

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Prasenjit Biswas**

C.R.A. 868 of 2013

Partha Sarathi Neogi & Anr.

-Versus-

The State of West Bengal

For the Appellants : **Mr. Debasis Kar,
Mr. Husen Mustafi,
Ms. Paromita Mukherjee.**

For the State : **Mr. Debasish Roy, Ld. PP,
Ms. Faria Hossai, Ld. APP,
Ms. Manisha Sharma.**

Hearing concluded on : **13.02.2026**

Judgment On : **18.02.2026**

Prasenjit Biswas, J:-

- 1.** This instant appeal is directed against the impugned judgment and order of conviction dated 01.10.2013 and 03.10.201 passed by the learned Additional District and Sessions Judge, 2nd Court, Barrackpore in connection with Sessions Trial No. 6(9)2012 corresponding to Sessions Case No. 212 of 2011.

2. By passing the impugned judgment these appellants were found guilty for commission of offence punishable under Section 306 of the Indian Penal Code and were sentenced to suffer rigorous imprisonment for seven years along with a fine of Rs. 5000/- each and in default of payment of fine to suffer undergo further rigorous imprisonment for one year each.
3. Being aggrieved by and dissatisfied with the said impugned judgment and order of conviction, the present appeal is preferred at the behest of the appellants.
4. In short compass, the story of the prosecution, as delineated in the record, may be summarized as follows:

"The case originated from a complaint lodged by the defacto complainant, Smt. Kousalya Neogi, who is the wife of the deceased, Sandip Neogi. According to the written complaint, the complainant was married to the victim in 1995. Although the couple was not blessed with any children, their marital relationship was, at the initial stage, described as cordial and harmonious. It is, however, contended that with the passage of time the appellants began to behave improperly with the complainant and the deceased on a regular basis, subjecting them to both mental cruelty and physical

harassment. They are said to have used abusive and slang language with the alleged intention of obtaining a share in the property of the victim. The complaint further states that in 2005, the victim fell seriously ill and was admitted to hospital. On the advice of medical professionals, the victim underwent amputation of his male organ. It is alleged that following this incident, the appellants intensified their harassment, making it extremely difficult for the complainant and the victim to continue residing in the house. The written complaint additionally alleges that appellant no.1 defamed the character of the victim with the assistance of a local individual named Barun Ghosh. Despite repeated requests by the complainant and her husband to desist from such acts, the alleged harassment continued unabated. The complaint also narrates an allegation involving one Smt. Saraswati Biswas, a tenant in their house and proprietor of a shop called Shilpa Ladies' Tailor, who had purchased a portion of the house. It is alleged that Saraswati Biswas, taking advantage of the couple's alleged helpless condition, attempted to acquire the entire

property with the support of a local political party. In furtherance of this purported plan, it is contended that she sent her young niece, aged approximately ten years, to the victim and propagated the false allegation that the victim had sexually assaulted the child, despite the victim's incapacity to engage in sexual relations. According to the defacto complainant, the cumulative effect of this harassment and mental torture by the appellants caused the victim to become deeply depressed, ultimately leading him to commit suicide. The complaint also refers to a suicidal note discovered by the complainant, in which the deceased allegedly attributed responsibility for his death to the appellants. On the basis of this written complaint, Bizpur Police Station registered Case No. 295 dated 03.09.2010 under Section 306 of the Indian Penal Code. Thereafter, the police carried out an investigation and, upon its completion, submitted a charge-sheet against the accused persons under Section 306 IPC, thereby formally initiating criminal proceedings against the appellants for abetment of suicide. This narrative, as presented by the

prosecution, formed the foundation for the subsequent trial and conviction of the appellants.”

5. It is submitted that the Trial Court, upon consideration of the materials on record, framed a charge against the appellants under Section 306 of the Indian Penal Code, 1860. The charge was read over and explained to the appellants in a language known to them, following which they expressly pleaded not guilty and claimed to be tried. This plea necessitated a full trial in accordance with law.
6. During the course of the trial, the prosecution examined a total of thirteen (13) witnesses, whose testimonies were adduced to substantiate the allegations leveled against the appellants. In addition, relevant documents were tendered by the prosecution and duly marked as exhibits to reinforce the evidentiary value of their case.
7. In stark contrast, the defence did not adduce any oral evidence nor produce any documentary material to counter the prosecution's case. The appellants, through their counsel, relied solely on their plea of innocence, without calling any witnesses or submitting documents in support of their defence. This procedural posture underscores that the burden of proof rested entirely on the prosecution, which, having examined its

witnesses and tendered the relevant exhibits, relied upon the strength of its case as adduced before the Court.

- 8.** Learned Advocate for the appellants, Mr. Debasis Kar, has strenuously contended that the impugned judgment and order of conviction suffer from serious infirmities, inasmuch as the evidence on record is replete with material contradictions, omissions, and inconsistencies which go to the root of the prosecution case. According to him, such discrepancies render the findings of the learned Trial Court legally unsustainable and unworthy of reliance in the eye of law.
- 9.** Elaborating his submissions, learned Advocate has drawn attention to the testimony of the defacto complainant (PW1). It is pointed out that during cross-examination, PW1 admitted that she approached the police station to lodge the complaint approximately 20 to 25 days after the death of her husband. This inordinate and unexplained delay in lodging the FIR, according to the defence, creates serious doubt regarding the genuineness of the allegations and raises the possibility of afterthought and embellishment. PW1 further deposed that her husband had previously attempted to commit suicide in the year 2005 due to illness, thereby indicating a pre-existing vulnerability on the part of the deceased which was unrelated to the present appellants.

- 10.** It is further submitted that although PW1 alleged that the appellants used to inflict mental and physical torture upon the victim, she admittedly did not lodge any complaint before any police station or competent authority during the lifetime of her husband. Such inaction, despite the alleged continuous harassment, materially weakens the prosecution version. The learned Advocate also relies on PW1's admission in cross-examination that appellant no. 1 was residing separately after erecting a partition wall, thereby reducing the possibility of regular interaction or interference. In the absence of any cogent evidence of direct instigation or proximate provocation attributable to the appellants, it is argued that there can be no presumption of abetment to suicide. The prosecution, according to him, has failed to establish any proximate cause linking the acts of the appellants with the suicide of the deceased.
- 11.** The learned Advocate has further referred to PW1's admission regarding the earlier suicide note dated 01.07.2005 (Exhibit-A). PW1 acknowledged that the names mentioned therein were known to her and included persons such as a doctor, an advocate, a political leader, and a school teacher, yet she had no grievance against any of them. This, according to the defence, demonstrates that the deceased's earlier suicidal tendency was linked to personal and medical issues rather than

to any conduct of the present appellants. It is also emphasized that the said suicide note pertains to the year 2005, whereas the alleged incident occurred on 09.08.2010, after a considerable lapse of time. Therefore, no evidentiary value can reasonably be attached to that document for implicating the present appellants.

- 12.** Attention has also been drawn to the contradictory evidence regarding alleged property disputes. PW4 stated that there was a dispute between the two brothers' families relating to property, whereas PW5 categorically deposed that there was a cordial relationship between appellant no. 1 and the victim and that no property dispute existed. These mutually destructive versions, it is argued, cast serious doubt on the prosecution's attempt to establish motive.
- 13.** With regard to PW10, the brother of the defacto complainant, the learned Advocate submits that he admitted in cross-examination that the mental and physical condition of the victim was normal prior to his death. He also stated that there was no regular interaction between the family of appellant no. 1 and the victim and that he had never lodged any complaint alleging torture. Such evidence, according to the defence, is inconsistent with the theory of sustained harassment leading to suicide.

- 14.** Serious reliance is also placed on the testimony of PW13, the Investigating Officer. In cross-examination, PW13 admitted that the defacto complainant had not stated before him that the appellants had instigated or provoked her husband to commit suicide. Likewise, other witnesses did not make any such allegation in their statements under Section 161 CrPC. This omission, it is contended, is fatal to the prosecution case, as it strikes at the foundation of the charge of abetment.
- 15.** On the legal aspect, the learned Advocate submits that to constitute an offence under Section 306 of the Indian Penal Code, mere harassment or ill-treatment is insufficient. The prosecution must establish a clear mens rea to instigate or aid the commission of suicide and must further prove that such instigation was the proximate and effective cause of the suicide. In the present case, there is no evidence of any direct or indirect act of incitement, nor any material to show that the suicide was the immediate result of any conduct of the appellants. Vague and general allegations of harassment, without proof of a live and proximate link with the act of suicide, do not satisfy the statutory requirement of abetment.
- 16.** In support of these submissions, reliance has been placed on authoritative pronouncements of the Hon'ble Supreme Court in **Prakash & Ors. vs. The State of Maharashtra & Anr.**

(2025) 2 Supreme 695 and **Gangula Mohan Reddy vs. State of Andhra Pradesh (2010) 1 SCC 750**, wherein the scope and ingredients of Section 306 IPC have been elaborately discussed and the necessity of proving proximate instigation has been emphasized.

- 17.** On the cumulative assessment of the evidence and the settled principles of law, it is argued that the learned Trial Judge failed to properly appreciate the material contradictions and omissions on record. The findings, according to the defence, are based on conjectures and surmises rather than on legally admissible and reliable evidence. It is therefore urged that the impugned judgment and order of conviction are unsustainable in law and liable to be set aside.
- 18.** Ms. Manisha Sharma, learned Advocate appearing for the State, submitted that the prosecution has placed credible and trustworthy evidence on record, which sufficiently establishes the guilt of the appellants. According to the learned Advocate, there is nothing in the material before the Court that would render the testimonies of the prosecution witnesses unreliable or unworthy of credence.
- 19.** It was contended that the prosecution witnesses, particularly PW1, the defacto complainant, and PW10, her brother, consistently supported the prosecution case in their depositions.

PW1, in particular, deposed that the appellants used to inflict both mental and physical torture upon the deceased, Sandip Neogi. The learned Advocate emphasized that PW1's testimony closely mirrors the allegations made in the written complaint lodged with the police, thereby demonstrating a consistent and coherent narrative from the inception of the complaint through the trial proceedings.

- 20.** Further, the learned Advocate pointed out that PW10 also corroborated PW1's version, stating that the appellants caused mental distress and harassment to the victim, which ultimately resulted in his decision to commit suicide. The combined testimony of these witnesses, as submitted by the State, clearly indicated that the appellants actively engaged in conduct that contributed to the deceased's mental anguish.
- 21.** It was further argued that the suicidal note left by the victim constitutes additional evidence indicating the involvement of the appellants in the circumstances that led to his death. According to the learned Advocate, the note supports the assertion that the deceased attributed his suffering to the acts of the appellants.
- 22.** Mr. Roy emphasized that the depositions of PW1 and PW10 were not materially shaken during cross-examination. The witnesses maintained their account under scrutiny, and there were no contradictions that could meaningfully impeach their testimony. In

light of the entirety of the evidence, it was submitted that the learned Trial Judge correctly appreciated the facts, found that the appellants were responsible for abetting the suicide of the deceased, and imposed sentences in accordance with the law.

- 23.** Accordingly, it was urged on behalf of the State that the impugned judgment and order of conviction are legally sound and fully supported by the record. The learned Advocate submitted that the appeal filed by the appellants is devoid of merit and should be dismissed, thereby upholding the findings and convictions recorded by the Trial Court.
- 24.** I have considered the rival submission anxiously adverse by both the parties and have gone through all the materials on record.
- 25.** PW1, Koushala Neogi, who is the wife of the deceased, lodged a written complaint before the police alleging, inter alia, that the present appellants used to subject her husband to mental torture by spreading defamatory statements in various forms and by allegedly instigating him to commit suicide. According to her version in the complaint, such conduct on the part of the appellants caused severe mental distress to the victim, as a result of which he became deeply depressed and ultimately committed suicide by jumping before a running train in front of Kanchrapara Workshop Gate on 09.08.2010.

- 26.** However, a careful scrutiny of her evidence, particularly in cross-examination, reveals several circumstances which materially affect the credibility and probative value of her testimony. PW1 admitted that she approached the police station to lodge the complaint only after 20 to 25 days from the date of her husband's death. No satisfactory explanation has been offered for such a substantial delay in lodging the FIR. In criminal jurisprudence, prompt lodging of a complaint is considered a safeguard against embellishment or afterthought. An unexplained delay of this nature inevitably creates doubt as to the spontaneity and authenticity of the allegations and gives rise to the possibility of deliberation or external influence.
- 27.** PW1 further admitted in cross-examination that the deceased had earlier attempted to commit suicide in the year 2005 due to his illness. The defence brought on record the suicide note relating to the 2005 incident, which was marked as Exhibit-A (collectively). She candidly acknowledged that her husband's male organ had been amputated owing to illness, and that this had led him into a state of mental depression. This admission is of considerable significance, as it indicates a pre-existing psychological vulnerability and a history of suicidal tendency unrelated to the present allegations.

- 28.** The witness also deposed that appellant no. 1 was residing separately after constructing a partition wall in the house and that there were no cordial relations between the families after her marriage. If, by her own showing, the appellants and the victim's family were living separately and had little or no interaction, the allegation of continuous instigation or abetment becomes inherently doubtful. Abetment to suicide ordinarily requires some degree of proximity, interaction, or conduct capable of influencing the mind of the deceased; a situation of estrangement and separate residence considerably weakens such a theory.
- 29.** Another material inconsistency emerges regarding the lodging of the complaint. PW1 stated that the scribe, Sunita Bhattacharjee, had reduced her elaborate narration into a concise written complaint which was submitted to the police. She simultaneously admitted that her elaborate written complaint was not submitted before the police. This shifting stand regarding the very foundation of the prosecution case, the written complaint, raises doubt about the accuracy and completeness of the allegations made at the earliest stage.
- 30.** Though PW1 made general allegations that the appellants mentally tortured the victim by spreading defamatory statements and by instigating him to commit suicide, she

admitted that during her entire marital life she never lodged any complaint before any police station or authority against the appellant no. 1. Such inaction, despite the alleged persistent torture, undermines the natural course of human conduct and weakens the reliability of her claims.

- 31.** Her evidence further shows that the deceased's earlier suicide attempt in 2005 was linked to his illness and mental depression. She admitted that the names mentioned in the suicide note dated 01.07.2005 were known to her and included a doctor, an advocate, a political leader, and a school teacher, yet she had no grievance against any of them. She also admitted that on that occasion appellant no. 1 had taken her husband to the hospital while she herself was not at home. These facts suggest that the deceased's fragile mental condition and prior suicidal tendencies were rooted in personal and medical issues rather than any conduct attributable to the appellants. It is therefore a plausible inference that, having once attempted suicide unsuccessfully, the deceased may have taken the extreme step subsequently due to his continuing mental depression.
- 32.** PW1 also admitted that she had read the suicide note seized by the police in the present case and that it did not disclose any reason for the commission of suicide. Significantly, the note did not attribute blame to the appellants or refer to any act of

instigation or harassment by them. This omission is crucial, as a suicide note, if it exists, is often the most direct evidence of the deceased's state of mind.

- 33.** PW2, Amal Saha, and PW3, Sandha Saha, who were tenants residing in the same premises with the defacto complainant, are natural witnesses inasmuch as they were situated in close physical proximity to the family of the deceased and were in a position to observe the day-to-day interactions, if any, between the parties. However, their testimonies do not support the prosecution case in any manner so far as the involvement of the present appellants is concerned.
- 34.** PW2, in his cross-examination, categorically stated that during the entire period of his tenancy in the house of the victim, there was no visiting term or interaction between the family of the deceased and the appellants. This statement is significant because, if there had been persistent harassment, instigation, or any form of mental torture as alleged, a tenant living in the same house would reasonably be expected to have noticed some form of interaction, quarrel, or discord. His clear assertion of absence of contact materially weakens the prosecution's theory of continuous provocation or harassment.
- 35.** PW3, who is the wife of PW2 and an equally natural witness, corroborated the version of her husband. She stated that she

personally did not witness any relationship or visiting term between the victim's family and appellant no. 1. Her evidence reinforces the inference that there was little or no interaction between the two families. Where two independent witnesses residing in the same premises consistently speak to the absence of contact, it becomes difficult to accept the allegation of sustained instigation.

36. It is true that both PW2 and PW3 were declared hostile and were cross-examined by the prosecution. However, merely declaring a witness hostile does not dilute the evidentiary value of the portions of testimony that remain unshaken. In the present case, nothing material could be elicited from their cross-examination to advance the prosecution story or to establish any overt act, instigation, or conduct on the part of the appellants. Their evidence, therefore, does not implicate the appellants and rather probabalizes the defence version of estrangement.

37. PW4, Sri Amar Roy, initially stated in his examination-in-chief that there was a property dispute between the two brothers' families, namely the family of Partha Sarathi Neogi and that of the victim. However, in cross-examination, he admitted that he had not personally witnessed any incident and that his deposition was based entirely on hearsay. Hearsay evidence, by

its very nature, is weak and generally inadmissible to prove the truth of its contents unless it falls within recognized exceptions. Since PW4 lacked direct knowledge, his statement regarding dispute cannot be treated as reliable proof of motive.

- 38.** In contrast, PW5, Niloy Dutta, deposed that there was a good relationship between appellant no. 1 and the victim and that no property dispute existed between them. This version directly contradicts PW4. Such contradictory evidence among prosecution witnesses on a material aspect like motive creates serious doubt about the veracity of the prosecution's narrative.
- 39.** PW5 further stated that he had not been examined by the police during investigation and that he was deposing for the first time before the Court. He clarified that his role was limited to identifying the house of the victim at the request of the police and signing a paper as directed. He had no personal knowledge regarding any alleged mental torture by the appellants. Thus, his testimony does not advance the prosecution case on the core allegation of abetment.
- 40.** PW7, Sri Samar Roy, was merely a seizure witness to the recovery of the suicide note. His role was confined to signing the seizure list. He did not claim any personal knowledge regarding the alleged acts of the appellants. A seizure witness proves only

the procedural aspect of recovery and cannot, by itself, establish the truth of the allegations against the accused.

- 41.** Similarly, PW8, Sri Soumen Dutta, admitted in cross-examination that he knew nothing about the incident and that he had not been examined by the police during investigation. He stated that he signed the seizure list at the police station as per police instruction. PW9, Bablu Debnath, echoed the same version, stating that he signed the seizure list for certain papers at the police station on police instruction. Their testimonies are formal in nature and do not establish the factum of seizure in a convincing manner, far less do they connect the appellants to the alleged offence.
- 42.** On a cumulative assessment, the evidence of PW2, PW3, PW5, PW7, PW8, and PW9 does not incriminate the appellants in any substantive way. These witnesses denied the existence of interaction between the parties, contradict the prosecution on motive, or are merely formal witnesses to procedural steps taken by the police. Their testimonies fail to establish any element of instigation, abetment, or proximate conduct attributable to the appellants. Consequently, these pieces of evidence do not strengthen the prosecution case and, in several respects, lend support to the defence by creating reasonable doubt regarding the prosecution's allegations.

- 43.** The prosecution has placed considerable reliance on the testimony of PW10, Bhola Barman, who is the brother of the defacto complainant, to corroborate the version of PW1 and to lend support to the allegations made in the written complaint. At the time of hearing, learned counsel for the State has submitted that PW10, along with PW1, has fully supported the prosecution case and the narrative set out in the complaint. However, a careful and analytical reading of his evidence, particularly when tested in cross-examination, reveals material inconsistencies and admissions that substantially weakens the probative value of his testimony.
- 44.** In his examination-in-chief, PW10 stated that he had told the police that the appellants, being the "Dada" and "Boudi" of the victim, used to subject both the defacto complainant and the deceased to torture, and that such alleged torture drove the deceased to commit suicide. He further asserted that he had informed the police that the appellants propagated defamatory statements against the couple on the ground that they had no children, and that due to such humiliation and harassment the victim ultimately committed suicide, leaving behind a suicide note which was recovered and seized by the police in his presence.

- 45.** At first glance, these statements appear to support the prosecution case. However, the credibility of a witness is not assessed merely on the basis of examination-in-chief but on the totality of his evidence, including cross-examination. In cross-examination, PW10 admitted that the mental and physical condition of the deceased was normal prior to his death. This statement assumes significance because it does not align with the prosecution theory of continuous mental torture leading to a fragile psychological state culminating in suicide. If the deceased was mentally and physically normal, the causal link between alleged harassment and the extreme act becomes less certain and calls for stricter proof.
- 46.** More importantly, PW10 candidly admitted that prior to the incident there was no talking or visiting term between the family of appellant no. 1 and the family of the deceased. This admission strikes at the very root of the prosecution's allegation of sustained harassment and instigation. Abetment by way of instigation ordinarily presupposes some degree of interaction, communication, or conduct capable of influencing the mind of the victim. Where there is admitted absence of contact or communication, the allegation of regular mental torture or instigation becomes inherently doubtful.

- 47.** Another significant aspect is his conduct. Though he claimed knowledge of defamatory statements and mental torture allegedly inflicted by the appellants, he conceded that he never lodged any complaint before any police station or authority regarding such conduct. Such inaction on the part of a close relative, who was aware of the alleged harassment, appears inconsistent with normal human conduct and reduces the evidentiary weight of his allegations. If the alleged acts were serious enough to drive a person to suicide, it is reasonable to expect that some complaint or protest would have been made at an earlier point of time.
- 48.** PW10 also stated in cross-examination that the defacto complainant handed over the suicide note from the victim's diary to the police at the time of lodging the complaint, but he himself had not read the contents of that note. Therefore, his assertion regarding the contents or implications of the suicide note is not based on personal knowledge. His evidence on this point is, at best, derivative and lacks independent evidentiary value.
- 49.** When these aspects are considered cumulatively, it becomes evident that PW10's testimony is marked by material contradictions and notable omissions. On one hand, he makes general allegations of torture and defamation; on the other, he

admits absence of interaction between the parties, acknowledges normal mental and physical condition of the deceased, and demonstrates prior inaction despite alleged knowledge of harassment. His lack of personal knowledge regarding the suicide note further diminishes the reliability of his account.

- 50.** In criminal trials, where the standard is proof beyond reasonable doubt, the testimony of a witness suffering from such inconsistencies cannot be accepted uncritically. The contradictions in PW10's evidence create a clear dent in the prosecution story and render his testimony insufficiently reliable to form the basis of a finding of guilt. Consequently, it would be unsafe to place reliance on the evidence of this witness for sustaining a charge of abetment to suicide.
- 51.** PW13, the Investigating Officer of the case, is a crucial witness from the standpoint of testing the consistency and credibility of the prosecution version, because his testimony reflects what was actually stated by the witnesses at the earliest stage of the investigation. His cross-examination assumes particular significance in the present matter, as it brings to light material omissions in the earlier statements of the key witnesses.
- 52.** In cross-examination, PW13 categorically stated that the defacto complainant (PW1), in her written complaint/FIR, did not

mention that the accused persons had instigated or provoked the victim to commit suicide. He further clarified that even in her statement recorded during investigation, she did not state that the accused persons had instigated or provoked her husband, Sandip Neogy, to commit suicide. This omission is not a minor discrepancy but goes to the root of the prosecution case. Where the gravamen of the charge is abetment to suicide, the element of instigation or provocation is a foundational fact which would ordinarily find place in the very first version of the informant if it were true. Its absence at that stage raises a serious doubt as to whether such allegations were later improvements.

53. PW13 further deposed that the other prosecution witnesses, namely PW2, PW3, PW4, PW5, PW6, PW7, PW8, PW9, and PW10, also did not state at the time of recording their statements that the accused persons had instigated or provoked the victim to commit suicide. Thus, across the board, none of the material witnesses attributed any act of instigation or provocation to the accused at the earliest point of time when their memories were fresh and there was little scope for deliberation or embellishment.

54. In criminal jurisprudence, omissions of this nature in prior statements, particularly under Section 161 CrPC, assume great

importance. When a witness introduces a new incriminating fact for the first time before the Court which was absent in the earlier statement to police, such omission can amount to a contradiction if it touches a vital aspect of the prosecution case. Here, the allegation of instigation is not collateral but central to establishing an offence of abetment to suicide. Therefore, its absence in the earlier statements materially affects the credibility of any subsequent claim to that effect.

- 55.** These omissions also have a logical bearing. If the accused had truly been instigating or provoking the victim, it is natural to expect that the family members and close witnesses would have disclosed such a crucial fact to the Investigating Officer at the first available opportunity. The uniform silence of all these witnesses on this vital point indicates either that no such acts occurred or that the prosecution story evolved subsequently.
- 56.** Consequently, the testimony of PW13 exposes a fundamental weakness in the prosecution case. It demonstrates that the essential ingredient of instigation or provocation was not part of the original narrative given to the police. This creates a serious dent in the prosecution story and undermines the allegation of abetment. In such circumstances, it would be legally unsafe to hold that the prosecution has succeeded in establishing the charge of abetment to suicide beyond reasonable doubt.

- 57.** To constitute an offence under Section 306 of the Indian Penal Code, it is not sufficient for the prosecution merely to establish that the victim was subjected to harassment, ill-treatment, or mental distress. The essential ingredients of the offence, as consistently recognized in judicial pronouncements, require proof of direct or indirect instigation by the accused, which must be the proximate and effective cause leading the victim to commit suicide. Mere vague allegations of harassment, defamatory statements, or general ill-treatment, without evidence of a clear act or series of acts intentionally directed to push the deceased toward taking his own life, do not satisfy the statutory threshold under Section 306 IPC.
- 58.** In the present case, an examination of the record reveals that the prosecution has not established any such proximate or immediate instigation by the appellants. There is no evidence, either oral or documentary, indicating that the appellants inflicted harassment on the deceased immediately prior to the suicide or at any occasion which compelled him to end his life. While PW1, the wife of the deceased, alleged that the appellants used to inflict mental torture by propagating defamatory statements, she admitted in cross-examination that she did not lodge any complaint with the police or approach any other authority during the lifetime of her husband. This omission is

material because a reasonable and concerned spouse, aware of such alleged harassment, would ordinarily take steps to seek intervention, and her failure to do so undermines the credibility of the allegation of persistent torture leading to suicide.

59. Further, PW13, the Investigating Officer, corroborated this lacuna by stating that in her written complaint or statement, PW1 did not mention that the accused persons instigated or provoked the victim to commit suicide. This omission at the earliest stage of reporting is highly significant. Where the essential act of instigation is absent from the initial complaint, it raises a substantial doubt as to whether the alleged harassment was genuinely the proximate cause of the suicide or whether it was later concocted to implicate the accused.

60. The record also demonstrates that the deceased had previously attempted suicide in 2005 due to illness. PW1 admitted that her husband's male organ had been amputated, which caused him severe mental distress and depression, leading to the prior suicide attempt. The suicidal note from that earlier episode (Exhibit-A collectively) mentions certain persons known to the deceased but against whom she had no grievance, indicating that the prior attempt was unrelated to the present appellants. This fact suggests a pre-existing psychological vulnerability and shows that the decision to commit suicide in 2010 may have

been influenced by factors other than the alleged harassment by the appellants.

- 61.** Moreover, PW1 admitted that appellant no.1 resided separately, having constructed a partition wall, and that there was no cordial relationship or regular interaction between the deceased's family and the appellants. If there was no proximate interaction or communication, the allegation of abetment becomes inherently improbable. Without any such contact, it is difficult to conceive how the appellants could have instigated or left the deceased with no option but to commit suicide.
- 62.** The principles governing Section 306 IPC have been succinctly laid down by the Hon'ble Apex Court in **Prakash (supra)**. In paragraphs 13 and 14 of the judgment, the Court observed:

"Section 306 of the IPC has two basic ingredients—first, an act of suicide by one person and second, the abetment to the said act by another person(s). In order to sustain a charge under Section 306 IPC, it must necessarily be proved that the accused person has contributed to the suicide by the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three

conditions outlined in Section 107 IPC has to be satisfied.

Section 306 read with Section 107 IPC, has been interpreted, time and again, and its principles are well-established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide.”

61. In consonance with these principles, it is evident that for abetment to suicide to arise, the accused must actively contribute through acts or words to a situation where the victim sees no alternative but to end his life. There must be a demonstrable mens-rea and a proximate causal link. The mere existence of mental harassment or defamatory statements in the past, without any immediate triggering act, cannot substitute for this statutory requirement. Each individual reacts differently to harassment, and the law

requires concrete evidence that the accused's acts were the direct or proximate cause of the suicide

62. In the present case, the record does not demonstrate any such positive act of instigation by the appellants. There is no evidence that any communication, act, or intentional aid on the part of the appellants left the deceased with no other option but to commit suicide. The allegations of harassment, in the absence of proximate connection and mens rea, are insufficient to attract the offence under Section 306 IPC. Therefore, on a careful analysis of the evidence and the principles laid down by the Apex Court, it is apparent that the prosecution has failed to establish the essential ingredients of abetment to suicide, and the charge under Section 306 IPC cannot be sustained against the appellants.
63. In the case of **Gangula (supra)** the Hon'ble Apex Court has reiterated and clarified the legal principle regarding abetment under Section 306 of the Indian Penal Code. The Court held that abetment involves a mental process of instigating a person or intentionally aiding a person in the commission of an act. Importantly, the Court emphasized that without a positive act on the part of the accused an act intended to instigate, encourage, or aid the deceased, conviction for abetment cannot be sustained. The mere perception of harassment, general ill-treatment, or even

adverse conduct, absent a clear and proximate act of instigation, is legally insufficient to constitute the offence.

64. Applying this principle to the instant case, it is evident that the prosecution has failed to demonstrate any such positive act on the part of the appellants. There is no material on record to show that the deceased was actively goaded, encouraged, or instigated by the appellants to commit suicide. While the defacto complainant (PW1) alleged that the appellants used to inflict mental harassment by propagating defamatory statements, her own evidence, coupled with the statements of other witnesses and the Investigating Officer (PW13), fails to establish that any such act was proximate in time or direct in effect.
65. As the Apex Court observed in **Gangula Mohan Reddy (supra)**, abetment requires that the accused's conduct must have a direct causal connection with the act of suicide. If a person actively suggests, encourages, or otherwise goads another into the act, either by explicit words, gestures, or conduct, then such positive involvement can amount to abetment. However, in the present matter, nothing in the record indicates that the suicide of the deceased was the direct result of words uttered by the appellants or of any ill-treatment alleged to have been inflicted by them. There is no occasion proved where the appellants' acts could have

created a situation leaving the deceased with no alternative but to take his own life.

66. Moreover, none of the prosecution witnesses, including PW1, PW2, PW3, PW4, PW5, PW7, PW8, PW9, or PW10, could point to any specific act or instance of torture or ill-treatment by the appellants immediately preceding the suicide. No contemporaneous complaint was lodged by the victim or his wife against the appellants, and the Investigating Officer's cross-examination confirms that no statements were made to the police implicating the appellants in abetting the suicide. The evidence, therefore, is devoid of any direct or circumstantial indication that the appellants' alleged conduct was the proximate cause of the deceased's death.
67. In light of the legal position elucidated in the above report, and considering the factual matrix of the present case, it is manifest that Section 306 IPC has no application. Abetment presupposes a positive act or active instigation, which is conspicuously absent in the record. Mere allegations of past harassment, defamatory statements, or mental distress, unconnected to the immediate act of suicide, cannot sustain a conviction under the provision. Consequently, in the instant matter, no liability can attach to the appellants under Section 306 IPC, as there is neither evidence of proximate instigation nor any act demonstrating that the deceased's suicide was a direct result of the appellants' conduct.

68. In view of the foregoing facts, circumstances, and detailed discussions on the evidence adduced before the Court, I am of the opinion that the prosecution has manifestly failed to prove the charge levelled against the appellants under Section 306 of the Indian Penal Code. A careful and holistic analysis of the testimonies of the prosecution witnesses including PW1, PW2, PW3, PW4, PW5, PW7, PW8, PW9, PW10, and PW13 reveals substantial omissions, contradictions, and inconsistencies. Crucially, there is no material evidence to establish that the appellants actively instigated, goaded, or abetted the deceased to commit suicide, nor is there any proof of proximate conduct that could be said to have compelled the victim to end his life.
69. The law, as clearly articulated by the Hon'ble Apex Court in **Prakash (supra)** and **Gangula Mohan Reddy (supra)**, requires that for an offence under Section 306 IPC to be made out, there must be: (i) a positive act or direct involvement by the accused; (ii) a proximate causal link between such act and the suicide; and (iii) an evident mens rea on the part of the accused, indicating an intention to instigate, aid, or encourage the deceased to commit suicide. The record in the present case is conspicuously silent on all these essential elements. There is no evidence of immediate harassment, direct instigation, or actionable conduct by the appellants that could have led to the victim's decision to take his

own life. The alleged defamatory statements and supposed mental harassment, even if taken at face value, are remote in time, general in nature, and insufficient to constitute abetment under the law.

70. Furthermore, the deceased had a prior history of mental distress and a suicide attempt in 2005 due to illness, as admitted by PW1. The suicidal note from that incident (Exhibit-A collectively) does not implicate the appellants, and there is no evidence that the events of 2010 had any immediate connection with the conduct of the accused. The independent statements of tenants and other witnesses corroborate the absence of any significant interaction or relationship between the deceased's family and the appellants, further undermining the prosecution case.
71. In light of these factors, it becomes apparent that the learned Trial Judge has based the impugned judgment on conjectures, surmises, and assumptions rather than on legally admissible and reliable evidence. The conclusions drawn by the Trial Court lack the requisite factual and legal foundation necessary to sustain a conviction under Section 306 IPC. This constitutes a gross miscarriage of justice and cannot stand in the eyes of law.
72. Accordingly, applying the well-settled principles of criminal jurisprudence and the binding ratios of the Hon'ble Apex Court, the impugned judgment and order of conviction are liable to be set

aside. The prosecution has not discharged the burden of proving the essential ingredients of abetment beyond reasonable doubt, and in the absence of credible and proximate evidence, the appellants cannot be held criminally liable for the alleged offence.

73. Accordingly, the instant appeal be and the same is hereby **allowed**.

74. The impugned judgment and order of conviction dated 01.10.2013 and 03.10.2013 passed by the learned Additional District and Sessions Judge, 2nd Court, Barrackpore, in Sessions Trial No. 6(9)2012 corresponding to Sessions Case No. 212 of 2011 is hereby set aside.

75. The appellants are on bail. They are to be discharged from their respective bail bonds and be set at liberty if they are not wanted in connection with other cases.

76. In compliance with the mandate of Section 437A of the Code of Criminal Procedure (corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the appellant is required to execute bail bonds backed by adequate and reliable sureties. Such bonds, once duly executed, shall remain valid and operative for a period of six months, thereby securing the appellant's availability as and when called upon by the Court and ensuring the proper and effective administration of justice.

77. Let a copy of this judgment along with the Trial Court record be sent down to the Trial Court immediately for necessary compliance.
78. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)