

GAHC040008062022

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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Crl.Petn./69/2022**

Punam Uttam Patil and 3 Ors.  
Daughter of Sri Uttam Dattatray Patil.  
Village Asarkhede, PO Adgoan, Tehsil Chandwad, in the District of Nashik, State  
Maharashtra, Pin Code 423101

2: Amol Uttam Patil  
Age:  
Occupation :  
Son of Sri Uttam Dattatray Patil.  
Village Asarkhede. PO Adgoan  
Tehsil Chandwad  
in the District of Nashik  
State Maharashtra  
Pin Code 423101

3: Uttam Dattatray Patil  
Age:  
Occupation :  
Son of Late Dattatray Kacharu Patil

Village Asarkhede  
PO Adgoan  
Tehsil Chandwad  
in the District of Nashik  
State Maharashtra  
Pin Code 423101

4: Jalinder Laxman Waghchaure  
Age:  
Occupation :  
Son of Sri Laxman Bhagnath Waghchaury

Resident of Village Talegaon Rohi Tal  
Tehsil Chandwad

in the District of Nashik  
State Maharashtra Pin Code 42310

VERSUS

THE STATE OF AP and Anr.  
Represented by P.P. of Arunachal Pradesh.

2:Sagar Prabhakar Walunj  
Age: 0  
Occupation :  
Village Bharvir  
Post Talwade Tehsil Chandwad  
in the District of Nashik  
State Maharashtra Pin Code 42310

**Advocate for the Petitioner** : B M Choudhary, S Chakraborty, J Borah, R Sarma, A Saikia, R K Bhatra, G Jalan, H Buragohain, C. Phukan

**Advocate for the Respondent** : P P of AP, 1 P Borah, Bedanta Kaushik, Abhai Kumar Singh, Takar Bagang, T Tsering

**BEFORE**

**THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY**

For the Petitioner : Mr. C. Phukan, Advocate

For the Respondents : Mr. G. Tado Addl.PP  
Mr. A. K. Singh, Advocate (R-2).

Date of Hearing : 22.10.2024

Date of Judgment & Order : 29.10.2024

**JUDGMENT & ORDER(CAV)**

1. Heard Mr. C. Phukan, learned counsel for the petitioner. Also heard Mr. G. Tado, learned Additional Public Prosecutor for the State of Arunachal Pradesh

representing the respondent No. 1 and Mr. A. K. Singh, learned counsel for the respondent No. 2.

2. By way of the present application, the accused petitioners have sought quashing of the FIR registered as Rupa P.S. Case No. 11/2021 under Section 306 of IPC.
3. The aforesaid FIR was lodged on 22.06.2021 before the Rupa Police Station, West Kameng District, Arunachal Pradesh by the respondent No. 2 i.e. brother of deceased Arjun Prabhakar Walunj (hereinafter referred to as the deceased) inter alia alleging that the accused No. 1 to 4 had abetted. The deceased to commit suicide by inflicting tremendous mental and physical torture. The accused persons are the wife, the brother-in-law and father-in-law of the deceased and brother-in-law of the wife of the deceased.
4. The deceased was an employee of Indian Army and on the relevant date, he was posted at the office of the GE 859-EWS located at West Kameng District, Arunachal Pradesh and he committed suicide at the Army Camp on 19.10.2019. Soon after his death, his employer conducted a court of enquiry and the report was also submitted and the said report is also made as a part of the FIR. The details of such enquiry report etc. shall be dealt at appropriate stage.
5. In the meantime, the Investigating Officer had continued with investigation, recorded the statement of the informant and other matters etc. The informant/respondent No.2 had also subsequently submitted a detailed written statement before the Investigating Officer which is part of the case diary. The informant further transcribed the last conversation between the deceased and his brother-in-law on the fateful day and submitted before the Investigating Officer. The statement of the brother-in-law was also recorded under Section 161 of Cr.P.C. The same is also part of the case diary. Same shall also be dealt at the appropriate stage in this judgment.

6. Mr. Phukan, learned counsel appearing for the accused petitioners submit that even if the allegation made in the FIR are taken to be true on its face value, the same do not constitute the necessary ingredients of the offences alleged and it is a fit case, wherein the FIR is required to be quashed.
7. Referring to the Court of Enquiry Report, which is part of the FIR, Mr. Phukan, learned counsel contends that the similar is the case so far the same relates to the Court of enquiry report and such report rather supports the case of the accused petitioners inasmuch as it is on record that deceased had psychiatric problem i.e. was having adjustment disorder and dependent abuse of alcohol and he physically assaulted his wife on 26.09.2019 etc. The learned counsel further contends that from the admitted allegation, no interference can be drawn that the petitioners in any manner, instigated or abetted the deceased to commit suicide except some quarrel between the husband and wife over telephone. According to him, the allegation at best can be turned as marital discord for abuse of alcohol for demand of divorce by the accused wife and for lodging of complaint by the deceased wife before the employer of her deceased husband.
8. Per contra, Mr. Tado, learned Additional Public Prosecutor for the State referring to the FIR, the statement of witnesses recorded under Section 161 of Cr.P.C. by the I.O. of the informant, his written statement submitted before the I.O., transcribed conversation between the brother-in-law of the deceased and the deceased, urged that the accused wife has created pressure upon the deceased to keep her with the deceased at his place of posting, she demanded that the deceased should dissolve the marriage between them and a complaint was lodged before the employer of the deceased alleging physical abuse resulting in the employer of the deceased threatening the deceased to dismiss him from service, if he continues to behave like that and all this facts lead to the commission of the offence. Accordingly, the learned counsel submits that a prima facie case has been made out and therefore, the investigation should be allowed

to proceed.

9. Mr. Singh, learned counsel for the informant while endorsing the argument of the learned Additional PP contends that the investigation shall not be allowed to stall and the matter is required to be proceeded for further investigation.
10. This Court has given thoughtful consideration to the submissions advanced by the learned counsel for the parties and have gone through the material available on record including the statement recorded by the Investigating Officer, the transcription of the alleged last conversation between the deceased and his brother-in-law, the Court of enquiry report, which was conducted immediately after death of the deceased.
11. Section 306 IPC deals with abatement of suicide and prescribes a punishment which may extend 10 years. A perusal of the aforesaid provision of law, it is clear that the first ingredient is the act of suicide, which means and implies an act of self-killing i.e. a person must commit it by himself, irrespective of means employed by him in achieving the object of killing himself (**Ref: M. Mohon vs State, reported in 2011 3 SCC 626**). Secondly, to constitute an offence under Section 306 IPC, the material should suggest suicidal death in consequence of abatement.
12. In term of Section 107 of IPC, abatement of a thing occurs when a person instigates any person to do the thing or engage with one or more person in a conspiracy for doing that thing or intentionally aid by any act or illegal commission. In **Ramesh Kumar -vs- State of Chattishgarh** reported in **2001 9 SCC 618**, the Hon'ble Apex Court interpreted instigation as goad, urge forward, provoke, insite or encourage to do an act. In **S. S. Chheena -VS- Vijay Kr. Mahajan and Anr.** reported in **2010 12 SCC 190**, the Hon'ble Apex Court held that abatement involves a mental process of instigating a person or intentionally adding a person in doing a thing. Therefore without a positive act on

the part of the accused to instigate or aid committing suicide, , cannot be sustainable. It is also well settled that for abatement, an active act or direct act, which led the deceased to commit suicide is necessary and it is also necessary that the act must have been intended to push the deceased into such a position that he committed suicide.

13. Now let this court consider the fact of the present case. The important allegation and statement narrated in the FIR are quoted hereinbelow:

“My brother got married with accused No. 1 on 17<sup>th</sup> April, 2019. In this marriage accused No. 4 caused controversy and fights without any reason. That is why my brother asked accused No. 4 the reason for the quarrels but because of this accused No. 1 got angry and said that she will not allow this marriage to happen under any circumstances and saying that accused No. 1 humiliated my family members. At the same time, accused No. 2 and 3 also tried to sabotage the marriage. But my parents had to mediate stating how a marriage can be ended so suddenly and in this way the marriage took place after compromise. Accused No. 1 was fine for a few days after my brother got married. But after the end of my brother's leave of two months, he joined his duty in Arunachal. After a few days Punam went to my brother demanding her to be taken along with him. My brother explained a lot to Punam but she got angry on this. Punam never used to talk properly with my brother even on phone. Punam used to fight with my brother by making false allegations against my parents too, due to which my brother's health deteriorated a lot. The pressure of a job in the Indian Army and the pressure of family conflicts had taken a toll on my brother's mental health.

In the year 2019, at the time of Rakshabandhan, Punam pretended to commit suicide by taking poison which was in the house for spraying on the crops as Punam was not taken to the place of posting of Arjun. Arjun came to know about this and came home after taking leave and after seeing all these incidents he was very sad and his mental health was also affected very badly.

When Punam's health recovered, we brought her to our house. Accused No. 2 and 3 put Sudarshan Prabhakar Jadhav and Yogita Prabhakar Jadhav in front of my brother and abused us by arguing with us and told my brother to take Punam to his job location otherwise leave her by giving divorce. The demand of the Accused by this method took a toll on my brother's mental health. Then after persuading by us, he agreed to take Punam with him. After this Punam and my brother started living in the soldier's quarters in Arunachal Pradesh. There also Punam had a dispute with my brother. Punam asked my brother that how much money you accumulated after working for ten years. Then my brother told that due to poor financial condition of my house, I have invested ten years money in the improvement of the house. And all the money that comes after now will be spent on our world. The Punam said that my brother-in-law accused No. 4, who also works with you. He has bought a house and plot for himself. But you haven't done anything and saying this Punam had a dispute with my brother and told the officers of the army that Arjun had beaten her up. Then the officers called my brother in front and talked about getting him fired. Anyway due to my brother's good job, he also got a promotion in the army in 2018. But my brother was subjected to a lot of mental torture due to Punam exploits. When Punam narrated this incident to his brother-in-law, accused No. 4 called the officers of my brother's unit and demanded legal action against my brother by telling false exploits about Arjun. When my brother asked accused No. 4, why he did this, he abused my brother and threatened to be fired. Arjun told me all these things on the phone.

Accused No. 4 tells Punam that this is resulting out of your husband's mentality wherein he has spent all the money on his family members. He cannot and will not do anything for you. In this way he brainwashed Punam. On being brainwashed Punam argued with my brother. Then the army officers and others misbehaved with my brother and humiliated him in front of everyone, calling him a patient of mental illness and got him admitted at a mental illness hospital in Guwahati.

When I and accused No. 2 went to the Unit to meet Punam and my brother Arjun, Punam humiliated my brother in front of me and said that I do not want to leave with such a madman. Along with this, Punam brother also humiliated my brother by abusing and further accused No. 4 threatened to remove my brother from the job forever by saying that he has connection to the top. Then my brother requested Punam to stay with him but Punam did not accept anything from my brother and came out with his brother.

Due to the above incident my brother's mental condition got very bad. Then we tried hard to convince Arjun on the phone. Then while talking to him on the phone, it seemed that he was under a lot of mental pressure. My brother told me and out brother-in-law how much mental torture Punam and her family members had given him. Along with this Punam and his family members had demanded money from my brother many times and keeping an eye on his salary and fund money. And as soon after Punam got married with my brother, she did demanded divorce from him several times.

While my brother was serving our country, accused 1 to 4 instigated him to commit suicide by inflicting mental and physical torture and by calling him insane. Being fed up with all this, my brother on 19<sup>th</sup> October, 2019 ended his own life by hanging from a tree with the help of Punam's Churni while he was performing his duty at the army camp.

Accused No. 1 to 4 instigated my brother to commit suicide within six months of his getting married.

That's why I request you to register the FIR against accused No. 1 to 4 for abetting my brother Arjun to commit suicide by giving him tremendous mental and physical torture and take legal action against them. Justice should be given to the parents."

14. From reading of the aforesaid detail and elaborate allegation, it is clear that the fundamental allegation is that the accused wife had raised her dissatisfaction as regards the deceased not being able to accumulate sufficient wealth during his

ten years of service, compare to her brother-in-law, who also serves in army. The wife lodged false allegation before the higher officers that the deceased had beaten her and the officers in turn threatened the deceased of getting him fired from job. The brother-in-law of the wife called the deceased unit and demanded legal action against the deceased. The army officers and others misbehaved the deceased and humiliated him in front of others, calling him a patient of mental illness and got him admitted in a Mental Illness Hospital at Guwahati. Due to the above incident, the mental condition of the deceased deteriorated and while during his conversation with the deceased over phone, the informant could gather that the deceased was under mental pressure. It is also alleged that the family of the wife of the deceased demanded money and demanded divorce and thus, the accused Nos. 1 to 4 instigated the deceased to commit suicide and by inflicting mental and physical torture and by calling him insane.

15. The deceased committed suicide 19.10.2019. the marriage was solemnized on 17.04.2009. As the Enquiry Report is part of the F.I.R., some relevant portion of the Enquiry Report is quoted herein below:-

“The indl had put in nine yrs and seven months of physical service. He had two Red Ink entries in his service record. The indl had been awarded three days RI for ‘consumption of alcohol’ by CO 2 RR Bn 05 Mar 2015 in the first instance and seven days RI for Sleeping While On Sentry Duty’ by CO 102 Engr Regt 12 Nov 2015. Field conduct sheet of the indl has been produced as Exhibit-IX.

AFMSF-710 in respect of the indl had been earlier initiated on 28 Jul 2015 and he was admitted to BH Barrackpore. The indl was placed in Low Med Cat S3 (T24) H1A1P1E1 wef 19 Sep 2015 to 04 Mar 2016 pub Vide Part II Order No. 0/06769/0003/2015 for the disability ‘Adjustment Disorder and Dependent Abuse of Alcohol’. Again indl was placed in low med cat S3 (T-24+24 H1A1P1E1 wed 04 Mar 2016 to 19 Aug 2016 pub vice Part II Order No. 0/0274/0010/2016 for the disability ‘Adjustment Disorder and Non Dependent

Abuse of Alcohol' the same has been produced as Exhibit-XX.

The individual was upgraded to Low Med Cat S2 (T24) H1A1P1E1 wef 19 Aug 2016 to 03 Feb 2017 pub Vide Part II Order No. 0/0878/0003/2016 for the disability 'Adjustment Disorder and Dependent Abuse of Alcohol and continued to remain in that Med Cat S2(T24+24)H1A1P1E1 wef 03 Feb 2017 to 21 Jul 2017 pub vide Part II Order No. 0/0317/0012/2017 the same has been produced as Exhibit-XXI. The individual was subsequently upgraded to Med Cat SHAPE-1 vide Caption of Graced Specialist (Psychiatry), 158 BH at 12 Aug 2017 has been produced as Exhibit-XXII.

On 26 Sep 2019, the indl was found in an intoxicated state and has physically assaulted his wife at Government Married Accommodation allotted to him. When he was advised to stop assaulting his wife, the indl reacted violently to the extent of abusing and throwing stones at Officer and NCOs of GE 859 EWS. The indl had to be overpowered, subdued and admitted to 181 MH. His was also administered First Aid at 181 MH (Statement of witness No. 1, 2, 3 & 4).

Post the domestic violence incident on 25 Sep 2019, GE 859 EWS approached family members of the individual and his wife to take her Back to their hometown Mr. Walunj Sagar Prabhakar, younger brother of Spr Walunj Arjun Prabhakar and brother of the individual's wife arrived in station. Subsequently, the individuals' wife left the stn for her hometown on 07 Oct 2019 alongwith her brother and Spr Walunj Arjun Prabhakar's brother. (witness No. 2 & 6).

On 2 Oct 2019, AFMSF-10 in r/o the individual for Aggressive Behavior Post Intoxication was initiated Copy of ASMFSF-10 is produced as Exhibit-XIV. The indl was transferred from 181 MH to 151 BH, for Psychiatric Evaluation on 04 Oct 2019. The indl was discharged and RTU by 151 BH on 15 Oct 2019 after being declared SHAPE-1. He reached GE 859 EWS on 16 Oct 2019. Mov Order from 151 BH is produced as Exhibit-XIII".

16. The statement of the informant recorded by the Investigating Officer under

Section 161 Cr.P.C. is also reproduced hereinbelow:

“On being examination he stated that I am the younger brother of Late Arjun Prabhakar Walunj, Today, I came to PS Rupa from State Maharashtra to give my statement in connection with Rupa PS Case No. 11/201 U/S 306 IPC. That my elder brother was enrolled in Indian Army in the year 2010 and was married one Smt Punam Uttam Patil on 17.04.2019. In that marriage brother-in-law of Punam Shri Jalinder Laxman Waghchaure make a quarrel with my brother Arjun without any reason and he also insulted to my family members stating that Punam will not allow to marry with my brother Arjun. But however my mother and father have mediated and solemnized the marriage. After marriage Punam and my younger brother Late Arjun they were staying at our house happily for a months. And after completion of 2 months leave of my elder brother, he went back to his unit in Arunachal Tenga to join his duty alone. And there after Punam she became quarrel with my brother late Arjun and out of her angry she did not talk with my brother and started to giving blame to my parents and quarreled with my brother Late Arjun, as a result my brother was mentally disorder due to her pressure and quarrel. As a result of which my brother late Arjun got mentally affected. And during the year 2019 Punam she consumed insecticide and make a drama of attempted to commit suicide on the ground that my brother late Arjun did not take her to his duty posting place in Arunachal at Tenga. And then on hearing the incident my elder brother late Arjun he returned back to our home after taking 20 days leave. After that incident Shri Amol Uttam Patil the younger brother of Punam and Shri Uttam Dattatray Patil, they scolded to my brother Arjun in presence of my brother-in-law (jija), Shri Sudarshan Prabhakar Jadhav and his wife Smt Yogita Jadhav and told to my brother to take Punam to his service posting place, if not to give divorce. So my brother taken her to his posting place at Tenga in Arunachal. And after few days staying in Arunachal, Punam she started quarrelling with my brother and she told that her brother-in-law Shri Jalinder Laxman Waghchaure he have purchased flat but my brother could not

do anything for her. And one day Punam she reported to Army office that my brother late Arjun had assaulted her, then the army officer have given warned to my brother that his service will be dismissed and the same incident was told to her brother-in-law(jija) Shri Jalinder Laxman Waghchaure.

Then the matter was again informed to my brothers unit by Shri Jalinder Laxman Waghchuare for taking legal action against my brother late Arjun and he also scolded to may brother that my brother can do nothing to punam. In this regards Punam she always quarrel with my brother and also the army officer they also misbehaved to my brother by saying that my brother is a mental patient. And one day when I along with Punam and her brother Shri Amol Uttam Patil were visited to my brother unit, Punam she insulted to my brother in presence of me, stating that she will not stay with the mad person and Shri Amol Uttam Patil he scolded to my brother too. And there after I along with Punam and Shri Amol Uttam Patil went to our native home back from Arunachal and simultaneously my brother was also forwarded to 151 BH at Guwahati mental Hospital. And it is to inform you that the family members of Patil i.e. (1) Smti Punam Uttam Patil, 2. Shri Amol Uttam Patil, 3. Shri Uttam Dattatray Patil and 4. Shri Jalinder Laxman waghchaure, they demanded for divorce to Punam with giving mental pressure to my brother, as a result my brother late Arjun was committed suicide on 19.10.2019 by hanging with the dupatta of his wife Punaj. This much I have to say”.

17. Statement of another witness who is the brother-in-law of the deceased is also quoted hereinbelow:

“On being examination he stated that as below:- That I am the brother-in-low of Shri Sagar Prabhakar Walunj. I married to his siser and have a one son & one daughter.

Question:- Can you say regarding the family dispute in between Smty Punam Uttam Patil and Late Arjun Prabhakar Walunj?

Answered:- He answered that no sir, the matter of quarrelling in between Arjun

and Punam these are family matter, as I am staying in my village which is about 15 km far away from their village. But I can say a few words about the family of Late Arjun and Punam. A days ago before the marriage of my brother-in-law late Arjun to Punam. I along with Late Arjun were visited in the house of Punam to see her and could saw her from a distance and find her well and late Arjun also accepted to marry her and we leave from her home. There after a month Arjun was married to Punam.

After a month Arjun was married to Punam. During the marriage party one Shri Jalinder Laxman waghchaure, (jija) brother-in-law of Punam have try to stop the marriage in between Arjun & Punam. But however, the mother and father of Arjun, they have mediated with Punam and finally they couple Arjun and Punam married on 17.04.2019. And they were stay in their village for a month happily, and after completion of leave of Arjun he went back to Arunachal to join his duty, and after few days Punam & Arjun they started family quarrelling as information received from Shri Sagar Prabhakar Walunj, and Punam she said that if she will not taking her to Arunachal Pradesh the posting place of Arjun She, will consume insecticide, and after a days passed Punam she make a drama of attempted to commit suicide by consumed insecticide for not taking her to Arunachal with Arjun, and one day I along with my wife were visited in the house of Arjun after Punam was taken back to her house from hospital. During my visit Shri Uttam Dattatray Patil father of Punam and her brother Shri Amol Uttam Patil and Punam & Arjun (wife husband) they were present. During that time Punam and Shri Amol Uttam Patil they told to Arjun to take her in his service posting place or to give divorce her. So I suggested Arjun to take her (Punam) to Arunachal to stay happily. This much I have to say”.

18. This court has also meticulously perused the alleged transcribed conversation between the brother-in-law and the deceased on the fateful night, transcribed and submitted by the informant which also discloses nothing as regards any instigation or abatement by the accused person, rather the conversation discloses

the marital discord between the husband and wife. Further, the said brother-in-law has also not disclosed anything in his statement recorded by the Investigation Officer as regards his last conversation between him and the deceased, though the transcription was made by the informant brother of the deceased.

19. Be that as it may, this court in exercise of its power under Section 482 Cr.P.C. shall not deal with whether the statements are correct or not, rather this court will proceed in this matter by taking all the materials available on record, including the transcriptions, the statements at its face value.
20. From the aforesaid point of view and the material, leads this court to take an unhesitant view that there is nothing in the aforesaid material, which suggest an instigation, provocation, incite capable of leading to consequence of commission of suicide. From the aforesaid material though it is clear that there were marital discord between the husband and wife on the issue of keeping the wife at the place of posting of deceased husband, his alcohol abuse, and for some financial demand however, in the considered opinion of this Court, the materials collected, even if is taken in it's face value and treated to be correct, it cannot be said that the accused persons had by their act or omissions or by a continued course of conduct created such a circumstance that the deceased was left with no other option except to commit suicide. Such marital discord cannot be said to be an instigation to commit suicide. Rather materials are available on record suggesting that the wife was staying with the deceased husband at the place of posting in the month September, 2019 and on 26<sup>th</sup> of September, 2019, the deceased allegedly physically assaulted the accused wife in an intoxicated state and thereafter on 02.10.2019, for the reason of aggressive behavior, post intoxication, the deceased was transferred for psychiatric evaluation to a hospital and he was discharged on 16.10.2019 and was shifted to unit lines on 16.10.2019 from his quarter and on 19.10.2019, he committed suicide.

21. In the totality of the matter and taking all the materials available on record to be correct, this court do not find any active act or direct act on the part of the accused persons, which led the deceased to commit suicide and this court from the aforesaid materiel, do not find anything which suggest that the accused persons by their action have intended to push the deceased in to such a position that he committed suicide. The mere allegation of harassment and marital discord, demand to stay with the husband at his place of posting, demand to acquire property for the husband and wife, without there being any materials suggesting any positive action proximate to the time of occurrence on the part of the accused persons, which led or compelled the person to commit suicide, in the considered opinion of this Court, cannot constitute an offence under Section 306 IPC.
22. Further, this Court even if it takes the alleged conversation between the deceased and his brother-in-law immediately before committing suicide to be true, the same also do not suggest any positive action, which can lead or compel the deceased to commit suicide except, allegation that whenever the husband and wife starts conversation quarrel happens and that if he is dismissed from service, there will be no value of his contribution to the arm forces for last 10 years.
23. For the reason recorded hereinabove, this court is of the unhesitant view that the necessary ingredients of the offence of abetment to commit suicide are not made out from the FIR, the statement of the witnesses, from the last conversation between the deceased and his brother-in-law and also from the Court of Enquiry Report, which are all parts of the investigation. Therefore, in the considered opinion of this Court, no justifiable ground to permit the investigation for the offences under Section 306 IPC exists and accordingly, the present criminal petition stands allowed.

24. Accordingly, this criminal petition stands allowed by setting aside and quashing the FIR registered as Rupa P.S. Case No. 11/2021 under Section 306 of IPC. Case diary be returned back.

**JUDGE**

**Comparing Assistant**