

Crl.A.(MD)No.524 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.07.2025

CORAM :

THE HONOURABLE **DR. JUSTICE R.N.MANJULA**

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1.Prasanna Kumari
2.Sivakumar

... Appellants/A1 & A2

versus

State rep., by
The Inspector of Police,
Eraniel Police Station,
Kanyakumari District.
Crime No.654 of 2012

... Respondent /complainant

Prayer : Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, to call for the records from the lower Court in S.C.No. 30 of 2014 on the file of the learned Sessions Judge (Fast Track Mahila Court) Kanyakumari District at Nagercoil and set aside the judgment dated 24.11.2014 by acquitting the accused by allowing the appeal.

For Appellants : Mr.V.Kathirvelu
Senior Counsel for Mr.K.Prabhu

For Respondent : Mr.A.Albert James
Government Advocate



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JUDGMENT

This criminal appeal has been preferred against the judgment of conviction and sentence, dated 24.11.2014 made in S.C.No.30 of 2014 by the learned Sessions Judge (Fast Track Mahila Court), Kanniyakumari District at Nagercoil, thereby convicting and sentencing the appellants/A1 & A2 to undergo three years of rigorous imprisonment each and to pay a fine of Rs.10,000/- each, in default each to undergo six months of rigorous imprisonment for the offence under Section 306 of IPC.

2. The case of the prosecution is that the deceased Sheeba is the daughter of P.W.1 and the wife of P.W.4. The first appellant/ first accused is the mother of the second appellant/second accused. Both the appellants are neighbours of the deceased Sheeba. The accused had assassinated the character of the deceased Sheeba in public. Unable to bear the same, on 13.09.2012 night 12.00 pm, the deceased Sheeba consumed poison and gave poison to her daughter, who is 5 years old and poured kerosene on herself as well as her daughter and set fire and thereby committed suicide. Upon the occurrence, a case in Crime No.654 of 2012 was registered by the Eraniel Police for the offences under Section 302 IPC r/w 174 Cr.P.C @ 306 IPC.



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3. After completion of investigation, charge sheet has been filed against both the accused for the offence under Section 306 of IPC. The trial Judge taken cognizance of the case in S.C.No.30 of 2014 and after completing the legal mandates of furnishing copies and all other legal formalities, the trial Judge framed charges for the offence under Section 306 of IPC. When the accused were questioned, they denied the same and claimed to be tried.

4. During trial, on the side of the prosecution, P.W.1 to P.W.15 were examined and Ex.P1 to Ex.P14 were marked. On the side of the defence, no oral and documentary evidence was let in.

5. After completion of trial, based on the oral and documentary evidence, the trial Judge has convicted and sentenced the appellants as supra.

6. Aggrieved over the same, this appeal has been preferred by the appellants/A1 and A2.

7. Heard both sides.



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8. The learned counsel appearing for the appellants submitted that the deceased had committed suicide in view of some matrimonial dispute between herself and her husband, who is residing in abroad and no statement of the deceased was recorded before her death. The learned trial Judge has convicted the accused on the basis of presumption and hearsay evidence.

9. The learned Government Advocate submitted that the first accused had abused the deceased in filthy language stating that she tried to have illegal intimacy with her son, who is the second accused. The deceased was unable to stand such pressure given to her and had committed suicide and hence, the learned trial Judge has rightly observed that the accused 1 and 2 had abetted the suicide of the deceased.

10. Heard both sides.

11. The husband of the deceased, who was examined as P.W.4, has stated in his evidence that the matrimonial life was happy after his marriage with the deceased in the year 2006. He stated that he had spoken to the deceased three days prior to the occurrence, but she did not make any



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complaint that she was being abused by the accused in the manner stated by the prosecution.

12. The mother of the deceased, who was examined as P.W.1, has stated in her evidence that she had received a phone call from the deceased on 12.09.2012 at about 05.00pm., and told that the first accused had abused her in filthy language and defamed her character. The next day when P.W.1 went to visit her daughter, she appeared very tired and cried. P.W.1 has stated that she pacified the deceased and came back to her house and even during night at about 09.00 pm., the deceased called her mother through phone and again stated that the first accused had abused her badly. P.W.1 had convinced her that she would come and see her in the next day morning. However, she received a phone call from the auto driver, who used to park his auto in the neighbourhood of the deceased, and had told that there was fire in her daughter's house.

13. The cross-examination of P.W.1 would reveal that the deceased was married to one Senthilkumar and after that marriage failed, she got marriage to P.W.4. It was suggested to P.W.1 that the deceased had lot of martial issue even with her first husband and her life with P.W.4 was also not peaceful, to which, P.W.1 stated that there was no issue between his daughter and her husband, P.W.4 and they lived in happiness.



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14. From the evidence of P.W.1, it is not known whether the accused came to the house of the deceased and abused her or whether they had abused her by standing outside of her house or called her over phone and abused her. The house of the accused is also said to be situated in the same street, on that of the deceased.

15. From the evidence of the husband of the deceased, P.W.4, nothing is stated by his direct knowledge about the involvement of the accused in abusing the deceased with unparliamentary words by tarnishing her character.

16. In-fact, the deceased has left her suicide note, which has been recovered by the Investigating Officer and the same was marked as Ex.P.8.

17. One of the witnesses viz., P.W.9, Rajan, who is the brother of the deceased husband, stood as a witness for the observation mahazar and seizure mahazar. He has stated in his evidence that two diary papers have been seized by the police in his presence and the same have been marked as Ex.P.8.



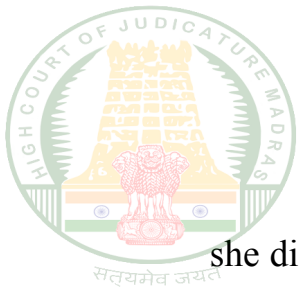
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18. P.W.10, who also stood as one of the witnesses for seizure mahazar and observation mahazar, has corroborated the evidence of P.W.9.

19. The cross-examination of P.W.8, as he is the brother of P.W.4 his evidence as to the recovery of document, which has been marked as Ex.P.8, by the Investigating Officer, cannot be doubted.

20. P.W.8 did not deny anything about the handwriting in Ex.P.8, diary papers. The Investigating Officer, who has been examined as P.W.14, also asserted that it was a suicide note and it was available in two letters written by the deceased. In the suicide note, the accused name was not mentioned. Instead, in one letter, the deceased had expressed her frustration as she could not even step outside the house for even five minutes. The notes did not contain any dates. However, it reveals that the deceased have got frustrated as she not understood in right way whenever she attempted to engage in conversation with anyone. In another letter, she had stated that she has not done anything wrong and had no affair with anyone and she was subjected to abuse and physical assault. It was further mentioned in the letter that the name of Ayappan, P.W.4, had given love letter and she did not accept the same. However, she continued to live amidst suspicion, though



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she did not have any affair with P.W.4, and she did not trust him. As she no longer wished to live and believed that the world was not safe for her daughter either, she had chosen to end her life by committing suicide. But, the signature on the two letters appear to be different. In one paper, she had signed in English and in another letter, it is in Tamil. Even though there is no concrete evidence to confirm that the suicide notes were written by the deceased, it seems that the deceased was not happy with her husband P.W.4 as well even from his own evidence.

21. The neighbours of the deceased were also not examined in order to state anything about the connectivity between the accused and the deceased or whether anyone knew that the accused were abusing the deceased in filthy language by assassinating her character. The inquest report was submitted by P.W.12, RDO and it has been marked as Ex.P.11.

22. P.W.5, Ramankutty, has stated in his evidence that the first accused had abused the deceased by alleging illegal intimacy with the second accused.

23. It appears from the evidence of P.W.5 that on 12.09.2012 at about 05.00 pm., he has returned after finishing work and was standing in front of

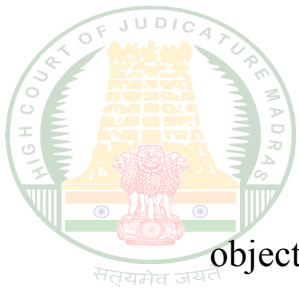


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the house of the deceased, at that time, both the accused came together and abused the deceased badly by stating why should she not die, instead of developing an illegal intimacy with the second accused and immediately, she went inside her house by crying.

24. Even according to the evidence of P.W.1, the first accused alone abused her twice on the same day. P.W.5 has given a contradictory statement that he had not stated before the Revenue Divisional Officer that he knew the reason for the death of the deceased. P.W.6 was said to be standing near Krishna Kovil, when A1 and A2 abused the deceased. In the observation mahazar, Krishnan Kovil is not shown. Hence, it is not known whether Krishnan Kovil is nearby to the house of the deceased. In the observation mahazar, the place of the occurrence has been shown the garden portion of P.W.4's house. But P.W.1 has stated that upon receiving the information about the death of the deceased, she went, broke open the door and found the deceased burned along with the daughter, whom she was embracing.

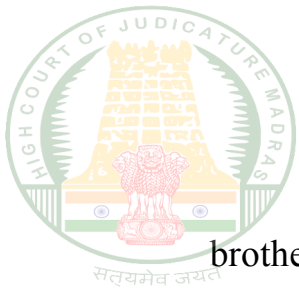
25. P.W.7 has also stated that on 13.09.2012 at about 09.00 am, when he was standing along with P.W.8 in front of Sheeba's house, he saw the second accused, and the deceased questioned him as to why he had not



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objected when his mother spoke ill of her and abused her character, to which, the second accused told that the character of the deceased was known to all and questioned her survival. He also stated that he had seen both the accused standing in front of the deceased house and were humiliating her on the previous day. But, P.W.1 has stated that when she called the deceased on 13.09.2012 at about 09.00 pm., she told her on that evening also she was abused by A1. But in the evidence of P.W.7, he has stated that the second accused had abused the deceased on 13.09.2012 at about 09.00 pm. Hence, the contradiction between the evidence of P.W.1, P.W.6 and P.W.7 creates doubt as to whether the accused had stood in front of the house of the deceased and abused her in filthy language. In the suicide note nothing is mentioned about the accused 1 and 2 and that they have abused her.

26. Yet another witness, who was examined as P.W.8, has stated in his evidence that at about 09.00 am, on the morning of 13.09.2012, saw the accused standing in front of the deceased's house. The deceased questioned the second accused as to why he has not prevented his mother, first accused, from abusing the deceased, But, the second accused also abused the deceased. His evidence direct by contradictions the evidence of P.W.5, Ramankutty and P.W.1, mother of the deceased. P.W.8, who is another



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brother of P.W.4, stated that on 12.09.2012, he went to work with P.W.5 between 09.00 am and 01.00 pm. When P.W.8 had stated that he had been with P.W.5 from 09.00 a.m to 01.00 pm., on 12.09.2012, P.W.5 has stated that he had gone to work with one Ganesh and returned only at about 05.00 pm., and saw the accused while abusing the deceased. This contradiction would also cause doubt as to whether the accused was present before the house of the deceased as alleged by P.W.5.

27. No doubt, the evidence of the Doctors, who conducted postmortem, were examined as P.W.2 and P.W.3. They have stated in their evidence that the deceased had consumed poison and died due to the same. Having consumed poison, she also self humiliated herself and her daughter by pouring kerosene on them. As the suicide note which is alleged to be written by the deceased did not make any reference about the accused persons and there are contradictions from the evidence of prosecution witnesses, as stated above, the prosecution has failed to prove the case beyond reasonable doubt that both the accused were standing in front of the house of the deceased on 12.09.2012 and 13.09.2012 and abused her by tarnishing her character and intimidated her to commit suicide.



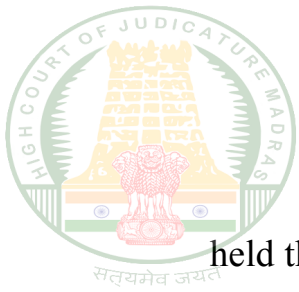
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28. Even it is presumed to be true for the sake of argument that the accused had used unparliamentary words against the the deceased by assassinating her character, the fact remains that they did not go inside the house of the deceased. The witnesses have only stated that she had gone inside the house by crying. In-fact, the complaint made by the deceased to her mother, P.W.1, was also about the difficulties which she faced and P.W.1 had also pacified that she would come in the next day. In-fact, earlier day also P.W.1 had visited the deceased and convinced her. Hence, under such circumstances, the deceased could have opted to go to her mother's house to realize herself or could have waited untill her mother's arrival.

29. It was not the case of the prosecution that the accused had played active role in assisting the deceased to commit suicide. The word 'go and die' or 'she should die' cannot be constituted as as offence. It has been repeatedly held that the word 'why you did not die' alone cannot constitute the offence under Section 306 of IPC.

30. In this regard, it is appropriate to refer to the judgment in *Ayyub and others Vs., State of Uttarpradesh* reported in (2025) 3 SCC 334. In the said judgment, reference has been made to the earlier judgment of the Hon'ble Supreme Court held in *Swamy Prahaladdas Vs., State of MP* and



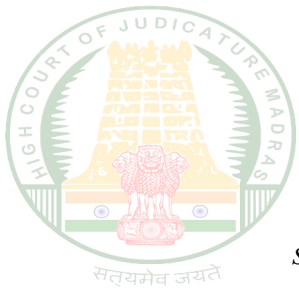
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held that the words 'go and die' could have been uttered by someone without assuming that the person would actually act on it by committing suicide. In the said judgment, it is also held that in order to make out the offence under Section 306 of IPC, specifically, the abetment as contemplated under Section 107 of IPC should be proved to be present. It should be the intention of the accused to aid or instigate or to abet the deceased to commit suicide. If the deceased was unable to withstand harassment and without seeking any alternate remedy, chose to commit suicide, the accused cannot be held guilty of abetting the suicide. In this regard, it is appropriate to extract the relevant portion of the above said judgment:-

“....19.In Swamy Prahaladdas vs. State of M.P. and Another, (1995 Supp (3) SCC 438), the appellant remarked to the deceased that ‘go and die’ and the deceased thereafter committed suicide. This Court held that :-

“3.... Those words are casual nature which are often employed in the heat of moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite means rea on the assumption that these words would be carried out in all events....”

20. By a long line of judgments, this Court has reiterated that in order to make out an offence under [Section 306](#) IPC, specific abetment as contemplated by [Section 107](#) IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit



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suicide is a must for attracting [Section 306 IPC](#) [See [Madan Mohan Singh vs. State of Gujarat and Another](#), (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See [Amalendu Pal alias Jhantu vs. State of West Bengal](#), (2010) 1 SCC 707 and [M. Mohan vs. State](#), (2011) 3 SCC 626 and [Ramesh Kumar vs. State of Chhattisgarh](#), (2001) 9 SCC 618].

21. These principles have been reiterated recently by this Court in [Mahendra Awase vs. The State of Madhya Pradesh](#), 2025 INSC 76.

22. We find none of the ingredients required in law to make out a case under [Section 306 IPC](#) to be even remotely mentioned in the charge-sheet or are being borne out from the material on record. The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased Tanu with no other alternative but to put an end to her life. “

31. This is not a case where the deceased was left with no alternative but to commit suicide, especially considering that her relationship with her husband, P.W.4, was also strained. Moreover, there is no proximity between the time of the occurrence and any positive act committed by the accused that could be said to have aided or abetted the commission of suicide. Since the alleged act of abetment has not been established by the prosecution in accordance with the essential ingredients set out under Section 107 of the IPC, the trial Court was not justified in concluding that



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the accused had abetted the deceased in committing suicide along with her five-year-old daughter. In this regard, it is also appropriate to extract the relevant paragraph of the judgment of Hon'ble Supreme Court held in the case of ***Rohini Sudarshan Gangurde Vs., the State of Maharashtra and another*** reported in ***2024 SAR (Cri) 1027***. In the said judgment, a detailed discussion has been made as to the ingredients of Section 107 of IPC relevant to Section 306 of IPC and the same is under :

“7. Having heard the arguments of both the counsels and after perusing the record, we find that the only question that needs to be determined in the instant case is whether the alleged conduct of the appellant-accused prima facie attracts Section 306 of *IPC*, to continue the proceedings of Trial Court against the appellant.

Section 306 and Section 107 of IPC read as:

“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.

It must be read with Section 107 of IPC which explains the meaning of Abetment, which reads as:

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



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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 wilful misrepresentation, or by wilful 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 2.—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 act.”

8. Reading these sections together would indicate that there must be either an instigation, or an engagement or intentional aid to ‘doing of a thing’. When we apply these three criteria to [Section 306](#), it means that the accused must have encouraged the person to commit suicide or engaged in conspiracy with others to encourage the person to commit suicide or acted (or failed to act) intentionally to aid the person to commit suicide.

9. In [S.S. Chheena v. Vijay Kumar Mahajan](#)², this court explained the concept of abetment along with necessary ingredient for offence under [Section 306](#) of IPC 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 (2010) 12 SCC 190 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.”

10. In [Amalendu Pal v. State of W.B.](#)³, this court explained the parameters of [Section 306](#) in following words:



“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 (2010) 1 SCC 707 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](#).”

11. In [Ramesh Kumar v. State of Chhattisgarh](#)⁴, while explaining the meaning of ‘Instigation’, this court stated that:

“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. 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



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have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.”

12. These principles and necessary ingredients of [Section 306](#) and [107](#) of Indian Penal Code were reiterated and summarized by this court in recent case of [Gurucharan Singh vs State of Punjab](#)⁵.

13. After carefully considering the facts and evidence recorded by the courts below and the legal position established through statutory and judicial pronouncements, we are of the view that there is no proximate link between the marital dispute in the marriage of deceased with appellant and the commission of suicide. The prosecution has failed to collect any evidence to substantiate the allegations against the appellant. The appellant has not played any active role or any positive or direct act to instigate or aid the deceased in committing suicide. Neither the statement of the complainant nor that of the colleagues of the deceased as recorded by the Investigating Officer during investigation suggest any kind of instigation by the appellant to abet the commission of suicide. There is no allegation against the appellant of suggesting the deceased to commit suicide at any time prior to the commission of suicide by her husband.”

32. As the above judgment of the Hon'ble Supreme Court also applicable to the facts involved in this case, the prosecution did not prove the minimum proximity and active role played by the accused in abetting deceased to commit suicide along with her daughter.



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33. For the reasons stated above, the finding of the guilt against the appellants by the trial Court for the commission of offence under Section 306 of IPC is liable to be set aside.

34. In the result,

(i) This Criminal Appeal is allowed.

(ii) The impugned judgment of conviction and sentence made in S.C.No.30 of 2014, dated 24.11.2014, passed by the learned Sessions Judge (Fast Track Mahila Court) Kanyakumari District at Nagercoil, is hereby set aside.

(iii) The appellants are acquitted of all the charges. The fine amount, if any, paid by the appellants shall be refunded. Bail bond, if any, executed shall stand discharged.

02.07.2025

Index : Yes/No
NCC : Yes/No.

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To

- 1.The Sessions Judge (Fast Track Mahila Court)
Kanyakumari District at Nagercoil.
- 2.The Inspector of Police,
Eraniel Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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