



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 312 OF 2017

. The State of Maharashtra
Through : The Police Inspector,
MIDC Police Station, District Ahmednagar. Appellant

Versus

1. Parshuram Maruti Barbade
Age: 24 years, Occu.: Service.
2. Dada Maruti Barbade
Age: 27 years, Occu.: Service.
3. Smt.Joti Dada Barbade
Age: 20 years, Occu.: Household.
4. Smt.Chhaya Sukdev Bhambe
Age: 32 years, Occu.: H.H.

All R/o. L&T Colony,
Tq.Ahmednagar, District Ahmednagar. Respondents
(Ori. Accused)

.....
Mrs.Chaitali Chaudhari Kutti, APP for Appellant.
Mr.Z.H.Farooqui, Advocate for Respondents.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 01-10-2026
Pronounced on : 05-10-2026

JUDGMENT :

1. State hereby challenges Judgment and order dated 06-04-2016 passed by learned Additional Sessions Judge, Ahmednagar in Sessions Case No.107 of 2013 acquitting respondents from charge under Sections 498-A, 306 read with 34 of the Indian Penal Code (IPC).

BRIEF FACTS OF PROSECUTION CASE

2. Case of prosecution in trial Court was that, deceased Dhanashri was married to accused no.1 on 24-06-2012. For initial period of 3 months, she was properly treated, but thereafter, in the backdrop of demand of Rs.1,00,000/- for purchase of a transport vehicle, she was subjected to cruelty. On failure to meet said demand, ill treatment was aggravated as a result of which, according to prosecution, deceased committed suicide by hanging herself. Hence, on report by father of deceased PW1, crime was registered, it was investigated and accused persons were chargesheeted and made to face trial. As trial ended up in acquittal of accused, State, who is aggrieved, has preferred instant appeal.

SUBMISSIONS**On behalf of Appellant State :**

3. Learned APP would submit that, there is no dispute that accused no.1 was married to deceased Dhanashri. That, after proper treatment for initial period of three months, husband and in-laws put up demand of Rs.1,00,000/- for purchase of a transport vehicle. That, they subjected deceased to physical and mental cruelty. That, deceased reported it to her family members. That, understanding was given to accused persons, but they did not mend their ways. That, finally getting fed up of the harassment, she committed suicide.

According to learned APP, accused persons are responsible for the same. That, deceased hanged herself in the house of accused and therefore, they owe explanation as to how she met unnatural death. Thus, according to learned APP, when prosecution witnesses are consistent about demand and harassment, learned trial Court ought to have accepted their testimonies and convicted accused, but it having failed to do so, learned APP urges for re-appreciating the evidence and to allow the appeal by setting aside impugned judgment.

On behalf of Respondent/original Accused :

4. While answering the above, learned counsel for respondents would point out that, prosecution has miserably failed to bring home the charges. According to him, there is delayed reporting, which is apparently false and afterthought. That, there was no allegations at the time of registering A.D. even when all family members including informant were around. That, subsequently when their illegal demands were not met, there is false implication. He would point out that, even otherwise prosecution evidence is very weak and allegations about demand and cruelty are general, omnibus, vague and sweeping in nature. That, witnesses are not consistent and therefore, as ingredients for attracting offence under Section 498-A of

the IPC were not available, he justifies the order of acquittal with regard to that charge.

5. As regards to offence under Section 306 of the IPC is concerned, he submitted that, there is no evidence about inducement, abetment or cruelty of such nature or creation of such circumstances which impelled deceased to take extreme step of ending her life. According to him, prosecution evidence is silent about what triggered suicide and therefore, he justifies even the order of acquittal for charge under Section 306 of the IPC and ultimately prays to dismiss appeal for want of merits.

APPRECIATION AND ANALYSIS OF EVIDENCE

6. Admittedly, marriage of accused no.1 with deceased Dhanashri was not under challenge or disputed and as such, relations of accused and deceased are also not disputed.

PW1 Annasaheb Pandurang Shinde, informant in his evidence at Exhibit 72 gave date of marriage of his daughter as 24-06-2012. He deposed that after marriage, his daughter was residing with accused at matrimonial house, which was 1 km away from his residence. According to him, his daughter was treated properly for three months and thereafter, accused No.1 demanded Rs.1,00,000/-

for purchasing a transport vehicle. According to him, he used to harass her and his daughter informed this witness whenever she came to meet him. He claims that, on 30-09-2012, he assured accused about giving amount whenever it is arranged, but according to him, ill treatment was aggravated. He further deposed that, accused used to abuse and ill treat his daughter. In the month of December 2012, he received news about his daughter to be unconscious and when they reached the house of accused, they came across her dead body and therefore, he lodged report.

In **cross-examination**, he admitted that, family of accused is joint family. He admitted that, transport was not the business of accused. He admitted that, accused No.1 gifted his daughter a mobile handset.

In paragraph 10, omission is brought about informing in Exhibit 73 regarding ill treatment and harassment to his daughter in the backdrop of demand of Rs.1,00,000/- for purchase of a transport vehicle. He also denied that, they had met accused in jail for settlement of the case. Again omissions are brought about accused being told in September that amount would be paid after it would be arranged and that still there was aggravated ill treatment.

7. **PW2** Sau.Leelabai Annasaheb Shinde, mother of deceased also

in her evidence at Exhibit 78 has stated that there was demand of Rs.1,00,000/- for purchase of a transport vehicle and that there was ill treatment to her daughter. She also deposed about receiving message of her daughter to be serious and they accordingly going there and coming across her dead body.

All suggestions are denied in cross-examination.

8. **PW3** Raju Vithoba Karale is maternal uncle of deceased and according to him, after 3 months, there was demand of Rs.1,00,000/- for purchase of a transport vehicle and according to him, there was harassment and cruelty to his niece for non-fulfillment of above demand. He also deposed about giving understanding to accused in September 2012 and about receiving news of his niece to be unconscious on 06-12-2012 and coming across her dead body.

Omission is brought to the extent of ill treatment by accused No.1 and about visit to house of accused on 30-09-2012.

9. **PW4** Deelip Dagadu Sinare is pancha. He did not support prosecution.

10. **PW5** Sunil More (PHC), **PW6** Shakurkhan Pathan (ASI) and **PW7** Laxman Maruti Gavand are Police officials, who participated in

the investigation.

11. Here, there is charge for offence under Sections 498-A and 306 of the IPC.

Charge under Section 498-A :

The **essential ingredients** of the offence are as follows:

- (1) A woman was married,
- (2) She was subjected to cruelty,
- (3) Such cruelty consisted in -
 - (i) Any willful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life,
 - (ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the unlawful demand;
 - (iii) the woman was subjected to such cruelty by her husband or any relatives of her husband

Judicial Precedent :

In a landmark case of *Girdhar Shankar Tawade v. State of Maharashtra* (2002) 5 SCC 177, the Hon'ble Apex Court gave

succinct enumeration of the object and ingredients of Section 498-A IPC as under :

"3. The basic purport of the statutory provision is to avoid "cruelty" which stands defined by attributing a specific statutory meaning attached thereto as noticed hereinbefore. Two specific instances have been taken note of in order to ascribe a meaning to the word "cruelty" as is expressed by the legislatures: whereas Explanation (a) involves three specific situations viz. (i) to drive the woman to commit suicide or (ii) to cause grave injury or (iii) danger to life, limb or health, both mental and physical, and thus involving a physical torture or atrocity, in Explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury : whereas one is patent, the other one is latent but equally serious in terms of the provisions of the statute since the same would also embrace the attributes of "cruelty" in terms of Section 498-A."

In the case in hand, in the light of above requirements, it was incumbent upon prosecution to demonstrate that there was consistent demand followed by consistent cruelty. Here, it is noticed that none of the prosecution witnesses are specific about nature of harassment and cruelty. Specific instances are not stated and rather sweeping

allegations are made against husband and all in-laws. Therefore, such evidence is not sufficient to attract rigors of Section of 498-A of the IPC.

Charge under Section 306 :

12. Here, there is also charge of Section 306 of the IPC. For attracting offence under Section **306** of IPC, it is obligatory on the part of prosecution to prove the essential ingredients which are as follows:

- (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 :

13. 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.

14. In the case of ***Sanju alias Sanjay Singh Sengar*** (supra), relied by learned counsel for the appellants, 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.

15. 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.

16. 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.”

17. 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.

18. 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.”

19 . 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.

20. 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."

21. Admittedly, here deceased hanged herself. However, though deceased died due to hanging, there is no iota of evidence whatsoever to hold that there was abetment, inducement or instigation by accused or deceased being subjected to physical and mental cruelty only in the backdrop of non-fulfillment of demand of Rs.1,00,000/-. Unless there is evidence suggesting positive act of accused in the alleged suicide, they cannot be held guilty. Moreover, here initially A.D. was registered. Complainant party was residing barely a kilometer away but there was no previous complaint at any point of time and even no immediate reporting of ill treatment or cruelty at any point of time. As prosecution has not demonstrated that accused persons are solely responsible for suicidal hanging by deceased, charge under Section 306 of the IPC cannot be fastened against them.

22. Perused the Judgment under challenge. It is noticed that learned trial Court has analyzed and appreciated entire evidence in its correct perspective. Evidence is appreciated on the touchstone of legal requirements. There is no perversity of illegality so as to interfere. No case being made out on merits, appeal deserves to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Appeal stands dismissed.

[ABHAY S. WAGHWASE, J.]