

2026:PHHC:049681



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

201 (2)	CRA S-791-SB-2006 (O&M) Date of Decision: 19.03.2026 Uploaded on:-01.04.2026
Rajpal	...Petitioner (s)
	Vs.
State of Haryana	...Respondent(s)
	CRR 2270 of 2006 (O&M)
Rajbir	...Petitioner (s)
	Vs.
State of Haryana and others	...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. R.A. Sheoran, Advocate
for the appellant in CRA-S-791-SB of 2006.

Mr. Jitender Dhanda, Advocate
for the petitioner in CRR-2270-2006.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. This judgement shall dispose of two cases, i.e., CRA-S-791-SB of 2006 titled as "**Rajpal versus State of Haryana**" and CRR 2270 of 2006 titled as "**Rajbir versus State of Haryana and others**". Both the petitions have been filed against the common impugned judgement dated 17.04.2006 and order of sentence dated 19.04.2006 passed by the Court of Additional Sessions Judge (Fast Track Court) Bhiwani in case FIR No. 189 dated 11.12.2002 registered under Sections 306/34 IPC at Police Station Siwani. Vide the impugned judgement and

order, Rajpal (appellant in CRA-S-791-SB of 2006) was ordered to be convicted under Section 306 IPC and was sentenced to undergo rigorous imprisonment for a period of 05 years and to pay a fine of Rs. 2,000/-. In default of payment of fine, the convict shall further undergo rigorous imprisonment for a period of three months, whereas, Rajbir Singh, Virinder Singh and Pawan Kumar were ordered to be acquitted. In fact, Rajpal, appellant has filed criminal CRA-S-791-SB of 2006 challenging the conviction and sentence passed by the trial Court, whereas Rajbir, complainant has filed CRR 2270 of 2006 with a prayer to convict respondents No.3 to 5 and to enhance the sentence awarded to Rajpal, respondent No.2.

2. The FIR in the present case was registered on 11.12.2002 on the basis of the statement made by PW41 Balwan, who stated that he was a resident of Ward No.9, village Siwani and was a Chowkidar of the village. At about 9:00 a.m. on 11.12.2002, he received information that one person had committed suicide by hanging himself from a JANDI tree near the fields of Ram Chander. He went to the spot and found that the dead body of a person wearing pant, shirt and jersey was hanging on a JANDI tree. On the basis of statement Ex.PA made by Balwan, PW8 Rajpal, ASI made his endorsement and the DDR was recorded at Police Station, Siwani. Thereafter, the inquest report was prepared and later on Rajbir, brother of Jaibir (deceased), came at the spot and made a statement to the police that his brother was working as SDO in telecommunication Department and was on deputation since last about 1½ years from Hissar Division to Ambala Division. He further stated

that Jaibir was on field duty all over Haryana. Jaibir had been married and had three sons, who were residing at village Kharar Alipur and that Jaibir used to visit his children in his village. He further stated that on the previous day, i.e. 10.12.2002 at about 05:30 p.m., Jaibir rang up at the shop of Om Parkash Bansal of their village and he had attended to the telephonic call. Jaibir told him that his children should be taken care of as he had no certainty. On his inquiry as to where from he was calling, Jaibir replied that he was nowhere and his children should be taken care and, thereafter, telephone was disconnected. Rajbir further mentioned in his statement Ex. PF that the voice of Jaibir was under pressure. He further stated that on receipt of telephonic message from Police Station, Siwani to the effect that the dead body of his brother was found hanging at the spot alongwith other persons. On his arrival, he found that dead body of his brother had been found hanging from a JANDI tree with a rope and a white paper has been recovered from his pocket wherein it is mentioned "Rajpal Thekedar is responsible for my death". The said writing bears small signatures of Jaibir in English and his full signatures in Hindi. He also mentioned in his statement Ex. PF that he identified the writing and signatures of his brother. He also stated that his brother Jaibir expired on account of some pressure exerted by Rajpal Thekedar. It was also mentioned that Rajpal was known to Rajbir J.E., who was working with his brother.

3. After recording the statement of Rajbir, complainant, FIR Ex.PF/2 under Section 306 IPC was ordered to be registered. Thereafter, post-mortem on the dead body was conducted and the incriminating

evidence was collected at the spot. The suicide note Ex.PE was sent to FSL, Madhuban for comparison with the admitted handwriting of the deceased and the report of FSL Ex.PS was received. After completion of investigation, the *challan* was submitted only against Rajpal (appellant in CRA-S-791-SB of 2006) and Rajbir.

4. After perusing the *challan* and the accompanying documents, the trial Court found that a *prima facie* case under Section 306 read with Section 34 IPC was made out against Rajpal and Rajbir, both the accused, and they were ordered to be charge-sheeted for the commission of offences punishable under Section 306 read with Section 34 IPC. Both of them pleaded not guilty and claimed trial. Thereafter, the trial progressed and an application under Section 319 Cr.P.C. was moved by the complainant for summoning Virender Singh and Pawan Kumar as additional accused. Both of them were summoned by the trial Court while exercising the powers under Section 319 Cr.P.C. and they, along with the other two co-accused, were again charge-sheeted for the commission of offences punishable under Section 306 read with Section 34 IPC.

5. In order to prove the case of the prosecution, the trial Court examined 11 witnesses in all. The prosecution examined PW1 Balwan, Chowkidar, who supported his initial version. He saw the dead body of a person hanging from a JANDI tree by means of a rope and he was wearing pant, shirt and jersey. After leaving Lekh Ram near the dead body, he went to the police station and informed the police by making statement Ex.PA. The prosecution further examined PW2 Dr. M.K.

Garg, Medical Officer, who had conducted the post-mortem examination on the dead body of Jaibir on 11.12.2002 and proved the post-mortem report. On examination, he found the following injuries on his person:-

“(a) Length of the dead body was 5' 7'.

There was ligature mark present above the thyroid cartilage and chin above, oblique and is 1.5 inch length and 2.5 cm depth, double interrupted on right side of angle of mandible and mastoid process mark is groove, base-pale, hard, leathery and parchment like and margin red and congested. Condition of the dead body of young male, well built, wearing black pant Naswari Underwear, White baniyan, Cream Colour shirt, Yellow jersey and Naswari socks. Eyes were opened. Mouth opened. Saliva trickled down from left angle of mouth. Rigor mortis present in all four limbs.

No external mark of injury seen on the other part of the body. On cut section of ligature mark, sub cutaneous tissue was dry, white and glistening.

2. Scalp, skull, vertebra were healthy alongwith membrane. Thorax walls, ribs and cartilage and pleura were healthy. Larynx, trachea, and both lungs were healthy and congested. Pericardium, heart and large vessels were healthy and right side of the heart was full of blood and left was empty.

Abdomen wall and peritoneum were healthy. Mouth, pharynx and oesophagus were healthy and as described stomach and its contents were healthy and contained small amount of semi digested material. Small intestines and their contents were healthy and contained faecal matter. Liver, spleen, kidneys, were healthy and congested. Bladder was healthy and empty. Organ or re-generation were healthy.

OPINION

In my opinion, the cause of death was asphyxia due to

hanging which was ante mortem in nature and was sufficient to cause death in natural course”.

6. The prosecution further examined PW3 Rajbir son of Shri Puran Singh, brother of the deceased. He stated that Jaibir Singh, since deceased, was married and was having three children. He was working as SDO in Telephone Department at Ambala. All the four brothers used to reside jointly along with their families, whereas the children of Jaibir used to reside in the village. Before his death, Jaibir was posted as SDO at Barwala about 1½ years prior to the occurrence. While Jaibir was posted at Barwala, the work of laying telephone cables was in progress and the contract for laying telephone cables was being taken by Rajpal, Virender and Pawan, contractors. Rajpal, Virender and Pawan used to visit the house of his brother Jaibir and pressurize him for clearance of their bills. His brother used to say that those bills were not genuine and he would not clear the same. Due to this dispute regarding bills, his brother used to remain in a pensive mood. Some days prior to the death of his brother, all the four accused had come to their house and had asked his brother that he should pass the bills, otherwise consequences would be bad. Due to this, his brother became sad and perplexed. He was of the firm belief that his brother had committed suicide on account of pressure exerted by the accused. Due to this reason, his brother also got himself transferred to Ambala. In his cross-examination, he stated that the deceased was posted at Barwala, Hissar, 1½ years ago. He stated before the police that the work of laying of cables was being undertaken by Rajpal, Virender and Pawan, contractors/accused. However, he was confronted with his initial statement (where it was not

so recorded). He also stated to the police that three accused, Pawan, Virender and Rajpal, used to visit the house of the deceased and used to threaten him. He also admitted that he had told the police that the accused used to say that his brother Jaibir would have faced the consequences for not passing of their bills (it was confronted with his initial statement). He further stated that the accused used to visit their house after one week, fortnightly or sometimes after a month. The accused had visited their residence five to ten times prior to the transfer of Jaibir to Ambala. The accused had also visited their residence on 10/15 occasions after his brother was posted at Ambala. The accused visited their house for the last time about one week prior to the suicide committed by Jaibir. He further stated that his brother had told him in the year 2001 that the accused persons had been harassing and pressurising him for passing the bills and that he would have to leave his service because of their pressure. On this disclosure, he came to know about the identity of the accused. He never approached senior officers of his brother to inform them that his brother was being harassed. He even did not bring this fact to the notice of village Panchayat that his brother was being harassed by the accused on account of non-payment and non-clearance of their bills and that the accused used to visit his house. In his further cross-examination, he admitted that Rajbir, J.E., was working under the deceased. He admitted that Rajbir J.E. had no concern with the work done on contract basis by the department. Rajbir, J.E., used to go back to his house on weekend. He also admitted that Rajbir, J.E., used to meet the deceased in relation to other things and not

in relation to bills of contract. The prosecution further examined PW4 Anjali Sethi, SDO, Telephone, who stated that she had handed over the general report of the deceased to the police. Sohan Lal, PW5, visited the spot and prepared the scaled site plan, Ex. PL, on the demarcation of Rajbir. PW6 Bimla Devi, widow of Jaibir Singh, supported the testimony of PW3 Rajbir Singh and stated that due to instigation by the accused, her husband had committed suicide. She further admitted that her husband had left the house for the last time before his death without any tension and he was alright.

7. The prosecution further examined Rameshwar Dass, EHC, as PW7, who joined the investigation by the police in the present case and recoveries were effected in his presence. The prosecution further examined PW8 ASI Rajpal, who had initially recorded the statement of PW1 Balram and after making endorsement on it, he got the FIR registered. He had initially conducted the investigation at the spot, including the inquest proceedings. He also recorded the statements of witnesses and got the post-mortem examination conducted on the dead body of the deceased. On 15.12.2002, he also arrested accused Rajpal in the present case. The prosecution further examined PW9 ASI Braham Dutt, to whom the investigation was entrusted on 13.01.2003. He recorded the statements of Rajbir and Bimla. He also arrested the other accused and various recoveries were effected by him. In his cross-examination, he admitted that the investigation of the present case remained with ASI Rajpal Singh prior to 13.01.2003 and nobody had investigated this case except him and ASI Rajpal. He further admitted

that he had verified from the telephone department with regard to the pendency of any bill of Rajpal contractor and he was told that no bill of Rajpal was pending with the telephone department against which any payment was to be made. He mentioned this fact in the *ziminies* also. He admitted that the statement of Bimla and supplementary statement of Rajbir were found to be incorrect and false so far as their allegations relating to Virender Singh and Pawan were concerned. Due to this, both the accused Pawan and Virender Singh were joined in Column No.2 and were not *challaned*. The prosecution further examined PW10 Head Constable Ramphal, who tendered his affidavit Ex. PS in evidence. The prosecution further examined PW11 Gulshan Rai, Assistant Director, FSL, Madhuban, Haryana, who compared the suicide note with the standard writing of the deceased and opined that the possibility that the standard writing/short signatures and the questioned writing/short signatures had been written by one and the same person could not be ruled out. He also submitted his report Ex. PS. After closure of prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. Rajpal, appellant in CRA-S-791-SB of 2006 , raised the following defence:-

“I am innocent. I am not a contractor. I have no dealing with any kind of work of Bharat Sanchar Nigam Limited at the same time I had no office dealing of any kind with deceased. PWs are deposing falsely to cover their own skin and to save own prosecution from this case and crime. In fact PWs Bimla wife of deceased Jaibir was having illicit relation with PW Rajbir. Due to which deceased felt helpless and face and tolerate all this tension and defame,

he committed suicide due to illicit relation of PW Rajbir and PW Bimla”.

Similar, defence was raised by all the other accused and it was stated that they had no concern with the deceased and they had been falsely involved in the present case.

8. In defence, the accused examined Daya Nand, Senior Accounts Officer, as DW1. He stated that he had gone through the record for the year 2002–2003 and no contractor/firm in the name of Rajpal, Virender Singh and Pawan, accused, was dealing as contractor with Ambala Division. Jaibir was posted as SDE at Ambala from January 2002 and remained posted as such till 11.12.2002, when he died. No bill of Rajpal, Pawan and Virender Singh for any payment on account of any work was pending in Ambala Telecom District for verification with deceased Jaibir SDE (deceased). The accused further examined Balbir Singh as DW2, who stated that he knew Jaibir (since deceased) and he was from his village. He also knew PW Rajbir, brother of the deceased. PW Rajbir had illicit relations with PW Bimla, wife of deceased Jaibir. The deceased committed suicide because of illicit relations between PW Bimla and PW Rajbir and a Panchayat had taken place in the village. After 1½ years of the death of Jaibir, the wife of Jaibir had also committed suicide as she could not tolerate the illicit relations between Bimla PW and Rajbir PW. In fact, Kunti, wife of Rajbir, had committed suicide by taking insecticide. He went to the spot and inquired from Kunti as to why she had taken spray/insecticide for committing suicide. She told him that she could not tolerate the illicit relations between her husband Rajbir and PW Bimla, wife of the

deceased. The testimony of DW2 Balbir Singh was supported by the testimony of DW3 Sarup Singh. The accused further examined L.C. Saharan, SDE Hisar, who stated that he had seen Pawan and Rajpal, accused, in the Court and they were not their contractors nor they had got any official dealings with their office. Both these accused had never undertaken any contract of their district for execution. He brought with him the original of Ex. DB, Ex. DC, Ex. DD, Ex. DE and copy of Ex. DF. He also knew Rajpal, accused present in the Court, who was JTO in the department. He further admitted that all the payments of all the contractors who undertook the work of the department in the sub divisions of Telecom District, Hisar, were paid by GMTD Hisar office. On 29.02.2004, no bill of Virinder Singh, accused, was pending for making payment for which any verification by SDO(T) Barwala was required.

9. Learned counsel for the appellant in CRA-791-SB-2006 has vehemently argued that in fact Jaibir, since deceased, had committed suicide as PW3 Rajbir Singh, his brother, was having illicit relations with PW6 Bimla Devi, his wife. It is the admitted case of the prosecution that Bimla Devi was staying with PW Rajbir and Jaibir, since deceased, was posted in Ambala for the last 1½ year. He further submits that the suicide note was allegedly found at the place of suicide wherein it was stated that Rajpal, contractor, was responsible for the death of the deceased. He further submits that not only the said suicide note was forged and fabricated, but even there was no conclusive report to show that the suicide note was written by the deceased himself.

Further, it was projected by the prosecution that Rajpal was working as contractor at Barwala in Hisar Division and the deceased was pressurised by Rajpal, contractor, to make the payment, however, the deceased was not willing to make the payment as fake bills had been raised. Finally, due to the pressure of Rajpal, contractor, he had allegedly committed suicide, however, the case set up by the prosecution was apparently false. He has further referred to the testimony of PW9 ASI Braham Dutt, IO of the present case, to contend that he had also admitted that after verification from the telephone department, no bill of Rajpal, accused, was pending. Even no bill of Rajpal was pending with the telephone department against which any payment was to be made to him. Apart from that, in defence, the appellant had examined two witnesses, namely DW1 Daya Nand, Accounts Officer, who clearly stated that no bill of Rajpal, Pawan and Virender Singh, all accused, for any payment on account of any work was pending in the Ambala Telecom District or was pending for verification with the deceased Jaibir, SDE. Similarly, DW4 L.C. Saharan, SDE Telecom, District Hisar, also stated that Rajpal and Pawan, both the accused, were not authorised contractors, nor had they got any official dealings with their office. Both of them had never undertaken any contract of their district for execution and he placed on record the originals of Ex. DB, Ex. DC, Ex. DD, Ex. DE and office copy of Ex. DF. He also admitted that all the payments of all contractors, who undertook the work of the department in all sub-divisions of Telecom District Hisar were paid by General Manager Telecom Department, Hisar Office and that on 29.02.2004 no

bill of Virender Singh, accused, was pending for making payment for which any verification by SDOT Barwala was required. Thus, when Rajpal and other accused had never worked as contractors either in Hisar Telecom District or Ambala Telecom District, there was no question of harassment of the deceased by them. He has also referred to the testimony of PW11 Gulshan Rai, handwriting expert, to contend that only a possibility had been expressed by him regarding the suicide note.

10. On the other hand, learned State counsel as well as learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the appellant on the ground that the prosecution had proved the case beyond the shadow of reasonable doubt. In fact, from the testimony of PW3 Rajbir coupled with the testimony of PW6 Bimla, it was proved that the deceased was under tension on account of pressure exerted by the accused. They have further submitted that since the accused had pressurised the deceased to commit suicide, it amounted to abetment of suicide. He further submitted that the defence raised by the accused in the present case was false and Jaibir, since deceased, had no reasons to falsely involve the accused in the present case. Even the suicide note Ex. PE tallied with the specimen writing and signatures of the deceased. Apart from that, there was sufficient evidence to convict respondents No.3 to 5 as well and they were also liable to be convicted along with Rajpal, appellant in CRA-S-791-SB of 2006.

11. I have heard learned counsel for the parties and perused the record.

12. Section 306 of IPC prescribes the punishment for abetment of suicide and reads as follows:-

“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.”

13. It is manifested that the offence punishable is one of abetment of commission of suicide by any person, predicated existence of a live link or nexus between the two, abetment and the suicide, being the propelling causative factor. The basic ingredients of the offence are the suicidal death and the abetment of the same. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Further, there should be intention to provoke, incite or encourage the doing of an act by the latter. Each persons suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases and each case has to be decided on its own facts and circumstances. While dealing with the ingredients of Section 306 IPC, the Hon'ble Supreme Court has held in the matter of ***S.S. Cheema versus Vijay Kumar Mahajan and another***, Criminal Appeal No.1503 of 2010 (arising out of SLP (Criminal) No.6811 of 2009), decided on 12.08.2010, as follows:-

17.The word “suicide” in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by

himself, irrespective of the means employed by him in achieving his object of killing himself.

18. Suicide by itself is not an offence under either English or Indian criminal law, though at one time it was a felony in England. In England, the former law was of the nature of being a deterrent to people as it provided penalties of two types :

Degradation of corpse of the deceased by burying it on the highway with a stake through its chest.

Forfeiture of property of the deceased by the State.

19. This penalty was later distilled down to merely not providing a full Christian burial, unless the deceased could be proved to be of unsound mind. However, currently there is no punishment for suicide after the enactment of the Suicide Act, 1961 which proclaims that the rule of law whereby it was a crime for a person to commit suicide has been abrogated.

20. In our country, while suicide in itself is not an offence, considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 Indian Penal Code. 21. "Abetment" has been defined under Section 107 of the Code. We deem it appropriate to reproduce Section 107, 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."*

Explanation 2 which has been inserted along with Section 107 reads as under :

“Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof is said to aid the doing of that act.”

22. The learned counsel for the appellant has placed reliance on a judgment of this Court in **Mahendra Singh v. State of M.P., 1995 Supp. (3) SCC 731**. In Mahendra Singh, the allegations levelled were as under : (SCC p. 731, para 1)

“1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning.”

23. The Court on the aforementioned allegations came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under Section 306 Indian Penal Code merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

24. The learned counsel also placed reliance on another judgment of this Court in **Ramesh Kumar v. State of Chhattisgarh, 2001(4) RCR (Criminal) 537 : (2001) 9 SCC 618**. In this case, a three-Judge Bench and wife, the appellant husband uttered “you are free to do whatever you wish and go wherever you like”. The Court in para 20 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.”

25. *In this case, the 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 may necessarily be drawn.*

26. *In State of West Bengal v. Orilal Jaiswal, 1994(3) RCR (Criminal) 186 : (1994) 1 SCC 73, this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.*

27. *This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) 2009(4) RCR (Criminal) 196 : 2009(5) R.A.J. 278 : (2009) 16 SCC 605, had an occasion to deal with this aspect of abetment. The Court dealt with the*

dictionary meaning of the words “instigation” and “goaded”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

28. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 Indian Penal Code there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”.

14. Now, I would assess the evidence led by both sides in the present case in the light of the principles laid down by the Hon'ble Supreme Court in the above-referred judgment. The case of the prosecution is primarily based on a suicide note recovered as Ex. PE from the left pocket of the shirt of the dead body, wherein it was stated that Rajpal, contractor, was responsible for his death. Apart from that, the prosecution also relied upon the testimonies of PW3 Rajbir, brother of the deceased, and PW6 Bimla Devi, wife of the deceased, who stated that all the accused used to harass the deceased for clearing the bills of the contractors, i.e., the accused. Apart from this, there was no other

material evidence to show that Rajpal, appellant, Rajbir Singh, Virender Singh and Pawan Kumar, respondents No.3 to 5, had abetted the suicide of Jaibir in any manner. However, after due appreciation of the evidence on record, I have no hesitation to hold that the basic ingredients of the offence under Section 306 IPC are completely missing in the present case. In fact, no evidence exists on record to indicate that the deceased was meted out with any kind of harassment by the accused just before his death. Still further, not only the said positive action in close proximity to the time of suicide is absent, but there is also no evidence of any physical or mental torture meted out to the deceased by either Rajpal, appellant, or respondents No.3 to 5. In fact, to convict a person under Section 306 IPC, there has to be clear *mens rea* to commit the offence. It also requires an active or direct act which led the deceased to commit suicide, finding no other option, and such act must reflect the intention of the accused to push the deceased into such a position that he commits suicide. The prosecution had to establish beyond doubt that the deceased had committed suicide and that Rajpal as well as respondents No.3 to 5 had abetted the commission of suicide by the deceased. In the present case, the main reason alleged for harassment of Jaibir, deceased SDE, by Rajpal and respondents No.3 to 5 was that they had acted as contractors of the Telecom Department at Barwala in Hisar Telecom District and their bills were pending with the department. Moreover, Jaibir had allegedly stated that fake bills had been submitted and he was not willing to clear the bills of the accused in the present case. However, from the testimony of PW9 ASI Braham Dutt, who was the IO of the

present case, the prosecution case stands demolished. The IO himself admitted in his cross-examination that he had verified from the Telecom Department with regard to the pendency of any bill of Rajpal, contractor, and he was informed that no bill of Rajpal was pending with the Telephone Department against which any payment was to be made. He further admitted that the statement of PW Bimla and the supplementary statement of PW Rajbir were found to be incorrect and false so far as their allegations relating to Virender Singh and Pawan, respondents No.4 and 5, were concerned.

15. In order to prove the defence, the accused have led sufficient evidence to show that Rajpal, appellant in CRA-S-791-SB of 2006 as well as respondents No.3 to 5 in CRR 2270 of 2006 had never worked as contractors in the Telecom Department in both Telecom Districts, i.e., Ambala as well as Hisar. In fact, Jaibir, SDE, deceased, was earlier posted in Telecom District Hisar and about 1½ years prior to his death, he was transferred to Telecom District Ambala. The accused examined DW1 Daya Nand, Senior Accounts Officer, Ambala, who stated that about one year prior to his death, Jaibir, deceased, was posted in Ambala and no bill of Rajpal, Pawan and Virender Kumar, accused, was pending for payment on account of any work in Ambala Telecom District, nor was any bill pending for verification with the deceased. Similarly, the accused examined DW4 L.C. Saharan, SDE, from Telecom District Hisar, who also stated that all the accused in the present case were neither authorised contractors nor had any official dealings with their office. These accused had never undertaken any

contract in their district for execution and he produced the relevant original record in support of the defence version. He also admitted that all the payments of contractors who undertook the work of the department in all sub-divisions of Telecom District Hisar were paid by the General Manager, and thus, the deceased had no occasion to stop the bills of the accused. He also admitted that on 29.02.2004, no bill of Virender Singh, accused, was pending for which any verification by SDE, Barwala, was required. Thus, it is apparent that none of the accused had acted as contractors either in Hisar Telephone District or Ambala Telephone District. They had no reason to harass the deceased and the motive attributed to Rajpal, appellant, and respondents No.3 to 5 was apparently false. Even, the findings recorded by the trial Court in the present case were apparently wrong and unsustainable. The trial Court, rather, convicted the accused in the present case on the strength of the facts regarding which no evidence was led. The trial Court wrongly held that it might be possible that these contractors had not done the work of the Telecom Department in their own names. Thus, it was observed that sometimes the contract is given to someone else, but the actual work on the spot is done by some other person. From the observations made by the trial Court, it is apparent that the trial Court based its judgement on the wrong assumption that the accused in the present case were the actual contractors and the work was got executed by them through somebody else. However, shockingly, these observations were made by the trial Court without there being any evidence to that effect. In fact, it is highly unsafe to convict an accused

in a criminal trial merely by drawing inferences or by observing that such a practice may be prevalent in a particular department. In fact, the conviction of an accused in a criminal trial is something serious and grave and should not be ordered in a routine manner. The trial Court should always look for positive and cogent evidence which may prove the complicity of the accused in the crime, and convictions cannot be ordered on the basis of presumptions and assumptions.

16. In view of the above discussion, it is held that there was no sufficient evidence for convicting Rajpal in CRA-S-791-SB of 2006 and respondents No.3 to 5 in Criminal Revision No.2270 of 2006 under Section 306 IPC. Consequently, CRA-S-791-SB of 2006 is allowed and Rajpal appellant is ordered to be acquitted of the charge. Still further, there is no substance in the arguments raised by learned counsel for the petitioner in Criminal Revision No.2270 of 2006 and the revision petition is ordered to be dismissed.

17. Pending applications, if any, stand also disposed of, accordingly.

18. The case property, if any, may be dealt with as per the rules.

19. Records of the Court below be sent back.

19.03.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No