

**HIGH COURT OF TRIPURA
AGARTALA
CRL.A(J) NO.31 OF 2024**

Sri Ripan Das,
S/o. Late Tarini Kanta Das,
Resident of Birajnagar, Satsangam GP,
W/ No-05, P.S.-Kadamtala,
District-North Tripura.

..... **Appellant(s)**

Versus

The State of Tripura,
Represented by the Secretary,
To the Department of Home,
New Secretariat, Kunjaban,
P.S. N.C.C., District-West Tripura.

.....**Respondent(s)**

For the Appellant(s) : Mr. Samar Das, Advocate.

For the Respondent(s) : Mr. Raju Datta, P.P.

Date of hearing and delivery of
Judgment & Order : 14.05.2025.

Whether fit for reporting : YES/NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

This appeal has been filed against the Judgment and Order of conviction dated 22.09.2023 passed in S.T.(T-1) 08 of 2019 by the Learned Sessions Judge, North Tripura, Dharmanagar. By this judgment, the Learned Judge sentenced the appellant to rigorous imprisonment for three years and imposed a fine of Rs.

5,000/- for the offence punishable under Section 498-A of the IPC. In default of payment, the appellant is to undergo further imprisonment for six months. The appellant has been also sentenced to rigorous imprisonment for five years and fined Rs. 5,000/- for the offence punishable under Section 306 of the IPC, with a default stipulation.

2. The brief facts of the case are that on 24.07.2017, one Anil Mahishya Das filed an ejahar stating, *inter alia*, that on 02.07.2012, the appellant-Ripan Das and his wife Rebati Das (*now deceased*) eloped due to a love affair and subsequently got married. A baby girl was born out of their wedlock. Thereafter, the appellant began subjecting his wife to mental and physical torture, demanding a plot of land and cash to construct a hut. The victim informed her father, who expressed his inability to meet these demands due to financial constraints. Despite this, the appellant continued to torture his wife. Neighbours attempted to mediate, but to no avail. On 22.07.2017, the victim, unable to bear the torture, committed suicide in the appellant's house at Birajanagar, Satsangam Gaon Panchayat under Kadamtala P.S., North Tripura. The informant lodged an ejahar at Kadamtala P.S., which was registered as Kadamtala P.S. Case No. 2017 KDL 029 dated 24.07.2017.

3. Upon completion of the investigation, the investigating officer submitted a charge sheet against the appellant under Sections 498-A and 304B of the Indian Penal Code. Charges were later framed under Sections 498-A and 306 IPC. The prosecution examined 27 witnesses and exhibited various documents in support of its case.

4. The Learned Trial Court, after hearing the parties, framed the following points for determination:-

i. Whether the accused Ripan Das, after his marriage with the deceased Rebati Das on 02.07.2012, subjected her to physical and mental cruelty at their residence in Birajanagar, Satsangam Gaon Panchayat, Ward No. 5, under Kadamtala P.S., North Tripura District, to meet his unlawful demand for land and cash?

ii. Whether on 22.07.2017, the accused abetted the suicide of his wife Rebati Das by subjecting her to such cruelty?

5. After considering the arguments and evidence, the Learned Trial Court delivered the Judgment and Order of conviction as mentioned herein above.

6. Being aggrieved and dissatisfied with the Judgment and Order dated 22.09.2023, the appellant has preferred this instant appeal.

7. Heard Mr. Samar Das, learned counsel appearing as Legal Aid Counsel for the appellant, and Mr. Raju Datta, learned Public Prosecutor, appearing for the State-respondent.

8. Mr. Das, learned counsel contended that there is no evidence on record to suggest any direct act or conduct by the accused that aided or instigated the victim to commit suicide. The conviction was based on the testimony of P.Ws:- 3, 5, 16, and 18. Apart from these four witnesses, no other witness deposed about any cruelty. Even their statements mention only occasional quarrels, which are part and parcel of the matrimonial life. These witnesses stated that the victim told them about a month before her death that she was being physically tortured by the accused. Mr. Das, learned counsel argued that such statements are inadmissible under Section 32(1) of the Indian Evidence Act as they do not qualify as dying declarations.

On this aspect, learned counsel referred to **Para-13, 14, 15** and **21** of the Judgment of the Hon'ble Supreme Court reported in **(2009) 13 SCC 80** titled as **Bhairon Singh Vs. State of Madhya Pradesh**. The same is reproduced here-in-under:-

"13. The moot question is: whether the statements attributed to the deceased could be used as evidence for entering upon a finding that the accused subjected Ranjana Rani @ Raj Kumari to cruelty as contemplated under [Section 498A](#), IPC.

14. In our considered view, the evidence of PW-4 and PW-5 about what the deceased Ranjana Rani @ Raj Kumari had told them against the accused about the torture and

harassment is inadmissible under Section 32(1) of the Evidence Act and such evidence cannot be looked into for any purpose.

15. Except Section 32(1) of the Indian Evidence Act, there is no other provision under which the statement of a dead person can be looked into in evidence. The statement of a dead person is admissible in law if the statement is as to the cause of death or as to any of the circumstance of the transactions which resulted in her death, in a case in which the cause of death comes into question. What has been deposed by PW-4 and PW-5 has no connection with any circumstance of transaction which resulted in her death. The death of Smt. Ranjana Rani @ Raj Kumari was neither homicidal nor suicidal; it was accidental. Since for an offence under Section 498A simpliciter, the question of death is not and cannot be an issue for consideration, we are afraid the evidence of PW-4 and PW-5 is hardly an evidence in law to establish such offence. In that situation Section 32(1) of the Evidence Act does not get attracted."

9. In response, the Learned P.P. referred to the testimony of P.W-2, a neighbour, who deposed that the victim was still alive when brought down after hanging. The accused had time to save her, but she was not taken to the hospital despite being advised to do so. She died an hour later. This, according to the prosecution, indicates the appellant's negligence and passive role in her death.

10. To this, the appellant's counsel argued that there is no corroborating medical evidence to support P.W:-2 claim that the victim was alive at that time.

11. The Learned P.P. further referred to the testimonies of P.Ws:- 3, 4, 15, and 16 (neighbours), who all confirmed that the appellant used to torture the victim. These facts were not effectively denied. The prosecution also highlighted that the victim was pregnant at the time of her death and argued that no mother would

commit suicide and kill her unborn child unless pushed to the extreme.

12. The appellant's counsel conceded that the victim was pregnant and accepted that occasional quarrels may have taken place. However, he argued that the mere fact of being the husband does not make one guilty under Section 306 IPC. A general history of quarrel does not amount to abetment. For an offence under Section 306 IPC, abetment must be proximate and not remote.

To support his argument, learned counsel referred to **paras-15, 16, 17, 18, 19, 20, 22, 23, 24, 25 and 25.1** of the recent Judgment of the Hon'ble Supreme Court reported in **2025 LiveLaw (SC) 288** bearing No.**Criminal Appeal No.1388 of 2014** dated **March 05, 2025** titled as **Patel Babubhai Monahardas and ors Vs. State of Gujrat**. The same is reproduced here-in-under:-

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

then whoever abets the commission of such suicide shall be punished as above.

16. Therefore, the crucial word in Section 306 IPC is 'abets'. 'Abetment' is defined in Section 107 of IPC. As per Section 107 IPC, a person would be abetting the doing of a thing if he instigates any person to do that thing 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. There are two explanations to Section 107. As per Explanation 1, even if a person by way of wilful misrepresentation or concealment of a material fact which he is otherwise bound to disclose voluntarily causes or procures or attempts to cause or procure a thing to be done, is said to instigate the doing of that thing. Explanation 2 clarifies that whoever does anything 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.

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

18. In Ramesh Kumar v. State of Chhattisgarh¹, this Court held that to 'instigate' means to goad, urge, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. Where the accused by his act or omission or by his continued course of conduct creates a situation that the deceased is left with no other option except to commit suicide, then 'instigation' may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be 'instigation'.

19. Elaborating further, this Court in Chitresh Kumar Chopra versus State (Govt. of NCT of Delhi)² observed that to constitute 'instigation', a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by 'goadings' or 'urging forward'. This Court summed up the constituents of 'abetment' as under:

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

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

20. Amalendu Pal alias Jhantu versus State of West Bengal³ is a case where this Court held that in a case of alleged abetment of suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 IPC would not be sustainable. Similar view has been expressed by this Court in case of Ude Singh versus State of Haryana⁴.

21. After considering the provisions of Sections 306 and 107 of IPC, this Court in Rajesh versus State of Haryana⁵ held that conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide.

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

23. This Court in Amudha versus State⁶ held that there has to be an act of incitement on the part of the accused proximate to the date on which the deceased committed suicide. The act attributed should not only be proximate to the time of suicide but should also be of such a nature that the deceased was left with no alternative but to take the drastic step of committing suicide.

24. Again, in the case of Kamaruddin Dastagir Sanadi versus State of Karnataka⁷, this Court observed that discord and differences in domestic life are quite common in society. Commission of suicide largely depends upon the mental state of the victim. Until and unless some guilty intention on the part of the accused is established, it is ordinarily not possible to convict the accused for an offence under Section 306 IPC.

25. Prakash versus State of Maharashtra⁸ is a case where this Court after analysing various decisions on the point summed up the legal position in the following manner:

14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide.

25.1. In the aforesaid judgment, this Court referred to its earlier decision in Sanju @ Sanjay Singh Sengar versus State of M.P.9 and held that in a given case, even a time gap of 48 hours between using of abusive language by the accused and the commission of suicide would not amount to a proximate act."

13. Regarding the implication of Section 498-A of IPC, learned counsel appearing for the appellant submits that only the P.W.1, the mother and P.W.15, the father, these two witnesses only stated that the deceased victim was torture on demand on homestead land. P.W.-5 the landlord stated that after few days of staying as tenant, the accused person purchase land to construct a house. Except P.W.1 and P.W.15, there is no such statement made by other witnesses. On the basis of omnibus statement Section 498-A of IPC cannot be invoked. Stating thus, the learned counsel submits that impugned Judgment be set aside and to allow this appeal.

14. Learned P.P., submits that on Section 498-A, there are sufficient witnesses who stated that she was torture by the husband. P.Ws.-1 and 15 stated that she was torture by the accused on the demand of homestead land. The fact that she committed suicide is corroborated with the evidence of torture as evident by the statement of the witnesses, is enough to convict the victim under Section 498-A of IPC.

15. Heard and perused the evidence on record.

16. Before delving into the conclusion, let us examine some crucial evidences.

17. P.W.1, Smt. Ashima Mahishya Das deposed that about 5 to 6 years ago, her stepdaughter Rebati Das was married to Ripon Das. After the marriage, Ripan demanded a homestead, but the family could not provide one. Out of the said wedlock, Rebati gave birth to a female child and was pregnant again. Approximately seven months into her pregnancy, the family received information of her death. The witness stated that they suspected Rebati did not die a natural death but was murdered. She further stated that Ripan Das was employed as a Special Police Officer (SPO) in the office of the Superintendent of Police, North Tripura.

18. P.W.2, Smt. Archana Karmakar deposed that she is a neighbour of Ripan Das. On the day of the incident, she returned home at about 3:00 PM and, upon arrival, heard hue and cry from the direction of Ripan Das's house. He immediately rushed to the spot and found Rebati hanging in the kitchen room. Using a dao (sharp cutting tool), she cut the rope and brought Rebati down. At that time, Rebati was still alive, and he advised Ripan and others to shift her to the hospital for treatment. However, Rebati was not taken to any hospital and subsequently died.

In the cross-examination, she stated that Rebati died approximately one hour after being brought down from the hanging position. At the time of the incident, many people had gathered, and they had rushed to the spot upon hearing Ripan raise an alarm.

19. P.W.-3, Bijoya Das, a housewife by occupation deposed that approximately 3 to 4 years prior, one Rebati, their neighbour, had passed away. About one month before Rebati's death, upon hearing hue and cry from Rebati's house, the witness came out of her residence and saw Rebati going somewhere while stating that she would die. The witness consoled her and escorted her back to her house. Rebati expressed to the witness that her husband had committed cruelty upon her, which led her to feel that she no longer wished to live. The witness then asked Ripan (Rebati's husband) about the allegations made by Rebati, to which he replied that it was a private family matter and that no one else should interfere.

20. P.W.-4, Sri Amodini Das also stated that about one month's before the death of the victim, he found Rebati going away from her house crying and also saying that she will not survive any more and being asked she reported that her husband assaulted her physically.

21. P.W.5, Sri Bidyut Das deposed that Ripan Das and his wife Rebati once lived as tenants in his house, as their marriage was not accepted by their families. Later, Ripan purchased a plot of land, constructed a new house, and shifted there with his wife. During their stay at his house, the witness once saw Ripan and Rebati quarrelling over tangra fish, but otherwise found them living peacefully.

22. P.W.15, Sri Anil Mahishya Das the father of the deceased-Rebati Das, deposed that on 02-07-2012, his minor daughter Rebati was enticed and married by the accused Ripan Das. Despite initial resistance from both families, the couple lived together and had a female child. They resided in a rented house initially, where the child was born. Later, Ripan Das requested land from the witness's homestead to settle with his wife and child, but the witness refused, citing limited resources and responsibilities towards two unmarried daughters. Following this, the witness alleged that disputes arose between Ripan and Rebati, and Rebati was subjected to ill-treatment and physical abuse, especially after repeated pressure to bring money and land from her father. The witness stated that his daughter was even sent home multiple times with such demands. On 22-07-2017, when Rebati was six months pregnant, a fellow SPO informed the witness to visit Ripan's house.

On arrival, he found Rebati's body lying inside the dwelling hut, and was told by Ripan that she had committed suicide. The witness suspected foul play, attributing the death to murder by Ripan, due to the ongoing disputes over land and money. He also stated that Ripan tried to cremate the body secretly, but the witness intervened and reported the matter to the police.

23. P.W.-16 who is the neighbour also stated that Rebati was severely beaten by her husband.

24. Heard the perused the evidence on record.

25. On the charge made under Section 306 of IPC, the Apex Court in the **Patel Babubhai Monohardas and ors(supra)**, observed that "*Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 of IPC would not be sustainable.*"

26. Here in the instant case, the prosecution failed to establish a proximate link between the alleged acts of cruelty and the deceased's decision to commit suicide. No specific evidence was found that the accused instigated, provoked, or aided the deceased to take the extreme step. Here the witnesses deposed that one month back there was a quarrel between the accused and the victim

but nowhere in the record or from the deposition of the witnesses, it is revealed that proximate to the time of occurrence, the accused instigated or provoked the victim to commit suicide. P.W.5, i.e., land lord deposed that there was quarrel between the couple on the matter of tangra fish otherwise, during the stay in his house, they were living peacefully.

27. In view of the above fact, this Court is of the opinion that mere existence of matrimonial discord, even if proven, does not automatically attract the rigors of Section 306 of IPC unless there is clear evidence of incitement or abetment. The prosecution's evidence, including witness testimony and circumstantial facts, did not satisfy the threshold of intentional aiding as required under Section 107 IPC (which defines abetment). In view of the above, the accused is acquitted of the charge under Section 306 IPC.

28. On the charge made under Section 498-A IPC, the evidence brought on record, including credible testimony of witnesses, particularly the victim's family members and their neighbours, establishes that the accused subjected the deceased to mental and physical cruelty. The pattern of behaviour shown by the accused amounts to *"willful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or*

danger to her life, limb or health," as defined under Section 498-A of IPC.

29. The causal connection to suicide could not be established for Section 306 of IPC, the incidents of sustained cruelty and harassment are proven from the disposition of P.Ws:-3, 4, 15 and 16 and it squarely falls within the ambit of Section 498-A of IPC. The defence could not rebut the evidence of harassment with any credible or consistent alternative explanation. Accordingly, the accused is held guilty under Section 498-A IPC.

30. The charges against the accused under Section 306 of IPC stands set aside as not proved beyond reasonable doubt.

31. The sentence under Section 498-A of IPC stands upheld. The accused shall undergo punishment.

32. With the above observation and direction, this present appeal stands disposed of.

33. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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