



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 99 OF 2006

The State of Maharashtra,
Through Complainant
Mohan Bhagwat Raut,
R/o. Kanadi Mali, Tq. Kaij,
Dist. Beed.

... Appellant
(Orig. Complainant)

Versus

1. Prakash @ Bandu Arjun Yadav,
Age : 25 years, R/o. Bahula,
Tq. Kallam, Dist. Osmanabad.
2. Mahadeo Namdeo Yadav,
Age : 32 years, R/o. As above.
3. Arjun Namdeo Yadav,
Age : 67 years, Occu. : R/o. As above.
4. Sau Sitabai Arjun Yadav,
Age : 60 years, R/o. As above.

... Deleted

... Respondents
(Orig. Accused)

.....
Mrs. D. S. Jape, APP for Appellant – State.
Mr. Sidhesh V. Jadhwar, Advocate for Respondent Nos.1, 2 and 4.
Respondent No.3 deleted.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 09 JULY 2025

PRONOUNCED ON : 14 JULY 2025

JUDGMENT :

1. State is hereby assailing the judgment and order
passed in Sessions Case No.111 of 2003 by learned 2nd Ad-hoc

Additional Sessions Judge, Osmanabad dated 07.10.2005 acquitting present respondent from charges under sections 498-A and 306 of Indian Penal Code (IPC).

FACTS IN BRIEF

2. Deceased Swati @ Savita Prakash Yadav wife of Respondent no.1 consumed poison on 15.07.2003 while she was residing at the matrimonial house. Case of prosecution is that, all accused persons including husband and in-laws maltreated Swati @ Savita on demand of Rs.50,000/- for borewell, there was taunting to her, saying that, they disliked her and thirdly, she was kept starved on account of their demand not being met. Further case of prosecution is that, getting fed up of the ill treatment, Swati committed suicide and hence on report to that extent lodged by PW2 father, crime was registered, investigated and accused were charge sheeted and were made to face trial, which ultimately ended up in acquittal. Hence, the appeal by State.

SUBMISSIONS

On behalf of Appellant – State :

3. Learned APP would submit that, husband and in-laws barely after 2 months of marriage, put up demand of Rs.50,000/- for purchasing agricultural land and borewell. That, deceased Savita was kept starved for not meeting the demand. She reported

regarding above treatment during her visit a few days prior to the suicide. That, parents and uncle of deceased have consistently deposed. That, their evidence has been unshaken. That, they are lending support and corroborated each other on the point of mental and physical harassment in the backdrop of their demand. That, getting fed up of the same, Swati consumed poison. There was no other reason for her to end up her precious life. That, suicide is committed while she was in custody of accused persons and therefore, according to learned APP, when all necessary ingredients for attracting ill treatment i.e. under section 498A of IPC and inducing suicide being available, learned trial court ought to have held prosecution case as proved and punished the accused, but instead, they are all acquitted. There is improper appreciation of both, law as well as evidence and hence she urges for interference by allowing the appeal.

On behalf of Respondent :

4. In answer to above, learned counsel for respondent would point out that, false case has been set up by father out of annoyance of losing daughter, there was no demand or maltreated of any sort. That, there was no previous complaint at any point of time or anywhere. That, evidence of parents and uncle is full of material omissions and contradictions. That, cruelty as

contemplated under law has not been proved. That, general and omnibus allegations are made without specifying distinct role or quoting instances. Learned counsel submits that, Swati accidentally consumed poison while conducting agricultural activity and as such, there was no reason for her to commit suicide. Learned counsel pointed out that, prosecution's evidence is absolutely silent about as to what preceded the suicide or what prompted her to allegedly consume poison and therefore, learned counsel for respondent supports judgment of acquittal and prays to dismiss the appeal for want of merits.

EVIDENCE BEFORE THE TRIAL COURT

5. Here, as many as six witnesses are examined by prosecution in trial court. Record shows that, evidence of PW2 Mohan father; PW3 Chaya mother and PW4 Vikram being parents and uncle of deceased is crucial and the same is reproduced as under :-

6. **PW2** Mohan informant is the father of deceased. Relevant portion of his evidence at Exhibit 31 is as under:-

“Deceased Swati was my daughter. She was also called as Savita. She had studied up to Xth std. She died about 2 years back. Prior to it, her marriage was performed about 1 and ½ month back with Prakash. And an amount of Rs.51000/- and

two tola gold was given in the marriage. After marriage, Savita had gone for cohabitation. Accused No.2 Mahadeo is brother-in-law, accused No.3 Arjun is father-in-law, accused no.4 Sitabai is mother-in-law of deceased Swati. They all were residing together. After marriage for period of 15 days. She was maintained properly. In the month of Ashad she had come to me. She resided for 5 days with us. She told us that all the accused had made demand of Rs.50,000/- for leding bore and thereby they beat her. She was put to starvation.

2. Thereafter accused no.2, her brother-in-law had come to take her back. She was not ready to go, however after giving her understanding, she was sent back alongwith Mahadeo. Even accused no.2 was given understanding not to harass her. On 15.07.2003, I learnt at S.T. Stand Keij from Ashok Kulkarni about death of Savita at Kallam hospital. Accordingly, we all go there and saw dead body. On account of ill treatment given by all accused, Savita consumed poison and committed suicide. Accused before the court are same. Thereafter I go to P.S. and lodged complaint. The complaint now shown to me is same. Its contents are correct. It bears my signature. It is at Exh.32.”

7. **PW3** Chaya is the mother of deceased. In her testimony at Exh.33, she deposed as under :-

“Swati @ Savita was my daughter. Her marriage was performed with accused no.1. Accused No.2 is brother-in-law, accused nos. 3 and 4 are her father-in-law and mother-in-law. After marriage, she had gone for cohabitation and was

residing with all the accused. After marriage accused maintain my daughter for the period of 8 days. My daughter had come twice for Yati-Jati and second in the month of Ashad. At that time she told all the accused had made demand of Rs.50,000/- for leding bore well in the land. Sometimes, she was not provided food. She told this fact when she was come in the month of Ashad. She was with us for 5 to 6 days at that time. Thereafter, accused no.2 had come to take back her for cohabitation, accordingly we sent back her. Thereafter, after 8 days, we learnt about her death. Accordingly we had gone there and saw her dead body. My daughter died on account of consumption of poison.”

8. **PW4** Vikram is the uncle of deceased. In his testimony at Exh.34, he deposed as under :-

“The complainant Mohan is my elder brother. The marriage of Swati was performed with accused no.1. After marriage she had gone for cohabitation and residing with all the accused before the court. She had come for first time at the time of Yeti-Jati at that time she told that she was maintained properly by accused. Thereafter she had come at the time of Ashad month. At that time Swati told us that all the accused ill treated for demand of money. Even she had told that accused are not giving food for some time. Thereafter she was sent back alongwith Mahadeo who had come to take her. After 7/8 days therefrom we learnt about her death. Accordingly we had go there and saw dead body.”

ANALYSIS

Charge under Section 498-A IPC :

9. On careful re-appreciation, here as submitted, marriage of deceased is of 29.05.2003 and alleged suicide is said to be of 15.07.2023 i.e. barely within two months. Informant father in his evidence at Exh.31 testified that, all accused resided together. His daughter was treated properly for 15 days after marriage. During the month of *Ashad*, (which generally falls in June and July), deceased came to her parents house and allegedly stayed for five days and it is father's testimony that during such times, she told that all accused demanded Rs.50,000/- for digging borewell and on account of the same, she was beaten and put to starvation. In FIR, which is at the instance of PW2 father, he has reported that, deceased informed that all accused taunted, saying that, she is unable to do household work; they did not like her and they asked her to bring Rs.50,000/- for purchasing of agricultural land and subjected her to mental and physical cruelty. Wife of PW2 and mother of deceased i.e. PW3 Chaya, in her evidence at Exh.33 has deposed that, during visit of her daughter in the month of *Ashad*, her daughter told that, accused made demand of Rs.50,000/- for borewell and sometimes she was not provided food. Therefore, here husband and wife i.e. parents of Swati are not consistent.

10. What is deposed by PW2 father in the witness box or what is reported by him in FIR is not testified by PW3 Chaya. Her evidence is silent about taunting for not doing household work, they not liking her and she also speaks of her daughter informing that only sometime she was not given food. PW4 Vikram, uncle in his evidence at Exh.34 deposed that, his niece told that, all accused ill treated for demand of money and that she was not given food for sometime. In spite of being uncle, his evidence is silent about whatever PW2 father or PW3 mother claimed to have learnt from deceased. He does not clarify or specify the nature of ill treatment. As pointed out, none of these three witnesses have quoted instances of physical or mental cruelty or beating. Mother is silent about her daughter being beaten in the backdrop of demand which is stated by her husband. For above reasons, on the point of section 498A of IPC not only specific instances are not quoted, but even which of the accused indulged in what act of cruelty is not clarified. As submitted, allegations are apparently general and omnibus in nature. Cruelty as contemplated under section 498A is not made out from above evidence.

Charge under Section 306 of IPC :-

11. The second charge is under Section 306 of IPC. Before

adverting to appreciate the available evidence on this count, it would be apt to first deal with settled legal position and legal requirements for attracting said charge. In umpteen judgments, the Hon'ble Apex Court has dealt and discussed as to how and when said charge can be said to be brought home. The following are the few report known cases on above charge :

In *State of West Bengal v. Orilal Jaiswal* (supra), the Hon'ble Supreme Court has cautioned that 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 her 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 be found guilty.

12. In *Ramesh Kumar v. State of Chhatisgarh* (2001) 9

SCC 618, it is observed that, “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.

13. In *M. Arjunan v. State, represented by its Inspector of Police*, (2019) 3 SCC 315, while explaining the necessary ingredients of Section 306 IPC in detail, observed as under :-

“7. The essential ingredients of the offence under Section 306 I.P.C. 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 IPC.”

14. In *Ude Sing & others v. State of Haryana* (2019) 17 SCC 301, the Hon’ble Supreme Court held that in order to convict an accused under Section 306 IPC, the state of mind to commit a

particular crime must be visible with regard to determining the culpability. It was observed as under :-

“ 16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behavior and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1 For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to

induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.”

15. In **Gurcharan Singh v. State of Punjab**, (2020) 10 SCC 200, the Hon'ble Apex Court observed that whenever a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted in doing that

thing. To prove the offence of abetment, as specified under Section 107 IPC, the state of mind to commit a particular crime must be visible, to determine the culpability.

16. In *Geo Varghese v. State of Rajasthan and another* (2021) 19 SCC 144, the Hon'ble Supreme Court has considered the provision of Section 306 IPC along with the definition of abetment under Section 107 IPC and observed as under :

“14. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same.

... .

15. The ordinary dictionary meaning of the word ‘instigate’ is to bring about or initiate, incite someone to do something. This Court in Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618, has defined the word ‘instigate’ as under :-

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do ‘an act’.”

16. The scope and ambit of Section 107 IPC and its correlation with Section 306 IPC has been discussed repeatedly by this Court. In the case of S.S. Cheena v. Vijay Kumar Mahajan and Anr (2010) 12 SCC 190, it was observed 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 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.”

17. In ***Mariano Anto Bruno & another v. The Inspector of Police***, 2022 SCC OnLine SC 1387, after referring to the above referred decisions rendered in context of culpability under Section 306 IPC, the Hon’ble Supreme Court observed as under :

“44. . . . 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 their 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.”

18. In ***Kashibai & Others v. The State of Karnataka***, 2023 SCC OnLine SC 575, it is observed that to bring the case within the purview of ‘Abetment’ under Section 107 IPC, there has to be an evidence with regard to the instigation, conspiracy or intentional

aid on the part of the accused and for the purpose proving the charge under Section 306 IPC, also there has to be an evidence with regard to the positive act on the part of the accused to instigate or aid to drive a person to commit suicide.

19. In very recent case of ***Naresh Kumar v. State of Haryana*** 2024 DGLS (SC) 224/(2024) 3 SCC 573 it is observed that, had there been any clinching evidence of incessant harassment on account of which the wife was left with no other option but to put an end to her life, it could have been said that the accused intended the consequences of his act, namely, suicide. A person intends a consequence when he (1) foresees that it will happen if the given series of acts or omissions continue, and (2) desires it to happen. The most serious level of culpability, justifying the most serious levels of punishment, is achieved when both these components are actually present in the accused's mind (a "subjective" test)."

20. In another recent case of ***Kumar @ Shiva Kumar v. State of Karnataka*** [Criminal Appeal No. 1427 of 2011 decided by the Hon'ble Apex Court on 01.03.2024], following observations are made :

“39. Reverting back to the decision in *M. Mohan* (2011) 3 SCC

626 , this Court observed that abetment would involve 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. Delineating the intention of the legislature and having regard to the ratio of the cases decided by this Court, it was concluded that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It would also require an active act or direct act which led the deceased to commit suicide seeing no other option and that this act of the accused must have been intended to push the deceased into such a position that he committed suicide.”

21. Here, witnesses more particularly parents claims that news of death of Swati was received on 15.07.2003. What exactly happened on that day to hold abetment, inducement at the hands of accused is primarily missing in this case. There is no iota of evidence suggesting any alleged maltreatment of beating, taunting and demand being raised particularly on that day which could have prompted deceased to take the extreme step of ending up her life. Law requires legally acceptable evidence showing positive role being played in inducing and abetting suicide. These crucial requirements are missing in the case in hand.

22. To sum up, here, essential ingredients for neither

under section 498-A nor section 306 of IPC are emerging from the prosecution evidence. Resultantly, no fault can be found in the judgment and order of acquittal. Bearing in mind the principles and law laid down while dealing with appeal against acquittal, this court finds no merits. Hence, the following order is passed :

ORDER

The criminal appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)