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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

THE DATE WHEN THE CASE IS RESERVED	THE DATE WHEN THE JUDGMENT IS PRONOUNCED	THE DATE WHEN THE JUDGMENT IS UPLOADED ON THE WEBSITE	
		Operative	**Full**
29.10.2026	02.11.2026	****	02.11.2026

CRA No. 1258 of 2025

- Niranjan Khusro, S/o Shri Ramnarayan Khusro, aged about 26 Years, R/o Bilaspur Para Taneira, Chowki Korbi, Police Station Pasan and District Korba (C.G.)

...Appellant

versus

- State of Chhattisgarh, Through Station House Officer, Police of Police Station Pasan Korba, District Korba (C.G.)

... Respondent

For Appellant	**:**	Mr. Ashutosh Shukla, Advocate.
For Respondent/State	**:**	Mr. Khulesh Sahu, Panel Lawyer.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

C A V Judgment

1. With the consent of learned counsel for the parties, the matter is heard finally.

2. This criminal appeal has been preferred by the appellant under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS'), challenging the judgment of conviction and order of

sentence dated 05.04.2025 passed by the learned First Upper Sessions Judge, Katghora, District Korba (C.G.) (hereinafter referred to as 'the trial Court') in Sessions Case No.67/2021, whereby the appellant has been convicted and sentenced as under:

Conviction	**Sentence**
Under Section 452 of Indian Penal Code (in short, 'IPC')	Rigorous Imprisonment for three years and fine of Rs.1,000/-, in default of payment of fine amount to undergo additional rigorous imprisonment for three months
Under Section 506 Part II of IPC	Rigorous Imprisonment for two years and fine of Rs.1,000/-, in default of payment of fine amount to undergo additional rigorous imprisonment for three months
Under Section 323 of IPC	Fine of Rs.1,000/- and in default of payment of fine amount to undergo additional rigorous imprisonment for three months
Under Section 306 of IPC	Rigorous Imprisonment for ten years and fine of Rs.2,000/-, in default of payment of fine amount to undergo additional rigorous imprisonment for three months
All sentences were directed to run concurrently	

3. Case of the prosecution, in brief, is that on 24.04.2021, PW-1/complainant- Maksudan Khusro lodged a merg intimation (Ex.P-1), stating that on 23.04.2021, appellant- Niranjan Khusro *alias* Guddu, entered the house of Jagatpal *alias* Bablu (hereinafter referred to as 'the deceased') along with his wife- Indu. He allegedly suspected the deceased of having illicit relations with his wife, quarrelled with him, abused him in filthy language, threatened to kill him and assaulted him with a stick and kicks. Thereafter, he left his wife at the deceased's house and went away. According to the prosecution, being distressed

by the appellant's conduct, deceased committed suicide by hanging himself with a *gamchha* tied to a *mahua* tree near his village. On the basis of the said information, police initiated an inquiry into the circumstances surrounding the death. During inquiry, inquest proceedings were conducted and the inquest *panchnama* was prepared vide Ex.P-5. Spot maps were prepared vide Exs.P-2 & P-3, and the dead body was sent for post-mortem examination. Dr. Rakesh Singh (PW-18), who conducted the post-mortem examination, opined that the cause of death of deceased was asphyxia due to hanging and that the death of deceased was suicidal in nature. Thereafter, FIR (Ex.P-13) was registered against the appellant for the offences punishable under Sections 294, 506, 323, 452 and 306 of IPC. Appellant was arrested vide Ex.P-15.

3.1 During investigation, statements of the witnesses were recorded. broken red glass bangles and one stick made of *sarai* wood were seized vide Ex.P-9. A wedding invitation card bearing the names of Santoshi and the deceased- Jagatpal was seized vide Ex.P-10. An Android mobile phone of VOTO company was seized from the appellant vide Ex.P-14. A *gamchha* allegedly used by the deceased for hanging was also seized vide Ex.P-18. Upon completion of investigation, police filed a charge-sheet against the appellant for the offences punishable under Sections 294, 506, 323, 452 and 306 of IPC.

4. The learned trial Court framed a charge against the appellant for the offence punishable under Sections 294, 506 Part II, 323, 452 & 306 of IPC. Appellant denied the charge and claimed to be tried.

5. In order to prove its case, the prosecution examined eighteen witnesses and exhibited eighteen documents. The statement of the accused/appellant under Section 351 of the BNSS was recorded, wherein he denied the incriminating circumstances appearing against him, claimed to be innocent, and alleged false implication. However, the appellant did not examine any witness in his defence.

6. The learned trial Court, after hearing the parties and appreciating the oral and documentary evidence available on record, convicted and sentenced the appellant in the manner stated in paragraph 1 of this judgment. Being aggrieved by the impugned judgment of conviction and order of sentence, appellant has preferred the present appeal.

7. Learned counsel for the appellant submits that the appellant has been convicted only on the allegation that the deceased was having an illicit relationship with the wife of the appellant and, therefore, on 23.04.2021, appellant went along with his wife to the house of the deceased and told him that, since he was having an affair with his wife, he should keep her. On this count, a scuffle took place between them. He further submits that even if the aforesaid facts are taken at their face value, the alleged dispute does not constitute the offence of abetment of suicide by the deceased against the appellant. There was no close proximity between the alleged act of the appellant and the suicide committed by the deceased, nor was there any instigation on the part of the appellant to commit suicide. He further submits that the appellant has been convicted by the learned trial Court without there being any legally admissible evidence and without properly appreciating the evidence available on record and the relevant law.

Hence, he prays that the appellant be acquitted of the charges levelled against him.

8. Per contra, learned State counsel supports the impugned judgment and submits that the learned trial Court has rightly appreciated the evidence on record and convicted and sentenced the appellant. He, therefore, prays for dismissal of the appeal.

9. I have heard learned counsel for the parties and perused the material available on record.

10. The first question for consideration is whether the death of deceased- Jagatpal *alias* Bablu was suicidal in nature.

11. PW-1 Maksudan Khusro, father of the deceased; PW-5 Tribhuvan Singh, uncle of the appellant; PW-7 Jaipal Khusro, brother of the deceased; and PW-16 Jaikaran Gond, grand-father of the deceased, have stated in their depositions that when they went towards *Chikdi Pahadi* in search of the deceased, they found him hanging from a *mahua* tree near *Chikdi Pahadi*, with a *gamchha* around his neck. Their statements are corroborated by the evidence of PW-9 Ram Kunwar and PW-12 Gond Singh, maternal uncle of the deceased, as well as by the inquest *panchnama* (Ex.P-5) and the merg intimation (Ex.P-1). Further, the post-mortem report (Ex.P-6) and the testimony of Dr. Rakesh Singh (PW-18), who conducted the post-mortem examination, establish that the cause of death of deceased was asphyxia due to hanging. Dr. Singh (PW-18) also opined that the death of the deceased was suicidal in nature. Thus, the oral and documentary evidence, coupled with the medical evidence, establishes that the death of the deceased was suicidal in nature.

12. The next question for consideration is whether the learned trial Court was justified in convicting the appellant for the offences punishable under Sections 452, 506 Part-II, 323 and 306 of IPC.

13. PW-2 Maheshia Bai, mother of the deceased and an eye-witness to the alleged quarrel, has stated that on the date of incident, suspecting the deceased of having illicit relations with appellant's wife, appellant came to her house along with his wife, kicked the door, forcibly entered the house, quarrelled with the deceased, abused him in filthy language, assaulted him with a stick and kicks, and threatened to kill him. When she intervened to pacify the dispute, appellant pushed her, due to which, her bangles were broken. Thereafter, appellant left his wife at their house and went away. She has further stated that at about 7:00 p.m., deceased left the house without informing anyone. She went to the appellant's house but found him absent. Thereafter, she joined the villagers in searching for the deceased. At about 11:00 p.m., PW-16 Jaikaran informed her that the deceased had been found hanging by a *gamchha* tied to a *mahua* tree near *Chikdi Pahadi*. In her cross-examination, she remained firm regarding the alleged quarrel between the appellant and the deceased. She admitted that there had been no previous dispute between them. She also admitted that the deceased was worried about being defamed and that his marriage to Santoshi was fixed for 01.05.2021.

14. PW-7 Jaipal Khusro, brother of the deceased and another eye-witness to the alleged quarrel, has also stated in his deposition that on the date of incident, appellant forcibly entered their house, quarrelled with the deceased, assaulted him with a stick, threatened to kill him

and left his wife at their house. He has further stated that after the quarrel, the deceased was sleeping on a cot and, at about 7:00–8:00 p.m., left the house without informing anyone. Subsequently, he came to know that the deceased had committed suicide by hanging himself. In cross-examination, he admitted that after the appellant left his wife at their house and went away, no one had any conversation with the deceased.

15. PW-5 Tribhuvan Singh, uncle of the appellant, has also stated that he saw the appellant abusing the deceased in filthy language and leaving his wife at the house of PW-2 Maheshia Bai, mother of the deceased. In cross-examination, he admitted that after the appellant left his wife at the house of the deceased, the deceased remained asleep in a room of his house until 8:00 p.m. and did not talk to anyone during that period.

16. Thus, from the statements of PW-2 Maheshia Bai and PW-7 Jaipal Khusro, who were eye-witnesses to the alleged quarrel between the appellant and the deceased, as well as the evidence of PW-5 Tribhuvan Singh, it is clear that on the date of incident, appellant came to the house of the deceased along with his wife, forcibly entered the house, quarrelled with the deceased, abused him in filthy language, assaulted him with a stick and also threatened to kill him. These witnesses were cross-examined by the defence, but nothing material could be elicited to disbelieve their statements regarding the aforesaid incident. Their evidence, therefore, supports the prosecution case. Having considered the depositions of the aforesaid witnesses and the material available on record, this Court finds that the prosecution has

successfully proved beyond reasonable doubt that the appellant committed the offences punishable under Sections 452, 506 Part II and 323 of IPC. Accordingly, the finding recorded by the learned trial Court convicting the appellant for the aforesaid offences does not call for any interference by this Court. However, whether the aforesaid acts of the appellant also amount to abetment of suicide punishable under Section 306 of IPC is required to be considered separately.

17. Section 306 of IPC provides for punishment for abetment of suicide and reads as under:

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

18. The expression "abetment" is defined under Section 107 of IPC, which reads as under:

> "**107. Abetment of a thing.**—A person abets the doing of a thing, who—
> **First**.—Instigates any person to do that thing; or
> **Secondly**.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or
> **Thirdly**.—Intentionally aids, by any act or illegal omission, the doing of that thing."

19. Thus, Section 306 of IPC has to be read conjointly with Section 107 thereof. The statutory scheme requires the existence of an act of instigation, conspiracy or intentional aid, accompanied by the requisite mens rea for abetment of the commission of suicide. It is well settled

law that for attracting Section 306 read with Section 107 of IPC, there must be direct or indirect instigation in close proximity to the commission of suicide and a clear mens rea to abet the commission of suicide.

20. The expression “instigation” has been considered by the Hon'ble Supreme Court in ***Ude Singh v. State of Haryana, (2019) 17 SCC 301***, wherein it has been observed that instigation means to goad, urge forward, provoke, incite or encourage a person to do an act. Though actual words of instigation are not indispensable, a reasonable certainty to incite the consequence must be capable of being spelt out from the conduct of the accused. The Hon'ble Supreme Court has further observed that, where the acts or omissions or continued course of conduct of the accused create such circumstances that the deceased is left with no other option except to commit suicide, instigation may be inferred.

21. In ***Prakash and Others v. State of Maharashtra and Another,*** reported in ***(2026) 6 SCC 251***, the Hon'ble Supreme Court has reiterated that Section 306 of IPC has two basic ingredients, namely, the commission of suicide and abetment thereof by another person. It has been held that, in order to sustain an accusation under Section 306 of the IPC, it must necessarily be shown that the accused contributed to the suicide by some direct or indirect act satisfying one of the three conditions enumerated under Section 107 of IPC. It has further been emphasized that the act of instigation or incitement must be in close proximity to the commission of suicide, disclose clear mens rea to abet the commission of suicide and **place the victim in such a position that he/she would have no other option but to commit suicide**.

22. Recently, in ***Abhinav Mohan Delkar v. State of Maharashtra & Ors., (2026) 6 SCC 233***, the Hon'ble Supreme Court has explained that even where there is an allegation of constant harassment continuing over a period of time, the ingredients of Section 306 read with Section 107 of IPC would not be attracted unless there is a proximate prior act from which it can clearly be found that the suicide was the direct consequence of such continuous harassment. **The Court has observed that the last proximate incident must be such as to have finally driven the deceased to take the extreme step**. It has further been held that mere continuous harassment followed by suicide cannot, by itself, result in a finding of positive instigation, and mens rea cannot be inferred merely from what was going on in the mind of the victim.

It has been categorically held that harsh or severe the harassment may be, unless there is a conscious and deliberate intention, i.e., mens rea, to drive another person to suicidal death, there cannot be a finding of abetment under Section 306 of IPC.

23. The aforesaid principles have been very recently reiterated by the Hon’ble Supreme Court in ***Vinod Shivakumar v. State of Maharashtra, 2026 SCC OnLine SC 1583 : 2026 INSC 867*****,** decided on 14.08.2026, wherein the Hon'ble Supreme Court was considering an appeal arising out of an order refusing discharge under Section 227 of the Cr.P.C. in respect of an offence punishable under Section 306 of IPC. While examining the scope of Sections 306 and 107 of IPC, the Hon’ble Supreme Court held that the prosecution must disclose a direct or indirect act of instigation in close proximity to the commission of suicide and the requisite mens rea on the part of the accused.

24. The Hon’ble Supreme Court, in the above case, after considering the allegations of harassment and the suicide notes relied upon by the prosecution, observed that the material must disclose an overt act of instigation, goading or intentional aid having a proximate nexus with the suicide. The Hon'ble Supreme Court at Para 14 observed as under:

> “...there must be a direct or indirect act of instigation, in close proximity to the commission of suicide, coupled with a clear mens rea to abet the commission of suicide.”

25. After considering the principles as mentioned in preceding paragraphs, the Hon'ble Supreme Court reached to the conclusion that ingredients of Section 306 are absent in the said case and held at Para 25 and 26 as under:-

> "**25.** We further find that the prosecution has failed to prima facie establish that the Appellant had any intention to instigate, aid or abet the deceased to commit suicide. The suicide notes undoubtedly reflect the anguish of the deceased, however, they do not disclose any act on the part of the Appellant from which the requisite mens rea can reasonably be inferred. There is also no material to suggest that the Appellant, by his words or conduct, intended to push the deceased into such a position that she was left with no reasonable alternative except to take her own life. No doubt, a young Range Forest Officer lost her life in an unfortunate incident. However, criminal liability under Section 306 IPC cannot rest upon the tragedy of the outcome alone; it must be founded upon the statutory ingredients of Section 306, which are absent in the present case.
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> **26.** We are, therefore, satisfied that even if the entire prosecution material is accepted at its face value, the ingredients of the offence punishable under Section 306 IPC are not made out. The continuation of the criminal proceedings against the Appellant would, in the facts and

> circumstances of the present case, amount to an abuse of the process of law."

26. In the light of the above principles, the evidence relating to the offence under Section 306 of the IPC requires separate consideration.

27. In the present case, the prosecution has established that the deceased died by hanging from a *gamchha* tied to a *mahua* tree near *Chikdi Pahadi*. The evidence on record also indicates that on the date of incident, appellant forcibly entered the house of deceased, quarreled with him, abused him in filthy language, assaulted him with stick and also threatened him to life. However, the occurrence of a quarrel followed by suicide is not sufficient, by itself, to establish abetment. The prosecution must prove that the appellant's conduct amounted to instigation or intentional aid in the commission of suicide.

28. The testimonies of PW-2 Maheshia Bai, mother of the deceased; PW-5 Tribhuvan Singh, uncle of the appellant and PW-7 Jaipal Khusro, brother of the deceased, are relevant in this regard. Their statements indicate that after the appellant left the house of the deceased, the deceased was sleeping on a cot and thereafter left the house without informing anyone. The evidence also indicates that no one spoke to the deceased during this period. Although PW-2 Maheshia Bai, mother of the deceased, has stated that the deceased was worried about being defamed as his marriage with *Santoshi* was scheduled to take place, but this fact alone does not establish that the appellant instigated him to commit suicide. None of the witnesses has stated that the appellant did anything to provoke or encourage the deceased to commit suicide. There is also no reliable evidence to show that the appellant continued to harass the deceased after the quarrel or that he intended to instigate

or aid him in committing suicide. Even if the allegations of quarrel, assault and threats are accepted to the extent proved by the evidence, the essential ingredients of abetment under Section 107 of the IPC are not established.

29. In the matter of ***Mariano Anto Bruno and Anr. vs the Inspector of Police*** reported in ***2022 Livelaw (SC) 834***, the Supreme Court has has held in para 25 which reads as under:

> "25. The ingredients of Section 306 IPC have been extensively laid out in *M. Arjunan vs State*, *represented by its Inspector of Police, (2019) 3 SCC 315* which are as under:-
>
> > "The essential ingredients of the offence under Section 306 IPC 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 I.P.C."*

30. Similarly, in the matter of ***Gangula Mohan Reddy vs. State of Andhra Pradesh*** reported in ***AIR 2010 SC 327,*** the Supreme Court has observed in para 20 which reads as under:-

> "20. 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."

31. Applying the aforesaid principles to the facts of the present case, it cannot be held that the appellant's conduct amounted to instigation or intentional aid in the commission of suicide. The prosecution has failed to establish the necessary intention and proximate connection between the alleged acts of the appellant and the suicide. The fact that the deceased committed suicide, by itself, cannot sustain a conviction

under Section 306 of IPC. Upon an overall assessment of the evidence, this Court finds that the prosecution has failed to prove the essential ingredients of the offence under Section 306 read with Section 107 of IPC beyond reasonable doubt. Therefore, the learned trial Court was not justified in convicting the appellant under Section 306 of IPC. Accordingly, the conviction and sentence imposed upon the appellant for the said offence are liable to be set aside, and he deserves to be acquitted of the charge under Section 306 of IPC by extending him the benefit of doubt.

32. Since this Court has affirmed the conviction of the appellant for the offences punishable under Sections 452, 506 Part-II and 323 of IPC in the foregoing paragraphs, the question that now arises for consideration is whether the sentences imposed by the learned trial Court call for any interference.

33. Learned counsel for the appellant submits that the appellant remained in custody from 27.04.2021 to 26.07.2021 and has again been in custody since 05.04.2025 till date. Having considered the facts and circumstances of the case, the nature of the offences and the period of incarceration already undergone by the appellant against the sentence awarded by the learned trial Court, this Court is of the view that no useful purpose would be served by keeping the appellant in further detention to undergo the remaining period of sentence, rather, the ends of justice would be served if his jail sentence under Sections 452 and 506 Part-II of IPC are reduced to the period already undergone by him i.e. from 27.04.2021 to 26.07.2021 and from 05.04.2025 till date . However, the fine amount imposed by the learned

trial Court along with the default stipulation under the aforesaid Sections shall remain intact.

34. So far as the sentence imposed under Section 323 of IPC is concerned, the trial Court has imposed a fine of Rs.1,000/- with a default sentence of three months' rigorous imprisonment. The said sentence does not call for any interference and is accordingly maintained.

35. Consequently, the criminal appeal is partly allowed. The conviction and sentence of the appellant under Section 306 of IPC are hereby set aside, and he is acquitted of the said charge by giving him the benefit of doubt. However, the conviction of the appellant under Sections 452, 506 Part-II and 323 of IPC is hereby affirmed. The jail sentence imposed upon the appellant under Sections 452 and 506 Part-II of IPC are reduced to the period already undergone by him, i.e., from 27.04.2021 to 26.07.2021 and from 05.04.2025 till date. The fine amount, along with the default sentence imposed by the learned trial Court thereunder, shall remain intact. Further, the fine of Rs.1,000/- imposed for the offence under Section 323 of IPC, along with the default sentence of three months' rigorous imprisonment, is maintained. The impugned judgment stands modified to the above extent.

36. Appellant is reported to be in jail. Therefore, he be released forthwith, if not required in any other case.

37. Keeping in view the provisions of Section 481 of the BNSS, the appellant is directed to furnish a personal bond in terms of Form No. 45 prescribed under the Code of Criminal Procedure, for a sum of Rs.25,000/- before the concerned Special Court, which shall remain

effective for a period of six months, along with an undertaking that, in the event of filing of a Special Leave Petition against the instant judgment or for grant of leave, the appellant, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

38. Record of the concerned trial Court along with a copy of this judgment be sent back forthwith for information and necessary compliance.

39. Interlocutory applications, if any, also stand disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Akhilesh