



BAIL SLIP

The Appellant/Petitioner accused namely Jambu @ Jambukeswaran was directed to be released on bail as per the order of this Court dated 22.08.2019 in CRL.MP.No.7493/2019 in CRL.A.No.335/2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.1.2022

Delivered on : 15.02.2022

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.335 of 2019
and
Crl.M.P.No.7494 of 2019

Jambu @ Jambukeswaran

... Appellant

vs.

State rep. by,
Inspector of Police,
B-2, Tiruvallur Taluk Police Station,
Crime No.277 of 2014
Tiruvallur District.

... Respondent

Criminal Appeal filed under Section 374(2) of Criminal Code Procedure, to set aside the judgment of conviction passed in Sessions Case No.179 of 2017 dated 28.2.2019 on the file of the I Additional Sessions and District Judge, Tiruvallur.

For Appellant : Mr.R.John Sathyan

For Respondent : Mr.S.Sugendran
Govt. Advocate (Crl.Side)

JUDGMENT

Challenging the judgment of conviction and sentence imposed by the I Additional Sessions and District Judge, Tiruvallur in Sessions Case No.179 of 2017 dated 28.2.2019, the present Criminal Appeal has been filed by the accused.



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2. The appellant/accused stands convicted under Section 306 IPC read with Section 9 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act and sentenced to undergo Rigorous Imprisonment for 7 years and to pay a fine of Rs.15,000/- in default to undergo Simple Imprisonment for a further period of one year and also to pay a sum of Rs.1,00,000/- as compensation to the de facto complainant.

3. The allegation against the appellant/accused is that he has assaulted and intimidated the husband of the de facto complainant/PW1 and abused him for having committed default in repayment of the amount borrowed by him from the appellant and thereby abetted him to commit suicide.

4. The facts of the case as projected by the prosecution witnesses and the complaint and other materials available are as under:-

(i) One Jaishankar (since deceased), husband of PW1 and PW1 had borrowed a sum of Rs.1,00,000/- from the appellant in the year 2012 and had been paying interest for the same at the rate of 5% per month and in the year 2014, they were unable to pay interest for three months and thereby, on 30.7.2014, at about 6.00 pm, while the said Jaishankar was to go for his duty, the appellant, accompanied by another person, came to their house and shouted and abused them by teasing the chastity of PW1. Despite of the same, PW1 and the deceased maintained patience and sought for some time to repay the amount, however, the appellant and the other person took a chair and attacked them and further teased them by shouting from outside their house that if they could not repay the amount, they could commit suicide by hanging. The neighbours had pacified and then the accused had left the place. On that night, the husband of PW1 did not go for duty and both PW1 and her husband took treatment in hospital and came back to their house.

(ii) On the next day, viz., on 31.7.2014, the husband of PW1 was called from his work place. The husband of PW1 told PW1 that after dropping their children in School, they could go and lodge a police complaint against the accused and accordingly, he took the children by 8.30 am to drop them at the School and he had returned home at about 9.40 am. Thereafter, the husband of PW1, who had went inside the house, had not come out and when PW1 went in search of her husband, she had found her husband was hanging from the ceiling fan by using a Duppatta. On seeing the same, PW1 had screamed with fear and hearing the same, the neighbours had gathered there and with the hope that he could be rescued, they had untangled the knots and took him to hospital, however, having found that he died on the way to hospital, they



had brought the body back to their house and subsequently, the police complaint was lodged.

(iii) On receipt of the complaint, Ex.P1, the Special Sub Inspector, one Velmurugan, who was in charge of the Tiruvallur Taluk Police Station, had registered a case in Crime No.277/14 under Section 306 IPC and Section 9 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act and the FIR is Ex.P8.

(iv) PW15, Circle Inspector of Police, Tiruvallur Taluk Police Station, who took up the investigation of the case by 3.15 pm on 31.7.2014, had visited the scene of occurrence and prepared observation mahazar, Ex.P4 and seizure mahazar, Ex.P9 in the presence of PW7 Koteeswaran and PW8 Ravi and also recovered Duppatta M.O.1 under seizure mahazar in the presence of the same witnesses. Thereafter, he had conducted inquest in the presence of the panchayatdars and prepared inquest report, Ex.P10. In the scene of occurrence itself, PW15 had enquired P.W.1 Mythili, one Andar, PW9 Pratheep Kumar, PW6 Michael, PW7 Koteeswaran, PW8 Ravi and recorded their statements. PW15 had also sent the body for post mortem and after post mortem, handed over the body to the relatives. The post mortem report is Ex.P6. On 28.8.2014 at about 10.40 am, PW15 had arrested the accused near Putlur Railway Station in the presence of PW10 Manikandan and PW11 Premkumar and recorded his voluntary confession statement in the presence of the same witnesses and thereafter, he took the accused to the Police Station and subsequently, sent him for judicial custody. PW15 had also enquired P.Ws.10 and 11 and recorded their statements. PW15 had enquired PW10 Dr.Syed on 29.12.2014, who conducted post mortem and recorded his statement. PW15 had also enquired PW12 Devan, the Head Constable and recorded his statement. Subsequently, on completion of investigation, PW15 had filed the final report on 13.3.2014 against the accused for offence punishable under Section 306 IPC read with Section 9 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act.

(v) The final report was taken in P.R.C.No.27 of 2015 on the file of Judicial Magistrate I, Tiruvallur. Summons were issued to the accused on his appearance. The learned Judicial Magistrate furnished copies of the relevant documents to the accused under Section 207 Cr.P.C. and finding that the offences alleged are exclusively triable by the court of Sessions, had committed the accused to the Principal District Court, Tiruvallur and it was, in turn, made over to the I Additional District and Sessions Court, Tiruvallur in S.C.No.179 of 2017 for trial.

(vi) On appearance of the accused and after hearing both sides, finding that prima facie case is made out, the Trial



Court had framed the charges against the accused for offence punishable under Section 306 IPC read with Section 9 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act and when questioned, the accused pleaded not guilty and sought to be tried.

(vii) During trial, the prosecution has examined P.Ws.1 to 15 and marked Exs.P1 to P10 and M.O.1. On the side of the defence, Ex.D1 was marked .

(viii) The Trial Court, after hearing the learned counsel for both sides, found the accused guilty for offence punishable under Section 306 IPC read with Section 9 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act and sentenced him to undergo rigorous imprisonment for seven years and to pay a fine of Rs.15,000/- in default to undergo simple imprisonment for a further period of one year and directed the accused to pay a sum of Rs.1,00,000/- as compensation to the victim/PW1 within a period of one month from the date of judgment and further recommended to the Government for an additional compensation of not less than Rs.2,00,000/- to be paid to PW1.

Aggrieved against the judgment of conviction and sentence, the present Criminal Appeal has been filed by the accused.

5. Assailing the judgment of conviction and sentence, learned counsel appearing for the appellant would submit his arguments as under:-

(i) The prosecution has failed to prove the charges against the appellant. The appellant is alleged to have come to the house of the deceased on 30.7.2014 and had abused the deceased for having not paid the interest on the loan and that he is alleged to have assaulted the deceased with the chair and also humiliated him saying that if he is unable to pay the amount, he can send his wife to someone else. It is the further case of the prosecution that the neighbours came and separated them while so, it is the further case of PW1 that on that night, her husband, the deceased did not go to work and they went to the hospital and took treatment and came back and then her husband's employer, over phone, had asked him to attend the duty and subsequently her husband had told her that they would give a complaint on the next day in the police station and on the next day, the deceased is said to have taken the child at 8.30 am to drop them in the school and that he came back home at 9.45 am and when she had questioned him, he had informed that they would go and give complaint in the police station after some time and asked her to get ready and that she had gone to take bath, but, when she had come back, she had seen her husband hanging from the ceiling fan. Assuming for a moment, without admitting, the averments and evidence of PW1 to be true, they do not make out



a charge for abetment of suicide.

(ii) Other than PW1, wife of the deceased, PW9, brother of PW1, all the other witnesses have turned hostile. They have not supported the case of the prosecution. P.Ws.2, brother of the deceased and P.Ws.5 and 6, who are neighbours have spoken about the frequent quarrels between the deceased and PW1, wife. More particularly, PW2, brother of the deceased, though treated as hostile, has spoken about the erstwhile tendency of the deceased to commit suicide. He had stated that the deceased had already attempted to commit suicide during September 2013 by consuming poison and he had also deposed that the reason for the suicide of his brother, who is the husband of PW1 is taking loans and her other habits. Further, PW5 though had not directly spoken, had stated that he heard that the deceased had attempted to commit suicide earlier. He had also deposed that PW1 used to scold her husband often. Further, PW6, who is a neighbour, had deposed that there used to be frequent quarrels between the deceased and his wife, PW1.

(iii) The Trial Court failed to take into consideration the delay in the complaint and the FIR reaching the court. Though the complaint is said to have been given on 31.7.2014, it reached the court only on 2.8.2014 and the inquest report, Ex.P10 has been sent to the court only at the time of filing the final report. The Trial Court has also failed to take into consideration the interpolations made in the complaint and the FIR in respect of insertion of Section 9 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act.

(iv) Admittedly, it is a case of suicide. Other than PW1, PW9, brother, who is interested in the case of the prosecution, none of the witnesses has spoken about the appellant having lent money to the deceased and having collected interest of Rs.5000/- from him every month. The Trial Court, without there being any positive evidence on record that the appellant had mens rea and that he abetted the suicide, had erred in convicting him on mere presumptions.

6. Per contra, Mr.S.Sugendran, learned Government Advocate (Criminal Side) would submit that from the evidence of PW1 it is very clear that the accused had abused the deceased for not paying the interest on the money borrowed by him from the accused by teasing his self-respect, questioning his dignity and also by making mockery of PW1's chastity and thereby he had abetted him to commit suicide and the prosecution has brought in cogent evidence to bring home the charges against the accused and thereby sought for dismissal of the Criminal Appeal.

7. Heard the learned counsel appearing for the parties and perused the materials available on record.

8. The point to be determined in this Criminal Appeal is



whether the prosecution has proved its case beyond all reasonable doubts and the Trial Court is right in finding the appellant/accused guilty and convicting him.

9. This court feels that it would be relevant to see what prevails in law with regard to abetment to suicide before entering into the merits of the case.

10. In M.Arjuna vs. The State of Tamilnadu reported in 2019 3 SCC 315, it has been held as under:-

"8. The essential ingredients of the offence under Section 306 Indian Penal Code are: (i) the abetment; (ii) the intention of the Accused to aid or instigate or abet the deceased to commit suicide. The act of the Accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the Accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, Accused cannot be convicted Under Section 306 Indian Penal Code. "

11. In V.Venkataraman vs. State of Tamilnadu reported in (2015) 3 MLJ (Cr1) 669, this Court has held as under:

"31. The scope of Section 306 IPC has been elaborately considered by this Court in MANI v. INSPECTOR OF POLICE, GUINDY POLICE STATION, CHENNAI (supra).

32. It is relevant to note the following from 'MANI v. INSPECTOR OF POLICE, GUINDY POLICE STATION, CHENNAI (supra).

"16. In the Indian Penal Code, 1860, in Chapter XIV, in Section 306 I.P.C. 'abetment of suicide' has been made an offence.

17. Section 306 I.P.C. runs as under:

"306. Abetment of suicide: If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

18. The twin requirements for an offence under section 306 I.P.C. are (1) Suicide and (2) Abetment to commit suicide.

19. = = = = =

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23. In Section 306 I.P.C., the word 'abetment' has



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not been defined or explained. In Concise Oxford English Dictionary (XI Edition 2004), 'Abetment' (Abet, Abets, Abetting, Abetted, Abettor) has been explained as 'encourage or assist (someone) to do something wrong in particular to do crime'.

24. In Indian Penal Code, in Chapter V (Abetment), in Section 107 'abetment of a thing' has been explained. Though the word 'abetment' has not been defined in section 306 I.P.C., to understand its meaning, we can refer to section 107 I.P.C.

25. Section 107 I.P.C. runs as under:

"107. Abetment of a thing A person abets the doing of a thing, who-

First: -Instigates any person to do that thing; or

Secondly: -Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly: -Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1:-- A person who, by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.'

Explanation: Whoever either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that thing."

26. It is seen that in statutorily explaining the word 'abetment' (See section 107 I.P.C.) what the word abetment connotes in general English has been kept in view.

27. In RATTANLAL AND DHIRAJLAL'S 'commentaries on the Indian Penal Code' (32nd Edition) (2010), at page 1735-1736, 'abetment', has been commented as under:

'2 Abetting Suicide

The gravamen of the offence punishable u/s. 306 I.P.C. is abetting suicide. Section 107, I.P.C. defines abetment as comprising:

- (a) instigation to commit the offence;
 - (b) engaging in conspiracy to commit the offence,
- and



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(c) aiding the commission of an offence. Abetment thus necessarily means some active suggestion or support to the commission of the offence. The word 'instigate' literally means to goad, urge forward, provoke, incite or encourage to do an act and a person is said to instigate another when he actively suggests or stimulates him to the act by any means, or language, direct or indirect, whether it takes the form of express solicitation or of hints, insinuation or encouragement. It is also not necessary that the instigation should be only in words and may not be conduct."

28. In *RANDHIR SINGH AND ANOTHER v. STATE OF PUNJAB* (AIR 2004 SC 5097) : (2004) 13 SCC 129, the Hon'ble Supreme Court observed as under:

"Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In case of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC."

29. In *RAMESH KUMAR v. STATE OF CHHATTISGARH* AIR 2001 SC 3837 : (2001) 9 SCC 618): LNIND 2001 SC 2368, 'instigation' has been explained by the Hon'ble Apex court as under:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect. or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. the present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

30. In *S.S. CHHEENA v. VIJAY KUMAR MAHAJAN & ANOTHER* (2010) 12 SCC 190: LNIND 2010 SC 746 :



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(2011) 1 MLJ (Cr1) 547, the Hon'ble Apex Court observed that:

"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 the Supreme 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."

31. In AMALENDU PAL @ JHANTU v. STATE OF WEST BENGAL AIR 2010 SC 512 : (2010) 1 SCC 707 : LNIND 2009 SC 1978 : (2010) 2 MLJ (Cr1) 109,, the Hon'ble Apex Court has opined as under:

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which let or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.'"

32. In VIJAY KUMAR RASTOGI v. STATE OF RAJASTHAN (2012) CRI. L.J. 2342 : LNIND 2012 RAJ 9 the Rajasthan High Court observed as under:

"10 The word 'urge' means to advice or try hard to persuade somebody to do something, to make a person to move more quickly or in a particular direction, specially by pushing or forcing such person. Therefore, a person instigating another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the



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doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances."

37. In *M. MOHAN v. D.S.P., KARAIKUDI* AIR 2011 SC 1238 : (2011) 3 SCC 626) : LNIND 2011 SC 246 : (2011) 4 MLJ (Cr1) 273 the Hon'ble Supreme Court observed as under:

"44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing.

Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the Legislature and the ratio of the cases decided by this court are clear that in order to convict a person under section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide."

38. In *STATE OF WEST BENGAL v. ORILAL JAISWAL* AIR 1994 SC 1418 : (1994) SCC (CRI.) 107) : LNIND 1993 SC 772 : (1994) 1 MLJ (Cr1) 187, the Hon'ble Apex Court cautioned as under:

"The Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should



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be found guilty."

39. Generally, the person who commits suicide used to/liked to leave a suicide note naming certain person as responsible for his committing suicide. Merely because a person has been so named in the suicide note we are not to immediately jump to the conclusion that he is an offender under section 306 I.P.C.

40. The contents of the suicide note and other attending circumstances have to be examined to find out whether it is abetment within the meaning of section 306 I.P.C. read with section 107 I.P.C. There may be a case where in the suicide note victim had named a person, who is responsible for his committing suicide, but, on proper analysis, section 306 I.P.C. may not be attracted to him.

41. Recently, in RAJAMANNAR v. STATE REP. BY THE INSPECTOR OF POLICE, SEVVAPET, POLICE STATION, THIRUVALLUR DISTRICT (Crl. O.P. No. 8230/2014 dated 3.4.2014) A-2 introduced A-1 to the deceased as a person who will get railway jobs for money. Relying on this, the deceased collected money from many and gave it to A-1.

Ultimately, A-1 cheated him. The job seekers pressurised the deceased to return their money. Under these circumstances, the deceased and his family members have committed suicide and the deceased left a suicide note that A-2 is responsible for their death. A-2 was arrested for an offence under section 306 I.P.C.

42. In the facts and circumstances of the said case, this Court came to the conclusion that prima facie section 306 I.P.C. is not attracted towards A-2 and observed as under:

"7. On reading the entire suicide note from the beginning to end, it is seen that A-1 duped Sugumar, who received money from many persons. They have asked him and humiliated him. Unable to bear this humiliation, Sugumar committed suicide.

8. For an offence under Section 306 IPC, there are twin requirements, namely, suicide and abetment to commit suicide. No need to explain what is suicide. But what is abetment has to be understood. It is not stated in Section 306 IPC. It is 'instigation', 'provocation', compelling a person to do certain things or not to do certain things. This may be by words, deeds or writing or



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even by signs. May be humiliation, degrading a person in the presence of others. The act must be such that it must force, desire, compel a person to take the extreme decision. But, it must be a positive act. Thus, the act alleged to have committed on the part of the accused must have played a key role for the victim to take a decision to commit suicide.

9. If a lover commits suicide due to love failure, if a student commits suicide because of his poor performance in the examination, a client commits suicide because his case is dismissed, the lady, examiner, lawyer respectively cannot be held to have abetted the commission of suicide. For the wrong decision taken by a coward, fool, idiot, a man of weak mentality, a man of frail mentality, another person cannot be blamed as having abetted his committing suicide. Now, in this case, the suicide note shows that unable to bear the humiliation given by the job seekers, Sugumar committed suicide. For this, petitioner cannot be blamed. Further, no act or deed in the nature of a positive act forced Sugumar and his family members emanated from the petitioner to force them to commit suicide. The conclusion would be Sugumar died like a coward. Instead of protecting the family, he perished like an unsuccessful man in life foolishly he also took along with him his other family members also. For this, how can the petitioner be directly blamed."

43. If a person makes an ordinary joke or a casual remark in routine course of ordinary life and when the victim commits suicide, that will not attract section 306 I.P.C. The circumstances under which the incriminating words spoken and the type and nature of the victim have also to be considered. Some positive act must have emanated from the accused towards the victim. And should be in the nature of forcing or urging the victim to take the extreme decision. If nothing had come from the accused, the accused cannot be blamed for the extreme decision taken by the victim.

44. Simple abuses are not sufficient to provoke the victim to commit suicide. It will not attract section 306 I.P.C. Simply because the lender has demanded repayment of his money, if the debtor commits suicide the creditor cannot be said to



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have abetted his suicide. Section 306 I.P.C. is not attracted towards him.

45. Mere reprimanding does not amount to instigation. The words stated in a fit of anger will not amount to abetment. Casual remark of husband towards his wife in the ordinary course of life will not amount to abetment to commit suicide. Because they did not say so with any mens rea. (see SWAMY PRAHALDAS v. STATE OF MADHYA PRADESH 1995 Suppl. (3) SCC 438).

46. In NARESH MAROTRAO v. UNION OF INDIA (1995 CrI.L.J. (Bom :LNIND 1994 BOM 465, the deceased poured kerosene on her body and set fire to herself in the presence of the accused. But the accused did not do anything, he did not put off the fire and saved the deceased. It was held that the accused cannot be held liable under section 306 I.P.C. read with 107 I.P.C. and he has not committed any offence at all. 47. Sometimes, the decision to commit suicide might be taken by the victim himself/herself, unaccompanied by any act or instigation etc. on the part of the accused. A person may die like a coward. On his failure in the examination, a student may commit suicide. They are weak minded. They are persons of frail mentality. For their foolish mentality/decision, another person cannot be blamed."

12. In Gurucharan Singh vs. State of Punjab reported in (2020) 10 SCC 200, the Hon'ble Supreme Court has held as under:

16. The necessary ingredients for the offence under [section 306](#) IPC was considered in the case SS Chheena Vs. Vijay Kumar Mahajan¹ where explaining the concept of abetment, Justice Dalveer Bhandari wrote as under:-

"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."

17. While dealing with a case of abetment of suicide in Amalendu Pal alias Jhantu vs. State of West Bengal², Dr. Justice M.K. Sharma writing for the Division Bench explained the parameters of [Section 306](#) IPC in the following terms:

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under [Section 306](#) IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of [Section 306](#) IPC is not sustainable.

13. In order to bring a case within the purview of [Section 306](#) IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under [Section 306](#) IPC.

18. In the case Mangat Ram Vs. State of Haryana, which again was a case of wife's unnatural death, speaking for the Division Bench, Justice K.S.P. Radhakrishnanan rightly observed as under:-

"24. We find it difficult to comprehend the reasoning of the High Court that "no prudent man is to commit suicide unless abetted to do so". A woman may attempt to commit suicide due to various reasons, such as, depression, financial difficulties, disappointment in love, tired of domestic worries, acute or chronic ailments and



so on and need not be due to abetment. The reasoning of the High Court that no prudent man will commit suicide unless abetted to do so by someone else, is a perverse reasoning."

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13. Coming to the case on hand, this court finds that PW1, the wife of the deceased Jaishankar had deposed that herself and the deceased had availed loan from the accused to the tune of Rs.1,00,000/- for an exorbitant rate of interest viz., @ 5% per month for their family expenses in the year 2012 and they could not pay interest for three months and thereupon, the accused, used to harass them and on 30.7.2014, the accused accompanied by another person, whom she could not identify, entered into their house at the time when the deceased was to go for his duty and picked up quarrel for not paying interest and despite the request made by PW1 and her husband for some accommodation to repay the amount, the accused and the other person had attacked them with a chair available in the house of PW1 and abused them in a way to damage their self-esteem and her husband did not go for duty on that night and they had taken treatment in hospital and returned to their house. Her further evidence is that her husband, the deceased had informed PW1 about his intention to lodge a police complaint on the next day, however, on the next day, on coming back to home after dropping their children in their school, he had committed suicide by hanging from a ceiling fan in their house with a Duppatta.

14. Apart from PW1, though the prosecution has examined P.Ws.2 to 11 in support of its case, it is seen that PW2, who is the own brother of the deceased and P.Ws.3 to 5 the neighbours have turned hostile. The other independent witnesses are none but, neighbours and they are either hearsay witnesses and their evidence is also shaky and vague ones. PW9, who is the brother of PW1 supports the case of PW1, but, many contradictions including his presence in the scene of occurrence at the time of alleged instigation by the accused for abetting the deceased to commit suicide have been elicited by the defence with the aid of Ex.D1.

15. Therefore, to be precise, except the evidence of PW1, there is no legal evidence to speak about the accused abetting the deceased to commit suicide. Though the prosecution mainly relies upon the evidence of PW1, wife of the deceased, it is seen that she has also given contradictory statements with regard to quantum of amount alleged to have been lent by the accused, the interest paid thereon, the identity of the person



accompanied the accused on the previous day of the occurrence, who is also said to have attacked PW1 and the deceased. Further, she could not say as to who had written the complaint and the reason for the delay in lodging the complaint as it had been lodged at 3.00 pm when her husband had committed suicide by 10.00 am itself. Moreover, the evidence of PW2, own brother of the deceased reveals that the accused and the deceased are relatives, however, PW1 has suppressed the same.

16. It is further seen from the evidence of PW1 that on one hand, the husband of PW1 had proposed to lodge a police complaint about the abuse and assault made by the accused and another person, who accompanied the accused, however, on the other hand, on coming back after dropping their children in their school, he had chosen to commit suicide by hanging. Lodging of a police complaint against some mischief is a bold and positive decision, but, within a few hours of taking such a decision, the deceased appears to have taken an extremely negative decision to commit suicide by hanging himself which shows the wavery mind of the deceased.

17. Further, the evidence of P.Ws.2, 5 and 6 reveals that frequent quarrels used to emanate between the deceased and his wife PW1 and the deceased had to borrow money only on the instigation of his wife PW1 due to her lavishness and in fact, the evidence of PW5 reveals that the deceased had, on some earlier occasions, attempted to commit suicide. The relativity of money lent by the accused and the abuse made by him on account of non payment of interest with the suicide committed by the deceased was made only by P.Ws.1 and 9, but, with many contradictions and suppressions about many aspects including the previous attempts made by the deceased to commit suicide. The decision taken by the deceased to commit suicide and free up himself leaving his wife and children in lurch strengthens the probability suggested by the defence that the deceased and PW1 used to quarrel frequently on account of the lavishness of PW1 and only at the instance of PW1, the deceased had borrowed money and his inability to manage such affairs and the resultant quarrels with his wife could have led him to take such a wrong decision.

18. The principles laid down in the decisions of the Apex Court cited supra make it clear 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 let or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable. Each person has his own idea



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of self-esteem and self-respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases and each case has to be decided on the basis of its own facts and circumstances. Even if it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

19. In the case on hand, none of the prosecution witnesses speaks about any harassment made by the accused on any previous occasion or the reason for the attempts made by the deceased to commit suicide on earlier occasions, but, rather, the extremely opposite decisions taken by the deceased as spoken by PW1 viz., to lodge a police complaint against the accused and to commit suicide by hanging within a few hours of taking the previous decision show the hypersensitivity of the deceased to common things and it gives a warning signal that it would not be safe to convict the appellant/accused for the offence of abetting the deceased to commit suicide.

20. The Apex Court also holds that simple abuses are not sufficient to provoke the victim to commit suicide and it will not attract section 306 I.P.C. Simply because a lender has demanded repayment of his money, if the debtor commits suicide the creditor cannot be said to have abetted his suicide and Section 306 I.P.C. is not attracted towards him. Analysing the abetment to commit suicide, the Apex Court has held that for a wrong decision taken by a coward, fool, idiot, a man of weak mentality, a man of frail mentality, another person cannot be blamed as having abetted his committing suicide. Even assuming it to be true, the appellant/accused had used abusive language against the deceased humiliating him, such act by itself would not constitute the offence of abetment of suicide. Furthermore, even as per the prosecution, the abuse by the appellant was on the previous day evening and the deceased had committed suicide on the next day at 10.00 am and what transpired in between is not known.

21. The principles laid down by the Apex Court make it clear that the exact words do not count for instigation, but, the real intention of a person to instigate another to commit suicide is the ultimate requirement to attract offence under



Section 306 IPC. A careful perusal of the entire evidence on record in the instant case, reveals that there is nothing to suggest that the accused had mens rea and he intended by his act of abuse to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied the accused cannot be found guilty and convicted under Section 306 IPC.

22. Having scrupulously assessed the evidence on record and examined the facts and circumstances of the case, this Court is of the firm opinion that the prosecution has not proved its case beyond all reasonable doubts and the Trial Court had erred in convicting the appellant. The appellant is entitled to the benefit of doubt.

23. Accordingly, this Criminal Appeal is allowed and the conviction and sentence passed in S.C.No.179 of 2017 dated 28.2.2019 by the file of the I Additional Sessions and District Judge, Tiruvallur is set aside. The appellant/accused is acquitted from the charges tried in the above Sessions Case. Bail bond, if any, executed by the appellant/accused shall stand cancelled. Fine amount and compensation deposited, if any, shall be refunded. The connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk

To

1. I Additional Sessions and District Judge,
Tiruvallur.
- 2.The Judicial Magistrate No.I,
Tiruvallur.
- 3.The Chief Judicial Magistrate,
Tiruvalur.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.



5.The District Collector,
Tiruvallur.

6.The Director General of Police,
Mylaport, Chennai-5.

7. Inspector of Police,
B-2, Tiruvallur Taluk Police Station,
Tiruvallur District.

8. The Public Prosecutor,
High Court of Madras.

9.The Section Officer,
Criminal Section(Records),
High Court, Chennai - 104.

+1cc to Mr.R.John Sathyan, Advocate SR.No.9433

Crl.A.No.335 of 2019
and
Crl.M.P.Nos.7494 of 2019

GMR(CO)
GN(22/02/2022)