm over some part of forehead and tip of nose. The ligature mentioned are fresh in duration and all other injuries mentioned are 1 to 2 days old at the time of death. She had sent the diary to the SFSL for examination along with suicide note and as per report of SFSL, the handwriting of diary and suicide note are of the same handwriting. The seized diary belongs to deceased. Suicide note is one of the pages of the said diary. In the diary and in the suicide note, there was no allegation against the accused Saikat Debnath. In the diary, it was written by deceased that she was reading in Class X and she was proposed by many boys but nobody loves her and whether she would get any good boy at any point of time. OC Sima Biswas on 09.10.2015 at about 13:05 hours registered a UD case at East Agartala Women PS vide UD case No.22 of 2015 under Section 174 of Cr.P.C. against the written complaint filed by Krishna Majumder and subsequently the said Krishna Majumder filed the FIR of this case on 10.10.2015 at 16:15 hours. In the case diary, there was no mentioning about the reason of delay examination of Chandra Majumder and they have not taken any certificate as per Section 65C and 65B of the Evidence Act from PW-8 Pabitra Roy.

**21.** It is to be noted here that the appellant in course of his examination also desired to adduce witness in support of his defence and accordingly, two witnesses was adduced.

DW-1, one Smt. Piyali Debnath deposed that she know Sujata Majumder. She was her school friend and classmate. She was studying in Indranagar High School. She further stated that her parental house is situated adjacent to Indranagar High School. Sujata was a good student and friend and she was very arrogant and also caused bodily injury to her out of anger. She could know from Sujata that her mother was also arrogant and also assaulted her by broom. She could not say the name of mother of Sujata but she met her before Kharchi Puja in the year 2015 and when she scolded her as well as her mother as she was in talking term with her husband Saikat. Sujata used to tell her that she would liking for Saikat and when she used to talk with Saikat, at that time she felt jealous. She knew Saikat since Class-VII/VIII and he used to reside his aunty's house and his aunt's house is situated nearby their house. She further stated that she had a love affair with Saikat prior to marriage.

During cross-examination, she stated that she got married in the year 2019 with Saikat. She appeared in the Madhyamik examination in the year 2013 and Sujata also appeared in Madhyamik examination in the same year. She never visited the house of Sujata situated at 79 tilla. Also stated that the house of Saikat is at Ambassa (Kolai) but she could not say the name of her aunt and Saikat used to reside in his aunt's

house. She further stated that in the year 2015 Sujata committed suicide.

**22.** DW-2, Sri Bikash Dhanuk deposed that he knew Siddhartha Roy Chowdhury who is his neighbour. In the year 2015-16, he called Siddhartha Roy Choudhury at Agartala town hall and told him that Sujata used to disturb Saikat by sending SMS and phone call and accordingly, he told Siddhartha Roy Choudhury that Sujata must not disturb Saikat as Siddhartha Roy Chowdhury is the elder brother-in-law of Sujata.

During cross-examination by the prosecution, he stated that he knew Saikat since 2014. The house of Saikat is at Ambassa. Sujata used to visit the house of Siddhartha Roy Chowdhury. He also knew the mother of Sujata. He also stated the fact to the mother of Sujata and saw the SMS send by Sujata to Saikat. He told Saikat to hand over the SMS to police and also denied the assertions of prosecution that the statement made by him in his examination-in-chief was false.

**23.** In course of hearing of argument, Learned Senior Counsel Mr. P. K. Biswas for the appellant first of all drawn the attention of the Court that the alleged incident took place on 09.10.2015. On that day, one FIR was made by Krishna Majumder, who is the sister of the deceased. In the said FIR which was marked as Exhibit-6, there was no indication involving the appellant with the alleged crime but later on, on 10.10.2015, another FIR was laid wherein some story was manufactured against the appellant. There was no explanation

from the side of prosecution as to why the said initial FIR was silent showing involvement of the appellant with the alleged commission of offence. Learned Senior Counsel further drawn the attention of this Court that PWs-1, 2, 3, 4 and 5 did not in any manner supported the prosecution story and those witnesses were also not declared hostile by the prosecution. There was no explanation in this regard from the side of the prosecution before the Learned Trial Court. Learned Senior Counsel further stated that PWs-6, 7 and 10(the mother of the victim), PW-11 although made some incriminating evidence against the appellant but if their evidences are meticulously examined, it will be seen that their statements were suffered from infirmities which those witnesses in course of investigation did not say anything to the IO of this case. Meaning thereby according to Learned Senior Counsel, there was no scope to place any reliance upon those evidences but the Learned Court below at the time of delivery of judgment did not consider the same. Learned defence Counsel also drawn the attention of this Court that PW-6, Krishna Majumder, the sister of the deceased in course of her cross-examination specifically stated that in the first FIR, she did not raise any allegation against anybody and also she stated that her mother and sister put their signatures on the inquest report but those witnesses did not whisper anything about the injury found on the person of the deceased but from Exhibit-11, the postmortem examination report, it appears that there were multiple scratch marks, 17 nos.

ranging in measurement from 0.2 x 1 cm upto 0.5 cm x 0.1 cm which were present in on the dorsum of left hand over an area of 8 cm x 6 cm, over dorsum of right hand over an area of 6 cm x 4 cm over some part of forehead and tip of nose which was confirmed by the concerned medical Officer PW-15, Dr. Prasenjit Das in course of his cross-examination. Learned Senior Counsel referring the said part of evidence drawn the attention of the Court that although it was a case of committing suicide by hanging but it may so happen that prior to the commission of offence she might be mentally or physically harassed by her family members because from the evidence of PW-10(mother of the victim), it also appears that in course of her cross-examination, she stated that sometimes she used to rebuke Sujata as mother and PW-7, Chandra Majumder, another sister of the deceased, also in course of her cross-examination stated that her mother sometimes used to rebuke her due to her relation with Saikat. Learned Senior Counsel further referred the evidence of PW-16 stated that as alleged by the prosecution the appellant used to cause harassment to the deceased through her mobile but the IO in course of her cross-examination stated that she did not sent the seized mobile to the SFSL. She also admitted that she had sent the diary to the SFSL for examination along with suicide note and as per report of SFSL, the hand writing of diary and suicide note are of the same hand writing and the said diary belonged to deceased and suicide note was one of the page of the said diary of the

deceased and she further admitted that in the diary and the suicide note, there was no allegation against the accused-appellant rather said witness specifically stated that in the diary, it was written by deceased that she was reading in Class-X and she was proposed by many boys but nobody loves her and whether she would get any boy at any point of time or not. Regarding that part of evidence, there was no explanation from the side of the prosecution before the Learned Trial Court in course of hearing of argument. Even according to Learned Senior Counsel on the day of alleged occurrence of offence, none of the witnesses i.e. the family members of the deceased did utter any single incriminating statement against the appellant showing his implication with the alleged crime rather later on, after 3/4 days, they developed and manufactured a new story showing implication of the appellant with the alleged commission of offence and falsely implicated him in the case which casts a doubt about the genuineness of the prosecution story. Further Learned Senior Counsel regarding the injury of the victim which reveals from the postmortem examination report, prosecution did not dispute the said injury nor they challenged the injury as to how the deceased sustained injury on her person which also casts a doubt about the prosecution story and in absence of explanation, there was no scope to believe the prosecution story but the Learned Court below at the time of delivery of judgment did not consider those relevant points and convicted the appellant in absence of cogent

materials on record and urged for allowing this appeal by setting aside the judgment. Learned Senior Counsel also referred few citations.

**24.** On the other hand, Learned P.P. representing the prosecution submitted that before the Learned Court below by the trend of cross-examination of PWs-6, 7, 10 and 13, the appellant did not raise any circumstances to disbelieve the prosecution story, as such, the appellant is not entitled to get any benefit in this case. Learned P.P also drawn the attention of the Court that the appellant in support of his defence adduced two witnesses DWs-1 and 2 but those two witnesses in course of their examination did not submit anything regarding the prosecution story nor they tried to make the prosecution story a doubtful one. Even the appellant in course of his examination under 313 of Cr.P.C. also totally remained silent and did not submit anything challenging the prosecution story. Referring the evidence of PW-7, wherein PW-7 in the last part of her examination-in-chief stated that just previous day of her death, the victim told her and her husband that she was unable to bear any further disturbance of Saikat and not feeling at all. There was no cross-examination from the side of the accused-appellant denying the said allegation. So, finally Learned P.P. representing the prosecution submitted that the Learned Court below after considering the evidence on record rightly and reasonably delivered the judgment finding the appellant to be guilty and there was no contrary evidence on record from the

side of the appellant to disbelieve the prosecution story. So, he urged for dismissal of this appeal upholding the judgment and order of sentence and conviction delivered by Learned Court below.

**25.** At the time of hearing of argument both the parties have referred some citations.

Learned Senior Counsel for the appellant referred one citation reported in **AIR 2024 SC 1283** of **Kumar alias Shiva Kumar v. State of Karnataka** dated 01.03.2024 wherein Hon'ble the Apex Court in para Nos.31, 31.1, 32, 32.1, 33, 35.1, 47, 48 and 49 observed as under:

**"31. In India attempt to commit suicide is an offence under Section 309 IPC. This section provides that whoever attempts to commit suicide and does any act towards the commission of such offence, he shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both. But once the suicide is carried out i.e., the offence is complete, then obviously such a person would be beyond the reach of the law; question of penalising him would not arise. In such a case, whoever abets the commission of such suicide would be penalised under Section 306 IPC. Section 306 IPC 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.**

**31.1 Thus, as per Section 306 of IPC, if any person commits suicide, then 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.**

**32. The crucial word in Section 306 of IPC is 'abets'. 'Abetment' is defined in Section 107 of IPC. Section 107 of IPC reads thus:**

**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 thing.

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 facilitates the commission thereof, is said to aid the doing of that act.

32.1 From a reading of Section 107 IPC what is deducible is that a person would be abetting the doing of a thing if he instigates any person to do that thing or if he encourages with one or more person or persons in any conspiracy for doing that thing or if he intentionally aids by any act or illegal omission doing of that thing. Explanation 1 clarifies that 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. Similarly, it is clarified by way of Explanation-2 that whoever does anything in order to facilitate the commission of an act, either prior to or at the time of commission of the act, is said to aid the doing of that act.

33. Suicide is distinguishable from homicide inasmuch as it amounts to killing of self. This Court in *M. Mohan Versus State*:(2011) 3 SCC 626 went into the meaning of the word suicide and held as under:

37. The word "suicide" in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. "Sui" means "self" and "cide" means "killing", thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

35.1 Thus, this Court has held that in order to prove that the accused had abetted the commission of suicide by a person, the following has to be established:

(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, presence of mens rea is the necessary concomitant of instigation.

47. Human mind is an enigma. It is well nigh impossible to unravel the mystery of the human mind. There can be myriad reasons for a man or a woman to commit or attempt to commit suicide: it may be a case of failure to achieve academic excellence, oppressive environment in college or hostel, particularly for students belonging to the marginalized sections, joblessness, financial difficulties, disappointment in love or marriage, acute or chronic ailments, depression, so on and so forth. Therefore, it may not always be the case that someone has to abet commission of suicide. Circumstances surrounding the deceased in which he finds himself are relevant.

48. Coming to the facts of the present case, we do not find any evidence on the basis of which we can hold the appellant guilty of abetting the suicide of the deceased. While the death of a young woman is certainly very tragic, it cannot be said with any degree of certainty that suicide has been proved; the other essential ingredient constituting the offence under Section 306 IPC, viz, abetment cannot also be said to have been proved.

49. Thus on a conjoint reading of the entire materials on record, this Court is of the opinion that the prosecution had failed to prove the charge of abetment to commit suicide under Section 306 IPC against the appellant. The settled legal position, the evidence on record and the glaring omissions of the prosecution as pointed out above, leaves no room for doubt. We are therefore of the unhesitant view that the conviction of the appellant is wholly unsustainable."

Referring the same, Learned Senior Counsel for the appellant, Mr. P. K. Biswas drawn the attention of this Court that in the alleged case, charge was framed under Section 306 of IPC against the appellant but here in the given case, there is/was no evidence on record from the side of prosecution that the present appellant abetted the commission of suicide by the victim, as such, the case of the prosecution suffers from lot of infirmities and urged for allowing this appeal by setting aside the judgment and order of conviction.

**26.** In **State of Karnataka v. Venkatesh & Ors.** dated 13.01.1992 reported in **1992 Suppl.(1) SCC 539**, wherein in para Nos.2 and 3 Hon'ble Apex Court observed as under:

"2. The case of the prosecution rests mainly on the sworn testimony of PW 15, Cheluvamma, an alleged eye-witness besides the motive, namely, illicit intimacy between PW 23, Madadevamma, the sister of respondents 1 and 5 with the deceased prior to and after her marriage as well which was resented to by both the respondents. The prosecution also relied upon the evidence of PW 6, Madaiah, and PW 14, Javariah, who deposed having seen the deceased enter into the house of PW 15, Cheluvamma, at about 11 p.m. on the fateful night. The prosecution also relied upon the evidence of PW 25, Cheluvaraju, who had allegedly seen all the accused-respondents carrying the dead-body of the deceased from the house of PW 15, Cheluvamma towards the field from where it was later on recovered. With a view to seek conviction of the accused-respondents, the prosecution also pressed into aid an alleged circumstance of the absconding of all the respondents from the village from November 9, 1978 onwards till their arrest. Learned counsel for the State of Karnataka has, on the basis of this material, submitted that the order of acquittal deserves to be reversed.

3. We have perused the evidence of all the witnesses referred to above. They do not inspire any confidence at all. The denial by PW 23, Madadevamma, of having had any illicit intimacy with the deceased coupled with the fact that PW 15, Cheluvamma, the ace witness of the prosecution, having not disclosed the information at the earliest opportunity to anyone till November 10, 1978, though the alleged murder took place on the night of November 8, 1978, has created serious doubts about the genuineness of the prosecution case. Since, the Sub-Inspector admitted that he had not even visited the house of any one of the accused-respondents on November 9, 1978 to arrest them, the failure of the accused-respondents to appear before the police cannot give rise to any inference of their guilt and therefore the alleged circumstance of absconding was not rightly used by the learned Sessions Judge against the accused-respondents. The conduct of PW 8, Madaiah, PW 14, Javariah, and PW 25, Cheluvaraju, is so unnatural that it would not be safe to place any reliance on their testimony. No explanation, much less a satisfactory one, has been given by the prosecution for their long silence."

In **Shankarlal v. State of Rajasthan** dated 07.05.2004 reported in **(2004) 10 SCC 632** wherein in para No.5, Hon'ble Supreme Court observed as under:

"5. Even according to the prosecution the only witness to the incident in question is PW 6, therefore, as contended by learned counsel for the appellant, we will have to examine his evidence carefully. If we do so then we notice that on the date of incident he had gone to Village Upli for some work. From there he came back by bus at about 11 o' clock. He then allegedly went to the village to meet Ram Rakh where he was told by his wife that the latter had gone to the field. It is the prosecution case itself that the distance between the field of Ram Rakh and the village is about 4-5 miles and PW 6 covered that distance on foot and when he reached near the field of Ram Rakh he heard a quarrel and when he went towards the place of quarrel he saw the appellant attack the deceased with an axe. It is his further case that when he reached near the deceased, the appellant ran away. It is at this point of time he states that he got scared and he took a different route than the one he took on the way and reached the village at about 4 or 4.15 p.m. It is his case that when he went to the house of Ram Rakh he could not find him, therefore, he came near the village square where he met PW 2 Khyali Ram. From the above evidence of PW 6 it is apparent that though there were persons available on his way back, he did not inform anybody about the incident. Even when he reached the village and met Ram Rakh's wife he did not inform her about the incident and it was for the first time he informed about this incident to PW 2 at the village square at about 4.15 p.m. Contrary to what he stated in the examination-in-chief that he saw only one assault on the deceased, in the cross-examination he stated that he saw the appellant attack the deceased twice and both the injuries were caused in his presence. It is also to be noticed from his cross-examination that when he met PW 2 Khyali Ram and told him about the incident in question, PW 2 supposedly told him that he had already come to know of the incident from PW 14. The prosecution has not found how PW 14 came to know of the incident. In this background if we appreciate the evidence of PW 6 we notice the fact that he is purely a chance witness whose presence at the place of the incident is highly doubtful. His conduct too seems to be unnatural in not informing anyone else in the village until he met Khyali Ram at the village square. We also notice that there is unexplained delay in filing the complaint inasmuch as according to the prosecution the incident in question took place at about 1.30 p.m. and a complaint was lodged only at 3.15 a.m. on 5-4.1980. Though the distance is about 30 miles from the place of incident, the complainant had the facility of using the tractors available in the village and they did use the same for travelling to the police station. In such circumstances this unexplained long delay also creates a doubt in our mind as to the genuineness of the prosecution case. Once we are not convinced with the evidence of PW 6 then there is no other material to base a conviction on the appellant, hence we are of the opinion that the appellant is entitled to the benefit of doubt, therefore, this appeal succeeds and is allowed. The judgment and order of conviction of the two courts below are set aside. The appellant is acquitted of the charge framed against him. From

the records we notice that the appellant is on bail. If so, his bail bonds shall stand discharged."

In **VijayBhai Bhanabhai Patel v. Navnitbhai Nathubhai Patel and Ors.** dated 26.03.2004 reported in **(2004) 10 SCC 583**, in para Nos.3 and 4, Hon'ble the Apex Court observed as under:

"3. From the side of the prosecution, PW 7 and PW 4 were examined as eyewitnesses. PW 11, who gave the FI statement deposed that he had seen the accused persons at the place of the incident. The High Court held that there were certain infirmities in the prosecution case, and hence the accused persons were not guilty of the offences charged against them.

4. The learned Counsel for the respondents submitted that PW 7 and PW 4 who claimed to be eyewitnesses cannot be believed for various reasons. It was submitted that the incident happened on 13.11.1985 but these two witnesses were questioned by the Investigation Officer only on 15.11.1985. No proper explanation was given by the Investigation Officer. There is evidence to show that the Investigation Officer had visited the house of the deceased on the very next day. It seems that there was an attempt by the prosecution to show that PW 7, the widow of the deceased was unconscious during this period and therefore, she could not be questioned by the Police. But they could have questioned PW 4, the son of the deceased at least on the very next day. The delay in questioning these witnesses by the Investigation Officer is a serious mistake on the part of the prosecution. We do not think that the High Court erred in disbelieving these witnesses."

Referring the above citations, Learned Senior Counsel drawn the attention of this Court that the alleged incident according to the prosecution took place on 09.10.2015 but surprisingly on that date one FIR was laid by the sister of the victim where there was not a single whisper showing implication of the alleged accused-appellant with the alleged crime and on that day also, the family members of the victim were very much present and they met IO on that day but none of them did whisper anything showing implication of the alleged appellant

with the alleged crime showing his involvement with this offence and the statement of all the witnesses were recorded by IO at least after 4/5 days without any valid reason and the prosecution before the Learned Trial Court failed to explain as to why their evidences were recorded later on which casts a doubt about the prosecution story.

**27.** Learned Senior Counsel referred another citation of **Prabhu v. The State Rep by the Inspector of Police & Anr.** dated 30.01.2024 reported in **2024 SCC OnLine SC 137** wherein in para Nos. 15, 16, 17, 18, 19, 20 and 21 Hon'ble Apex Court observed as under:

**"15. In a recent judgment of this Court in Kamalakar v. State of Karnataka in Criminal Appeal No. 1485 of 2011 [decided on 12.10.2023], one of us (Vikram Nath J.) explained the ingredients of Section 306 IPC. The Court has held as follows:**

**"8.2. Section 306 IPC penalizes abetment of commission of suicide. To charge someone under this Section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107 IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.**

**8.3. In Ramesh Kumar v. State of Chhattisgarh<sup>1</sup>, this Court has analysed different meanings of "instigation". The relevant para of the said judgment is reproduced herein:**

**"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."

8.4. The essentials of Section 306 IPC were elucidated by this Court in *M. Mohan v. State*<sup>2</sup>, as under:

"43. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. 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.

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."

8.5. The essential ingredients which are to be meted out in order to bring a case under Section 306 IPC were also discussed in *Amalendu Pal alias Jhantu v. State of West Bengal*<sup>3</sup> in the following paragraphs:

"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.

13. 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."

8.6. On a careful reading of the factual matrix of the instant case and the law regarding Section 306 IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not committed any positive or direct act to instigate or aid in the commission of suicide by the deceased."

16. On a perusal of the above, and relying upon this Court's previous judgments discussing the elements of Section 306 IPC, the following principles emerge:

17. Where the words uttered are casual in nature and which are often employed in the heat of the moment between quarrelling people, and nothing serious is expected to follow from the same, the same would not amount to abetment of suicide. [Swami Prahaladdas v. State of M.P., 1995 Supp (3) SCC 438, Paragraph 3; Sanju v. State of M.P.,

18. In order to constitute 'instigation', it must be shown that 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. The words uttered by the accused must be suggestive of the consequence [Ramesh Kumar v. State of Chhatisgarh, (2001) 9 SCC 618, Paragraph 20]

19. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. [Chitresh Kumar Chopra v. State (Government of NCT of Delhi), (2009) 16 SCC 605, Paragraph 20]

20. There must be direct or indirect acts of incitement to the commission of suicide. The accused must be shown to have played an active role by an act of instigation or by doing certain act

to facilitate the commission of suicide [Amalendu Pal v. State of West Bengal, (2010) 1 SCC 707, Paragraph 12-14]

21. The accused must have intended or known that the deceased would commit suicide because of his actions or omissions [Madan Mohan Singh v. State of Gujarat, (2010) 8 SCC 628]

Referring the same, Learned Senior Counsel further drawn the attention of this Court that in the given case there is no evidence on record from the side of the prosecution that the present appellant abetted the victim to commit suicide by his act and conduct. So, in absence of clear evidence on record, there was no scope to presume the appellant to be guilty and urged for acquittal of the appellant from the charge of this case.

28. Finally, Learned Senior Counsel again submitted that the prosecution drawn the attention of the Court that the victim was a minor at the time of death but in this regard no charge under POCSO Act was framed against the appellant and furthermore, there was no specific oral/documentary evidence on record that the victim was a minor on the day of alleged occurrence of offence. So, the submission of the prosecution in this regard could not be accepted.

29. On the other hand, Learned P.P. in support of his contention relied upon one citation. In **Chitresh Kumar Chopra v. State (Government of NCT of Delhi)** dated 10.08.2009 reported in **(2009) 16 SCC 605** wherein in para 19 and 20, the Hon'ble Apex Court observed as under:

"19. As observed in **Ramesh Kumar** :(2001) 9 SCC 618, where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in

order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(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, presence of mens rea is the necessary concomitant of instigation.

20. In the background of this legal position, we may advert to the case at hand. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, *which may either be an attempt for self-protection or an escapism from intolerable self.*"

Relying upon the same, Learned P.P. drawn the attention of the Court that from the evidence on record, it is clear that the present appellant during the lifetime of the deceased made such conduct which encouraged and compelled the victim to commit suicide. So, the Learned Court below rightly and reasonably found the appellant to be guilty and convicted him. Thus, Learned P.P. finally urged for dismissal of this appeal.

**30.** I have heard arguments of both the sides and gone through the record of Learned Court below including the evidence on record and also the citations as referred by Learned Counsel of both the sides. Admittedly, in this case, there is no dispute on record that the victim committed suicide by hanging.

It is also on record that the victim came in contact with the appellant, which may be due to love affair or because of persuasion of the appellant with the victim during the relevant period of time. In this case, the Learned Trial Court below framed charge against the appellant under Section 306 of IPC.

For the sake of convenience, I would like to refer herein below the relevant provision of Section 306 of IPC which provides 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.**

From the above provision, it is clear that in order to prove the charges under Section 306 of IPC, prosecution should prove that the accused abetted the victim to commit suicide. So, it is apparently clear that to constitute 'abetment', intention and involvement of accused to aid or instigate commission of suicide is imperative in a case.

**31.** Here, in the case at hand, the alleged occurrence took place on 09.10.2015. On that day, the sister of the victim Krishna Majumder laid one FIR to O/C, East Agartala women PS. On that day, in between 10:30 to 11:30 hours, her sister Sujata committed suicide. There was not a single whisper showing involvement of the appellant with the alleged commission of offence. On the basis of that FIR, later on one UD case No.22/15 under Section 174 of Cr.P.C. was registered. Later on, on 10.10.2015 said Krishna Majumder again laid

another FIR wherein she involved the appellant to be responsible for the alleged commission of offence i.e. responsible for abetment of committing suicide by his sister. The IO after completion of investigation laid charge-sheet against the present appellant.

**32.** To substantiate the charge, as already stated, prosecution in this case, has adduced in total 16 nos. of witnesses. As already stated, PWs-1, 2, 3, 4 and 5 of the prosecution, in course of their examination-in-chief before the Court, did not whisper any single word showing involvement of the present appellant with the alleged crime. They only stated that the victim committed suicide. Surprisingly, prosecution did not take any step for declaring those witnesses as hostile in this case. There was no explanation in this regard from the side of the prosecution.

**33.** Now, if we go through the evidence of PW-6, Krishna Majumder, i.e, the informant, PW-7, Chandra Majumder, PW-10, Purnima Majumder i.e. mother of the victim, PW-11, Siddharta Roy Chowdhury i.e. elder brother-in-law of the victim, it appears all those witnesses in course of their examination made some incriminating evidence against the appellant. As already stated, those witnesses on the day of alleged occurrence of offence or on the following day when they meet IO they did not whisper anything showing involvement of the appellant with the alleged crime. Although their statements were recorded by IO after 4/5 days, there was also no

explanation from the side of the prosecution as to why their evidences were recorded by IO later on which casts doubt about the prosecution story. Even if we meticulously go through their examination-in-chief, it appears that those witnesses being the family members of the deceased in course of their examination-in-chief tried to implicate the appellant with the alleged crime but from their evidence, it cannot be conclusively come to the conclusion that the relation of the appellant with the victim compelled her to commit suicide.

If for argument's sake, it is assumed that at one point of time she(victim) tried to come out of her relation with the appellant and for that the appellant threatened her but the IO in course of her cross-examination before the Court recollecting the suicide note specifically stated that in the diary and also in the suicide note, there was no allegation against the present appellant that he abetted or compelled the victim to commit suicide. Prosecution in course of examination did not explain anything in this regard before the Court.

Even if we believe the evidence of those four witnesses, it cannot be conclusively come to conclusion that because of threatening of the accused-appellant, the victim committed suicide.

Even to substantiate the charge of the prosecution, the prosecution also could not adduce any electronic evidence on record from which it can be inferred that the appellant was responsible for the alleged commission of offence.

**34.** PW-7, in course of her cross-examination could not say as to whether there was any mark of injury on the person of deceased or not. At the time of alleged occurrence of offence, to the house except PW-10, no other witnesses were not present. They appeared later on after receiving information of commission of offence. PW-10, in course of her cross-examination, specifically admitted that the appellant used to maintain relation with another girl namely Piyali.

**35.** PW-11, in course of her cross-examination, stated that whatever he deposed in-chief against the appellant he knew everything from Sujata but that portion of statement was not found in the statement recorded by IO during investigation under 161 of Cr.P.C. Thus, it is clear that the said witness i.e. the husband of the sister of the victim made improvement in course of his examination before the Court.

**36.** PW-13, Shyam Gopal Josahara, in course of his cross-examination, also stated that with effect from 09.10.2015 to 18.10.2015 he was available at his resident and visited the house of Sujata and by that period he met with the police but during that period, he did not make any statement to the police. So, there is no scope to place any reliance upon the evidence of said PW-13.

**37.** PW-15, Dr. Prasenjit Das conducted autopsy over the dead body of deceased Sujata Majumder. According to this witness, the toxicology analysis report was negative for the presence of common organochloro, organophosphorus and

carbamate group of pesticides. But during cross-examination, he specifically stated that "No external antemortem injury was seen over the body except the multiple sketch mark, 17 nos ranging in measurement from 0.2 x 1 cm upto 0.5 cm x 0.1 cm which were present in on the dorsum of left hand over an area of 8 cm x 6 cm, over dorsum of right hand over an area of 6 cm x 4 cm and over some part of forehead and tip of nose" but the inquest report and the family members of the victim did not submit anything regarding injury found upon the body of the deceased victim. Prosecution also failed to explain anything in this regard in course of hearing of argument before the Court.

**38.** Furthermore, on perusal of the evidence on record, it also appears that in course of hearing of argument, Learned P.P. failed to satisfy the Court the major loopholes that has arisen from the evidence on record of the prosecution and at the same time as already stated there is no electronic evidence on record to sustain the charges against the appellant. In addition to that, the family members of the deceased although made some incriminating evidence but they only heard those facts from the deceased victim. More so, prosecution in this case could not prove by showing any chain as to how the accused appellant abetted the victim to commit suicide by giving any specific date and time. Apart from that, the IO in course of her examination specifically stated the mobile of the victim was not sent to SFSL for examination. Even from the diary and suicide note of the victim, no evidence revealed

showing his implication with the alleged crime. As already stated in the initial FIR, there was no allegation against the appellant but later on, on the subsequent FIR, some allegation was made against the appellant. Even on the day of alleged crime, the family members of the deceased did not whisper anything against the appellant showing his involvement with the alleged crime rather their evidences were recorded almost after 4/5 days of the incident without any valid reasons. There is evidence on record that probably the victim had love affair with the alleged appellant but for any reason the relation did not continue longer and it is proved as because he married another lady later on. So, in absence of clear chain of evidence, it appears that the Learned Trial Court below simply on the basis of statement/evidence of the family members of the deceased came to the finding that the accused committed the crime i.e. abetted the victim to commit suicide and accordingly, found him guilty which in my considered view, the Learned Court below caused gross irregularity in imposing punishment to him.

**39.** The citations as referred by both the sides are very much relevant for decision of this case but in deciding the case, I do not find any conclusive material against the appellant that he abetted the victim to commit suicide on the alleged day for which the present appellant is liable to be acquitted on benefit of doubt from the charge of this case.

**40.** In the result, the appeal filed by the appellant is hereby allowed on contest. The appellant namely Saikat Debnath is

hereby acquitted from the charge on benefit of doubt and he is set at liberty. The judgment dated 08.06.2023 and order of sentence dated 09.06.2023 delivered by Learned Addl. Sessions Judge, Court No.5, West Tripura, Agartala in connection with S.T.(T-II) No.25 of 2017 is accordingly set aside. The surety of the appellant also stands discharged.

Send down the LCR alongwith the copy of the judgment.

Pending application(s), if any, also stands disposed of.

**JUDGE**



सत्यमेव जयते