



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 275 OF 2016

Bapurao S/o Babruwan Gunjote

Age: 31 years, Occu.: Agri.,

R/o. Shivani (Kotal),

Tq.Nilanga, District Latur.

....Appellant

Versus

The State of Maharashtra

.....Respondent

.....
Ms.Shilpa Aurangabadkar h/f. Mr.Satej S.Jadhav, Advocate for Appellant.
Mr.V.V.Jahagirdar, APP for Respondent
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 14-10-2026

Pronounced on : 15-10-2026

JUDGMENT :

1. Appellant hereby takes exception to Judgment and order of conviction dated 04-04-2016 passed by learned Additional Sessions Judge, Nilanga in Sessions Case No.22 of 2011 convicting appellant/accused No.1 for offence under Sections 498-A and 306 of the Indian Penal Code (IPC).

CASE OF PROSECUTION IN BRIEF

2. In short, story of prosecution in trial Court was that, deceased Ranjana, daughter of informant Gauradevi, was married to appellant on 19-11-2009. It was decided amongst the parties to pay

Rs.1,05,000/- and 2 tola gold by way of dowry to accused. Actually, at the time of marriage, only Rs.65,000/- cash and 2 tola gold was given and remaining Rs.40,000/- was to be paid within 4 months. According to prosecution, for 2 months or so Ranjana was treated properly, however, thereafter, there was ill treatment for balance dowry. Deceased reported it to her family members. In spite of understanding given to accused, demand and ill treatment continued and so, according to prosecution, getting fed up of the same, Ranjana committed suicide by jumping in the well. On report to that extent, Crime No.39 of 2011 was registered at Police Station Nilanga for offence under Sections 498-A, 304-B, 306 read with 34 of the IPC, duly investigated by PW6 Investigating Officer and accused came to be chargesheeted.

Trial was conducted against in all six accused persons for charge under Sections 498-A, 306, 304-B read with 34 of IPC and vide Judgment and order dated 04-04-2016, accused Nos.2 to 7 were acquitted from all above charges, but appellant husband alone came to be convicted and so he is before this Court challenging the said Judgment.

BRIEF ACCOUNT OF EVIDENCE BEFORE TRIAL COURT

3. **PW1** Babu, cousin father-in-law of deceased, who gave

report/khabar Exhibit 66, deposed at Exhibit 64 regarding Ranjana jumping in the well and committing suicide.

4. **PW2** Karbas is brother of informant. He deposed at Exhibit 68 about settlement of marriage on dowry of Rs.1,05,000/- and 2 tola gold, but in the marriage, Rs.65,000/- and 2 tola gold was given and remaining Rs.40,000/- was agreed to be given within four months from marriage. In paragraph 4, he stated that, after 2 months of marriage, there was ill treatment in the nature of starvation, abuses, taunting for balance dowry and he used to learn about it from informant PW4 Gauradevi. In paragraph 6, he claims to have learnt about suicidal death of Ranjana by jumping in well.

5. **PW3** Suresh is pancha to inquest panchanama and he deposed at Exhibit 70 about inquest panchanama Exhibit 71 being drawn in his presence.

6. **PW4** Gauradevi is informant and mother of deceased. She in her evidence at Exhibit 73 testified that her daughter Ranjana married to accused No.1 six years back. She also deposed about dowry decided to be given to the tune of Rs.1,05,000/- and 2 tola gold and that in marriage Rs.65,000/- cash and 2 tola gold was given and

balance amount was agreed to be given within four months. In paragraph 2, she deposed that, there was proper treatment to deceased Ranjana for 2 months, but thereafter there was ill treatment in the nature of starvation, beating, keeping her standing on one leg in the backdrop of demand of balance dowry and this she claims to have learnt when she met her daughter in the hospital while Ranjana was admitted for some ailment and she brought her home. She deposed that, appellant husband telephoned to send her back and also to send balance dowry of Rs.40,000/-. In paragraph 3, she reported that Ranjana reached back to her matrimonial house and according to her, accused had not allowed her to meet them to Ranjana. That, being annoyed with the ill treatment, Ranjana fell in the well and she lodged report Exhibit 74.

7. **PW5** Kalpana @ Rani is sister of deceased and she, at Exhibit 76 in paragraph 1, deposed about settlement of marriage of Ranjana on dowry of Rs.1,05,000/- and 2 tola gold and in actual marriage, Rs.65,000/- and 2 tola gold was given and balance Rs.40,000/- was to be paid within four months. In paragraph 2, she deposed that, there was ill treatment in the nature of taunting, assault, asking her to stand on one leg for balance dowry. She claims that, she used to have telephonic talks with her sister and enquire with her. She also

deposed about learning on telephone on 22-03-2011 that Ranjana fell into the well.

8. **PW6** Keshav Latpate (PI) is the Investigating Officer, who narrated about all steps taken by him during investigation.

SUBMISSIONS

On behalf of Appellant :

9. Pointing to the above evidence, learned counsel for appellant would submit that apparently there is false implication. She would submit that, prosecution has failed to prove whether death was only and only suicidal. It is pointed out that, it has come in the evidence of family members that well water was used for drinking. That, it was unconstructed well. That, PW1, who gave report/khabar, has deposed about noticing footwear and pitcher at the well. Consequently, she submits that, there is every possibility of accidental fall while fetching water.

10. As regards to dowry is concerned, she submits that, there is no independent witness except family members. That, moreover, even learned trial Court has disbelieved prosecution case and has acquitted appellant from charge of Section 304-B of the IPC. However, she

expresses concern for conviction being recorded against only appellant husband, when on the same set of evidence, other six accused are given clean chit. She would submit that, allegations as regards to ill treatment are general, omnibus, vague and non specific.

11. According to her, PW4 informant's evidence does not find support. That, her testimony is full of material omissions. As regards to evidence of PW5 sister of deceased is concerned, she questions its credibility, as according to her, when this witness claims to have conversations with deceased on telephone, her own mother PW4 informant in cross-examination has admitted that, deceased had no phone and therefore, she urges to preclude sister's testimony. Likewise, she also points out that, PW2 brother of informant i.e. maternal uncle of deceased also has hearsay information. For above reasons, learned counsel for appellant prays for allowing the appeal by setting aside the impugned Judgment.

On behalf of State :

12. Per contra, learned APP would justify the judgment of conviction. According to him, prosecution witnesses have consistently deposed on the point of demand as well as ill treatment. That, they have withstood the cross-examination. He would specifically points

out that very tenor of cross-examination goes to show that there was no serious challenge or dispute about dowry demand or part acceptance. Resultantly, supporting the judgment, he prays to dismiss the appeal and urges not to interfere in the impugned judgment.

ANALYSIS AND CONCLUSION

13. There is no challenge or dispute that appellant was married to deceased Ranjana on 19-11-2009. Unnatural death of deceased is of 22-03-2011. Therefore, roughly cohabitation between appellant and deceased was for one year and four months. There are allegations of mal treatment after two months for remaining dowry for Rs.40,000/-.

PW4 Informant, mother of deceased, who is examined at Exhibit 73, narrates the nature of ill treatment as starvation, beating, keeping Ranjana standing on one leg. PW5 sister of deceased, at Exhibit 76 in paragraph No.2 also stated that there was taunting, assault and making Ranjana stand on one leg. PW2 brother of informant in his evidence at Exhibit 68 in paragraph 4 deposed that, ill treatment was inflicted in the nature of putting to starvation, abused and taunting.

PW4 Informant, mother of deceased in paragraph 2 of examination-in-chief stated that, she learnt about ill treatment when she met deceased in hospital at Nilanga. However, in paragraph 11 of

the cross-examination, omission is brought about meeting deceased in the hospital and she reporting ill treatment. Therefore, this is material omission.

As regards to evidence of PW5 sister of deceased is concerned, she has deposed about having conversations with deceased and claims to have learnt about ill treatment from her, but in cross-examination of her mother PW4, in paragraph 8, it has come on record that deceased was not using mobile. Therefore, PW5 sister's version comes under shadow of doubt.

PW2 brother of informant, in paragraph 4 of his examination-in-chief stated that he learnt about ill treatment from PW4 informant. Therefore, apparently this witness has hearsay information.

14. Above witnesses attribute ill treatment in the form of starvation, beating, making deceased Ranjana stand on one leg. In each of the above prosecution witnesses' testimony, such role is attributed to all accused. Which of the accused did what and when Ranjana was kept without food, when she was beaten, and when the episode of making her stand on one leg had happened, has not stated by any of the witnesses. As there was cohabitation for more than a year, instances were expected to be stated. Therefore, apparently sweeping allegations are made.

15. It is fairly settled position that details of the infliction of ill treatment are to be supplied. Prosecution version comes under shadow of doubt when allegations are general and vague. Law to this extent is propounded by the Hon'ble Apex Court in the case of ***Rajesh Chaddha v. State of Uttar Pradesh*** [2025 SCC OnLine SC 1094]. The Hon'ble Apex Court has observed in paragraph 14 as under :

“The term "cruelty" is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant.”

Likewise, in the case of ***Manju Ram Kalita v. State of Assam***, (2009) 13 SCC 330, the Hon'ble Apex Court has observed that, it must be established that the woman has subjected to cruelty continuously or in close proximity of time of lodging the complaint.

Here, none of the witnesses including PW4 informant has given specific instances as to when deceased Ranjana was kept starved, who taunted in what form, and who beat when. Resultantly, such evidence cannot be applied to bring home the guilt of accused for offence under Section 498-A IPC.

16. Learned trial Court has convicted appellant for offence under Section 306 of the IPC i.e. abetment to commit suicide by Ranjana.

Here, learned counsel for appellant would point out that prosecution has not proved beyond reasonable doubt that death of Ranjana was only and only suicidal and not otherwise. Advancing a theory of accidental fall while fetching water, attention of the Court is invited to the testimony of PW1 who gave khabar and who in his testimony has stated that when he went to the well, he saw footwear and pitcher at the well. It has also come in the evidence that the well was unconstructed. However, as pointed out by learned APP, spot panchanama is silent about any such articles at the spot.

17. Resultantly, it is to be seen whether appellant husband abetted the suicide. Before advertng to the evidence on record, it would be profitable to give brief account of essential ingredients and judicial precedent on the point of charge of 306 of the IPC.

Essential ingredients to attract offence under Section 306 of IPC :

- (1) There was suicide of a person;
- (2) It was committed in consequence of abetment of the accused.

The *sine qua non* for above charge is abetment to commit suicide. As to what amounts to abetment is provided in the statute

itself.

“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.”

“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 said 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.”

Judicial Precedent :

18. There are numerous and series of judgments of the Hon’ble Apex Court on above penal section. A few landmark judgments could be enumerated as under:

In the case of *Swamy Prahaladdas v. State of M.P. and another*, 1995 Supp (3) SCC 438: (AIROnline 1995 SC 94), the Hon’ble Supreme Court was considering a situation where the accused was

alleged to have remarked to the deceased 'to go and die' and thereafter, the deceased committed suicide. Even in such a situation the Hon'ble Supreme Court held that the allegations, even if they were to be accepted as it is, did not *prima facie* reflect *mens rea* on the part of the accused and it was also found that the deceased did have time to weigh the pros and cons of the act by which he ultimately ended his life. It was held that the accused need not face the charge in such a situation.

19. In the case of ***Sanju alias Sanjay Singh Sengar*** (supra), the Hon'ble Supreme Court was considering a situation where the deceased had left behind a suicide note, wherein it was specifically stated that the accused was responsible for his death. In the said case, the Hon'ble Supreme Court considered the liability of the accused to face investigation and prosecution under Section 306 of the IPC, in the context of Section 107 thereof and it was held that the word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite, further holding that presence of *mens rea*, therefore, was a necessary concomitant of instigation. It was found that in the said case the alleged abusive words were used by the accused against the deceased, two days prior to the date when the deceased was found hanging. In these

circumstances, the Hon'ble Supreme Court found it fit to quash the criminal proceedings.

20. In the case of *Madan Mohan Sing v. State of Gujarat and another*, (2010) 8 SCC 628 : (2010 AIR SCW 5101), the accused was alleged to have instigated his driver to commit suicide. There was a suicide note of 15 pages left behind by the deceased and the accused had approached the High Court for quashing of the FIR and the criminal proceedings, but his prayer was rejected, as consequence of which, the accused was before the Hon'ble Supreme Court seeking relief. The Hon'ble Supreme Court applied Section 306 read with 107 of the IPC and found that there has to be proximity between the alleged acts of the accused and the extreme step taken by the deceased of committing suicide. It was held that the allegations made and the material ought to be of a definite nature and not imaginary or inferential. The Hon'ble Supreme Court went into the suicide note of about 15 pages and found that the contents thereof expressed the anguish of the deceased, who felt that his boss (the accused) had wronged him, but it was noted that the contents fell short of depicting an intentional act on the part of the accused for driving the deceased to commit suicide. On this basis, the judgment of the High Court was set aside and the FIR and criminal proceedings were quashed.

21. In the case of *S.S. Chheena v. Vijay Kumar Mahajan and another* (2010) 12 SCC 190 : (2010 AIR SCW 4938), the Hon'ble Supreme Court considered the facts of the said case and after referring to Sections 107 and 306 of the IPC, found that the High Court had erred in not quashing the criminal proceedings. Reference was made to a series of judgments on the aspect of abetment, particularly in the context of instigation. It was observed in the said judgment as follows:-

“25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

26. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.”

22. In the case of ***Vaijnath Kondiba Khandke v. State of Maharashtra and another*** (2018) 7 SCC 781 : (AIR 2018 SC 2659), the Hon'ble Supreme Court took note of the fact that there were indeed two lines of cases in the context of quashing of criminal proceedings, when the accused was facing charge of offence under Section 306 of the IPC. After taking note thereof, in the said judgment, the Hon'ble Supreme Court held that the accused may face trial if the material on record *prima facie* shows that the situation was created deliberately by the accused so as to drive the victim to suicide. On the facts of the said case, it was found that the FIR and the criminal proceedings deserved to be quashed.

23. In the case of ***Geo Varghese v. State of Rajasthan and Another***, (2021) 19 SCC 144, the Hon'ble Supreme Court held as follows:

“23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily

expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

24. In the case of ***Shabbir Hussain v. The State of Madhya Pradesh and others*** (order dated 26/07/2021 passed in SLP (Cri) No. 7284/2017) : *AIR Online 2021 SC 761*, the Hon’ble Supreme Court relied upon earlier judgment in the case of ***Amalendu Pal*** (supra) and held that mere harassment without any positive action on the part of the accused proximate to the time of occurrence, which led to the suicide, would not amount to an offence under Section 306 of the IPC.

25. Further, in the case of ***Kishori Lal v. State of M.P. (2007) 10 SCC 797***, the Hon’ble Apex Court gave a clear exposition of Section 107 of the IPC when it observed as follows in para 6:

“6. Section 107, IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when

(1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. “Abetted” in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.”

26. Here, apparently occurrence is of 22-03-2011. There is no evidence to show that on that specific day or in proximity to it, there was any incident or episode involving appellant husband in instigating deceased or inducing her to commit suicide. No role whatsoever is attributed to him. Therefore, charge of Section 306 is not proved beyond reasonable doubt.

27. It is also pertinent to state that, on the same set of evidence, learned trial Court has acquitted original accused Nos.2 to 7 from all

the charges.

Law is fairly settled that, on the same set of evidence, if co-accused is acquitted then other accused also deserves similar treatment on the ground of parity. On this proposition, reliance can be placed on the Judgment of Hon'ble Apex Court in the case of ***Javed Shaukat Ali Qureshi v. State of Gujarat***, MANU/SC/1012/2023 wherein earlier judgment of Hon'ble Apex Court in the case of ***Harbans Singh v. State of U.P. and Others*** reported in (1982) 2 SCC 101, was referred to and it was observed in paragraph 15 as under:

“When there is similar or identical evidence of eye witnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other. In such a case, the cases of both accused will be governed by the principle of parity. This principle means that the criminal court should decide like cases alike, and in such cases, the court cannot make a distinction between two accused, which will amount to discrimination.”

Similarly, in another Judgment of the Hon'ble Apex Court in the case of ***Yogarani v. State by the Inspector of Police***, reported in MANU/SC/1046/2024, the Hon'ble Apex Court has referred to the judgment of ***Javed Shaukat Ali Qureshi*** i.e. above judgment and reproduced paragraph 15, which is reproduced in aforesaid

paragraph.

Likewise, again the Hon'ble Apex Court in a recent judgment of *Vaddi Ratnam v. State of Andhra Pradesh* reported in MANU/SC/1344/2025 in paragraph 9 reiterated the above law.

In present case also on the same set of evidence, the learned trial Court seems to have acquitted accused Nos.2 to 7 from all the charges and therefore, applying the principle of parity, learned trial Court ought to have acquitted appellant/accused No.1 also.

28. Therefore, in view of the above discussion, indulgence and interference at the hands of this Court is called for. Accordingly, following order is passed:

ORDER

- I. The appeal is allowed.
- II. The conviction awarded to the appellant Bapurao S/o Babruwan Gunjote by learned Additional Sessions Judge, Nilanga, in Sessions Case No.22 of 2011 under Sections 498-A and 306 of the Indian Penal Code, on 04-04-2016 stands quashed and set aside.
- III. The appellant Bapurao S/o Babruwan Gunjote stands acquitted of the offence punishable under Sections 498-A and 306 of the Indian Penal Code

- IV. The bail bonds of the appellant stand cancelled.
- V. Fine amount deposited, if any, be refunded to the appellant after the statutory period.

[ABHAY S. WAGHWASE, J.]

SPT