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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2026

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THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

CRL.A.No.339 of 2022

Thameem Ansari,
S/o. Batsha,
No.25/7, Gangai Amman Koil Street,
Kamarajapuram,
Chennai – 600 042.

...Appellant/ Accused

Vs

State rep by
Inspector of Police,
J-3, Guindy Police Station,
Chennai.
Crime No.1100/2015

...Respondent/ Complainant

PRAYER : Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to set aside the Judgment made in S.C.No.357 of 2015 dated 02.11.2021 on the file of Learned Sessions Judge, Mahalir Neethimandram, Chennai.

For Appellant(s): Mr.S.N.Arunkumar

For Respondent(s): Mr.R.Kishore Kumar,
Government Advocate (Crl.Side)



JUDGMENT

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This Criminal Appeal has been filed challenging the conviction and sentence imposed on the appellant in S.C.No.357 of 2015 by judgment dated 02.11.2021 on the file of the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai, whereby the appellant was convicted and sentenced to 10 years Rigorous Imprisonment and a fine of Rs.15,000/- in default to undergo Simple Imprisonment for 3 months.

2. The case of the prosecution is that the marriage between the appellant and the deceased Syed Sulthan Beevi was solemnized on 06.06.2004 as per the Mohammedan Laws and Customs. Out of wedlock, the couple had two daughters and were residing separately at a house in Velachery. From the time of marriage, the accused was not attending to any regular work and he did not support the family by contributing any income. The accused was mostly in a drunken state and harassed the deceased. The accused used to beat the deceased and due to the harassment, the deceased often went to her father's and sister's house to borrow money for her domestic expenses. On 07.04.2015, when the accused did not go for work and was at home, there was a quarrel with the deceased at around 2.00 p.m. The accused having been drunk, again quarrelled with the deceased, asked her to go and die and went to sleep. The deceased after bringing her daughters from the school, in view of the harassment and



cruelty meted out by the accused, committed suicide by hanging herself with a saree.

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3. On receiving the intimation about the death of his daughter, PW1 had visited the house of the deceased and lodged the complaint/Ex.P1. PW8/Sub Inspector of Police received the complaint and registered the FIR/Ex.P4 under Section 174 Cr.P.C. PW8/Sub Inspector of Police visited the place of occurrence and prepared the Observation Mahazar/Ex.P5 and Rough Sketch/Ex.P6 in the presence of witness/PW5. Thereafter, PW8 sent the body to Royapettah Government Hospital for postmortem. The saree/MO1 used to commit suicide was recovered by PW8 under Seizure Mahazar/Ex.P7 and then recorded the statements of PW1 to PW5. An Inquest was conducted by PW8 and prepared Inquest Report/Ex.P8. PW6/Doctor examined the body on being taken to the hospital and issued Accident Register/Ex.P2. PW7/ Doctor conducted the postmortem and issued Post-mortem Certificate/Ex.P3. PW8 thereafter altered the offence to Section 306 of IPC through the Alteration Report/Ex.P10.

4. The Investigating Officer took up the investigation and arrested the accused. On completion of the investigation, he filed a Final Report before the IX Metropolitan Magistrate, Saidapet. The learned Magistrate issued summons, complied with Section 207 Cr.P.C. and committed the case to the Principal



Sessions Judge under Section 209 Cr.P.C. which was made over to the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai.

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5. The trial court took up the case and on the appearance of the accused, framed charges under Section 306 IPC. When questioned, the accused pleaded not guilty and stood trial. The prosecution in order to prove the charges, examined 9 witnesses PW1 to PW9 and marked Exs.P1 to P10. On completion of the prosecution evidence, when the accused was questioned under Section 313 Cr.P.C on the incriminating material available, he denied the same as false and also offered an explanation that he had not committed any wrong and further, his wife had undergone an operation for Achalasia Cardia treatment, due to which she was not able to swallow solid food and she was under treatment. She had regularly taken Gelusil and further, she took treatment for nearly 8 years to conceive a child.

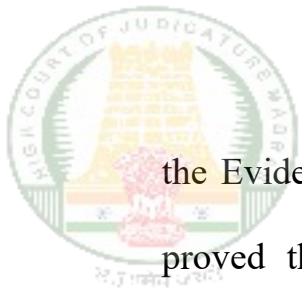
6. The accused has examined DW1/Doctor and also marked Exs.D1 to D3 to establish that the deceased underwent a surgery and was under treatment.

7. The trial court on conclusion of the arguments and on analyzing the oral and documentary evidence concluded the appellant guilty of the charge and convicted him for the offence under Section 306 IPC and imposed the sentence as stated supra. Challenging the same, the accused has preferred the above Appeal.



8. Mr.S.N.Arunkumar, learned counsel for the appellant argued that when the ingredients of the offence under Section 306 IPC are not met out, the trial court had convicted the appellant merely on assumptions and presumptions. When the charge against the appellant is not under Section 498A neither in respect of harassment nor dowry demand, the trial court had completely proceeded on the presumption that from the evidence it could be concluded that the deceased was harassed by the accused by not attending to work properly and not contributing to the family which had driven the deceased to commit suicide. None of the witnesses have spoken about the instigation of the accused in driving the deceased to commit suicide and when even the independent witness/ PW4 has not spoken about any quarrel or inducement prior to the time of occurrence, in the absence of any material, the trial court had erroneously convicted the appellant.

9. By relying on the evidence of DW1 and the documents in D1 to D3, the learned counsel contended that when the accused even after offering an explanation during questioning under Section 313 Cr.P.C. had also come up with the oral and documentary evidence to substantiate that the deceased had undergone surgery and was suffering from Achalasia Cardia, due to which the deceased had taken the ultimate decision to commit suicide. The trial court simply brushed aside the materials. When the death has happened nearly after 11 years from the date of marriage, even presumption under Section 113-A of



the Evidence Act is not available and therefore, when the prosecution has not proved the case beyond reasonable doubt, the trial court had erroneously convicted the appellant and imposed the sentence against the settled proposition.

10. Per contra, Mr.R.Kishore Kumar, learned Government Advocate (Crl.Side) appearing for the State argued that, PW1 to PW3 had deposed that the accused had often harassed the deceased and also asked her to go and die, as only then he could live peacefully. PW4/independent witness also had spoken about the quarrel and fight between the accused and the deceased and the fact that he was not attending to work, drunken and was not supporting the family had also been spoken to by her. Since the deceased was not able to bear the torture and harassment of the accused, she had left the two minor daughters and had taken the extreme step of committing suicide, only due to the abetment caused by the accused and the trial court has rightly from the evidence available, convicted and imposed a sentence which is justified.

11. Heard the rival submissions of both sides and perused the materials available on record.

12. The appellant and the deceased got married on 06.06.2004 as per the Mohammedan Laws and Customs. Out of wedlock, they were blessed with two



female children. On 07.04.2015, the deceased had committed suicide by hanging in the matrimonial house. The appellant was charged for the offence under Section 306 for having abetted the suicide of the deceased.

13. At this juncture, it is apposite to refer to Section 306 IPC.

“306. 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.”

14. As per the above provision, any person who abets the commission of suicide shall be punished with the prescribed sentence. In case the death of a woman happens within seven years from the date of marriage, then there is a presumption as per Section 113-A of the Evidence Act, that the suicide has been abetted by the husband. However, in the instant case, the death has occurred almost after 11 years of the marriage and therefore, it is to be seen whether the prosecution has proved the charge that the appellant had abetted the suicide of the deceased.

15. The Hon’ble Supreme Court in the case of ***Abhinav Mohan Delkar vs. State of Maharastra and Others*** reported in ***2025 SCC OnLine SC 1725***, after referring to several decisions on the aspect of abetment, held as follows:

“21. It was held that abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing and



without a positive act on the part of the accused, in aiding or instigating or abetting the deceased to commit suicide, a conviction cannot be sustained.

22. What comes out essentially from the various decisions herein before cited is that, even if there is allegation of constant harassment, continued over a long period; to bring in the ingredients of Section 306 read with Section 107, still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the extreme act of taking one's life. Figuratively, 'the straw that broke the camel's back'; that final event, in a series, that occasioned a larger, sudden impact resulting in the unpredictable act of suicide. What drove the victim to that extreme act, often depends on individual predilections; but whether it is goaded, definitively and demonstrably, by a particular act of another, is the test to find mens rea. Merely because the victim was continuously harassed and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation constituting abetment. Mens rea cannot be gleaned merely by what goes on in the mind of the victim.

23. The victim may have felt that there was no alternative or option, but to take his life, because of what another person did or said; which cannot lead to a finding of mens rea and resultant abetment on that other person. What constitutes mens rea is the intention and purpose of the alleged perpetrator as discernible from the conscious acts or words and the attendant circumstances, which in all probability could lead to such an end. The real intention of the accused and whether he intended by his action to at least possibly drive the victim to suicide, is the sure test. Did the thought of goading the victim to suicide occur in the mind of the accused or whether it can be inferred from the facts and circumstances arising in the case, as the true test of mens rea would depend on the facts of each case. The social status, the community setting, the relationship between the parties and other myriad factors would distinguish one case from another. However harsh or severe the harassment, unless there is a conscious deliberate intention, mens rea, to drive another person to suicidal death, there cannot be a finding of abetment under Section 306.

24. We have already seen that even a rebuke to "go, kill yourself";



often a rustic expression against distasteful conduct, cannot by itself be found to have the ingredients to charge an offence of abetment to suicide. There is no uniformity in how different individuals respond and react under pressure. Many stand up, some fight back, a few runaway and certain people crumble and at times take the extreme step of suicide. To put the blame on the pressure imposed and the person responsible for it, at all times, without something more to clearly discern an intention, would not be the proper application of the penal provisions under Section 306.”

16. The Hon’ble Supreme Court also in the case of ***Prakash and Others vs. State of Maharastra and Another*** reported in **2024 SCC OnLine SC 3835**, after elaborately considering Section 306 of IPC held that to bring a charge under Section 306 of IPC, the act of abetment would require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the accused person being apparent on the face of record, the charge under the aforesaid section cannot be sustained. Further abetment also requires some direct or indirect act on the part of the accused person, which led the deceased to have no other option but to commit suicide.

“13. 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 of the 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 of the IPC has to be satisfied.

14. Section 306 read with Section 107 of 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.

15. The law on abetment has been crystallised by a plethora of decisions of this Court. Abetment involves a mental process of instigating or intentionally aiding another person to do a particular thing. To bring a charge under Section 306 of the IPC, the act of abetment would require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the accused person being apparent from the face of the record, a charge under the aforesaid Section cannot be sustained. Abetment also requires an active act, direct or indirect, on the part of the accused person which left the deceased with no other option but to commit suicide.”

17. Again the Hon’ble Supreme Court in the case of ***Geetha vs. State of Karnataka*** reported in **2025 SCC OnLine SC 1938**, considered the issue whether even assuming that physical blows were administered, will that *per se* constitute abetment to suicide, had held that quarrels occur in everyday life and unless there is an instigation on the part of the appellant to such an extent that the victim was left with no other option but to commit suicide, the conviction cannot be imposed for a charge under Section 306 IPC.

“18. Even if we were to assume that physical blows were administered, will that per se constitute abetment to suicide? This Court in a case where the accused told the deceased “go and die” and when thereafter, the deceased committed suicide, absolved the accused of the charge under Section 306 by holding as under:

“3. ...Those words are casual nature which are often



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employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite mens rea on the assumption that these words would be carried out in all events. ...”

[Swamy Prahaladdas v. State of M.P., 1995 Supp (3) SCC 438]

19. This Court in *Madan Mohan Singh v. State of Gujarat*, (2010) 8 SCC 628, held that in order to bring 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 was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306.

20. In *Amalendu Pal alias Jhantu v. State of West Bengal*, (2010) 1 SCC 707, this Court held that the harassment meted out to the victim should have left the victim with no other alternative but to put an end to his/her life.

21. In *M. Mohan v. State*, (2011) 3 SCC 626, this Court followed the dictum in *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618, wherein it was held as under:

“41. This Court in SCC para 20 of Ramesh Kumar has examined different shades of the meaning of “instigation”. Para 20 reads as under: (SCC p. 629)

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

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.”

Thereafter, this Court in Mohan (supra) held:—



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

22. *This Court in Mahendra Awase v. The State of Madhya Pradesh, 2025 INSC 76, after analyzing the long line of precedents held as under:—*

“18. *As has been held hereinabove, to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.*”

23. *Applying the tests laid down hereinabove, we are not able to persuade ourselves to hold that when the appellant's family and the victim's family had heated exchanges, there was any intention to abet or to cause any member of either family to take their own life. These quarrels occur in everyday life, and on facts we are not able to conclude that there was an instigation on the part of the appellant to such an extent that the victim was left with no other option but to commit suicide.*”

18. From the aforesaid decisions, it emerges that there should be a clear *mens rea* on the part of the accused in driving the deceased to commit suicide. One of the main ingredients to constitute an abetment of suicide under Section 306 is some positive act direct or indirect on the part of the accused in contributing to the suicide of deceased. Even an allegation of continuous harassment alone cannot constitute abetment and there should be a proximate prior act or live link from the instigation and the suicide committed. A mere allegation of harassment in the absence of any proximate link to the occurrence



on the part of the accused which led or compelled the person to commit suicide, would not constitute an offence under Section 306.

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19. Keeping the above legal principles in mind, we would analyse the facts of the present case. PW1/father of the deceased had deposed that the appellant and the deceased were living separately in Velachery and they had two female children. The accused did not go to work properly, drunk, used to often quarrel with the deceased and beat her. There had been some quarrel earlier in respect of the deceased for not having a child and later for having a female child. Often the accused asked the deceased to go and die, as only then he could live peacefully. But, however, PW1 usually pacified his daughter.

20. PW2/brother of the deceased had deposed that the accused was doing plumbing work and residing in Velachery. He was not going to work properly, drink and was harassing the deceased. Only after eight years, a child was born. The accused used to beat the deceased and around one week prior to the death, the accused was demanding money from the deceased. On receipt of the information that her sister died, he went to the house and found her sister dead.

21. PW3/sister of the deceased had deposed that the accused regularly quarrelled with the deceased after consuming liquor. Even one week prior to the death, there was a quarrel in which the accused had injured the deceased and



the deceased had come to her house and informed her about the incident. On 07.04.2015, she received the information that her sister died and she went to the accused house. The neighbours informed that there was a quarrel between the husband and wife. In the cross examination, PW3 admitted that the deceased underwent abortion for three times and since there were certain health issues, for the purpose of providing treatment, they had made the deceased stay back in their house. Prior to one week on the date of occurrence, there had been a quarrel between the husband and wife.

22. PW4/independent witness, who is the owner of the house where the accused and the deceased resided, had deposed that the husband and wife quarrelled regularly and specifically, the accused would often quarrel after drinking. On the date of occurrence, all of a sudden, she heard a sound from the accused calling, she went and found that the deceased committed suicide by hanging. The deceased was normal on the date of occurrence. She is not aware as to what happened between them and she is also not aware of the reason why the deceased had committed suicide.

23. PW6/Doctor had deposed that he had examined the body of the deceased when brought to the hospital and issued Accident Register/Ex.P2 and no injury or any adverse information was noted in the Accident Register.



24. PW7/Doctor had deposed that he conducted the postmortem and issued Postmortem Certificate/Ex.P3. He deposed that the report does not reveal about any adverse inference made in the body of the deceased. The Postmortem Certificate/Ex.P3 also states that there was no external or internal injuries seen anywhere in the body of the deceased.

25. From the above evidences on record, there is no material to prove or establish the role of the accused in driving the deceased to commit suicide with an intention. Moreover, none of these evidences suggest that there had been any live link between the harassment as alleged to have been committed by the appellant, prior in point of time which is at least one week earlier and the suicide committed by the deceased.

26. The accused gave an explanation when he was questioned under Section 313 Cr.P.C, about the possible reason for his wife to commit suicide. He had explained that since she had undergone a major surgery, she was not able to take solid food and she was suffering continuously. Further, she had taken continuous treatment for nearly 8 years for conceiving. To substantiate the same, the defence has examined DW1/Doctor who had deposed that the deceased had Achalasia Cardia problem, due to which she was not able to swallow solid food and she has undergone a major surgery. The treatment details were filed as Exs.D1 to D3. When the accused, who was present in the house at the time of the occurrence had come out with an explanation, bringing



materials to establish that the health of the deceased was not proper and due to which the deceased had taken extreme step to commit suicide, which is plausible, the prosecution had failed to bring any evidences to prove that the accused had abetted the deceased to commit suicide for the charge under Section 306 IPC. Moreover, the evidence on the side of accused is considered by the evidence of PW3 cross examination.

27. The evidence on record does not establish any direct link between the role of the accused in the alleged harassment by drinking and quarrelling and the deceased's decision to commit suicide. It is not proved that due to abetment of the accused, the deceased was left with no other option but to commit suicide.

28. The trial court primarily relied on the evidence of PW1 to PW3 to hold that the accused had harassed the deceased by habitually being in a drunken state and quarrelling with her, including acts of physical assault. The trial court concluded that this harassment is sufficient enough for the deceased to make a decision to commit suicide and therefore, it would constitute abetment under Section 306 IPC. Further, the trial court concluded that from the independent witness/PW4, the presence of the accused in the house at the time of occurrence was established and therefore, the onus was on the accused to explain as to what made the deceased to commit suicide. The trial court had



simply ignored the defence witness and the materials filed, which was the explanation brought in by the accused as to the cause of suicide committed by the deceased.

29. In the absence of any *mens rea* proved on the part of the accused in instigating the deceased to commit suicide and due to such an abetment, the deceased was left with no other option except to commit suicide, the charge under Section 306 IPC as against the appellant cannot be sustained. On reappraisal of the entire facts and materials on record, this Court finds that the findings arrived at by the trial court suffer from serious perversity and illegality. In view of the above, the conviction and sentence imposed by the trial court cannot be sustained and needs to be interfered with.

30. Accordingly, the conviction and sentence imposed on the appellant in S.C.No.357 of 2015 dated 02.11.2021 by the learned Sessions Judge, Mahalir Neethimandram, Chennai, is set aside and the appellant is acquitted from all the charges. The bail bond furnished, if any, shall stand cancelled. The fine amount paid, if any, shall be refunded. However the victim compensation provided to the minor children of the deceased is not disturbed.

24.02.2026

Index: Yes
Speaking order
Neutral Citation: Yes
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To

1.The Sessions Judge,
Mahalir Neethimandram,
Allikulam, Chennai.

2.The Inspector of Police,
J-3, Guindy Police Station,
Chennai.
Crime No.1100/2015



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G.ARUL MURUGAN, J.

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