

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1919 OF 2013

RAVINDRA SINGH

APPELLANT

VERSUS

**THE STATE OF UTTARAKHAND
THROUGH HOME SECRETARY**

RESPONDENT

O R D E R

1. Present appeal is against impugned judgment dated 17.06.2013 of the High Court of Uttarakhand, whereby the Court affirmed the conviction and sentence of the appellant passed by the Trial Court and acquittal of other three co-accused persons, viz., Bijendra Singh (brother-in-law), Bindra Devi (mother-in-law) and Bimla Devi (sister-in-law). The appellant has been convicted for the charge under section 306 of Indian Penal Code, 1860 (in short referred as '**IPC**') and directed to undergo 7 years rigorous imprisonment (R.I.) with fine of Rs. 2,000/- in default 2 months of imprisonment.

2. The prosecution case in brief is that the incident was of the intervening night of 15th and 16th May 1997. In the morning around 8 AM on 16.05.1997, Bijendra Singh and Khem Singh reached to informant's house, who is the father of the deceased and informed about the death of Cheta Devi in her matrimonial house at Pangar. The informant first went to Police Station (P.S.), Tehri and gave oral intimation of the incident, and then visited Pangar. He saw the body of his daughter lying completely in burnt condition. The officers posted at Police Chowki Bhagirathi Puram reached on the spot and prepared the inquest, and the body of the deceased was sent for postmortem. The postmortem was conducted on 17.05.1997 by Dr. K. K. Tamta (PW-1), wherein the cause of death was found as shock due to ante-mortem burn injuries. Subsequently, an FIR dated 20.05.1997 was registered for offence under section 306 of IPC against appellant and other three co-accused persons, viz., Bijendra Singh (brother-in-law), Bindra Devi (mother-in-law) and Bimla Devi (sister-in-law). After recording the

statements of witnesses and on completion of investigation, a charge-sheet was filed for an offence of section 306 of IPC against all the four accused persons. The Trial Court framed the charge of section 306 of IPC and tried all the accused persons for the said charge. Vide judgment dated 03.10.2001, the trial Court acquitted Bijendra Singh, Bindra Devi and Bimla Devi while convicting the appellant and directed to undergo the sentence of seven years which was affirmed by the High Court in appeal. Being aggrieved by the said judgment, the present appeal has been filed.

3. Learned counsel for the appellant submits that as per allegations in the FIR, testimonies of the witnesses, and the material placed the charge for an offence under section 306 of IPC is not proved. For an offence of abetment to commit suicide, the ingredients specified under section 107 of IPC are required to be established. In the present set of facts, the prosecution has miserably failed to prove those ingredients beyond reasonable doubt. Therefore,

conviction of the appellant cannot be sustained in law. In support of his contentions, reliance has been placed on the judgments in the case of ***Amalendu Pal alias Jhantu v. State of West Bengal***¹, ***Velladurai v. State represented by the Inspector of Police***² and ***Jayedepsinh Pravinsinh Chavda and others v. State of Gujarat***³ and urged to set aside the conviction and sentence as directed by the impugned judgment.

4. Per contra, learned counsel for the State has vehemently argued in support of the findings of the trial Court and the High Court and urged looking to the facts and circumstances of the case, in which the appellant being the husband of the deceased, maltreated and deserted her, and started residing at Nagani with his kids and mother. As alleged, he had an extra-marital affair with one Bhawani Devi which had led to the commission of suicide by the deceased. Thus, the allegations have been proved beyond the reasonable doubt by the prosecution and any interference in the facts is not warranted.

1 (2010) 1 SCC 707

2 (2022) 17 SCC 523

3 2024 SCC OnLine SC 3679

5. We have considered the submissions made before us and perused the evidence available on record. The prosecution in the instant case has alleged that wife of the appellant had committed suicide and appellant had abetted in the said act. Section 306 of IPC deals with abetment of suicide and Section 107 deals with abetment of a thing. Hence, we have reproduced Section 107 herein below for ready reference:

"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 1. — A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of

C.

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."

6. Bare perusal of the same makes it clear that a person who abets the commission of suicide must firstly, instigate any person to do that thing, i.e., instigating to commit suicide; or secondly, engages with one or more other person(s) in a conspiracy for doing that thing and an act or illegal omission takes place in pursuance to such conspiracy, and in order to the doing of that thing, i.e., any act or illegal omission done towards conspiracy to abet the commission of suicide; or thirdly, if such person intentionally aids, by an act or illegal omission, the doing of that thing, i.e., does any act or illegal omission to aid the act of committing suicide. For the purpose of the facts of the present case, the *Explanation 1* is inapplicable; therefore, we are not referring the same in detail. As per *Explanation 2*, in doing the act of abetment to commit suicide, either prior or at the time of commission of act, a person

does anything in order to facilitate the commission of such act of suicide, and by doing so facilitates the act of suicide shall be said to aid the act of commission of suicide.

7. In view of the above, the short question falls for our consideration is whether the allegations as alleged and the evidence brought by prosecution in the facts of the present case are sufficient to prove the ingredients of section 107 of IPC by which commission of the offence under section 306 of IPC can be established?

8. While analyzing the question, it is first necessary to refer to the allegations made in FIR Exhibit Ka-8 lodged by Prem Singh (PW-4), father of the deceased. On perusal, it can be learned that the marriage of the deceased and appellant was solemnized long back. Initially their relations were cordial and two children were born from the wedlock. Later, on appointment of the appellant in a school situated at Nagani, he started to reside at Nagani with two children and his mother, while the deceased was

staying alone in their ancestral home at Pangar. The distance between Nagani and Pangar is about 22-23 Kms. In the FIR, it was further said while appellant was staying at Nagani, his relations with deceased became sour. In fact, a dispute arose two days prior to incident on 14.05.1997, due to which the deceased came to her parental house in Patudi and complained about abusing, spitting on her, beating and threatening by in-laws. Consequent to this, her parents went along with the deceased to Pangar to enquire about and returned to Patudi on next day i.e., 15th May 1997. In the intervening night of 15th May 1997, the incident took place wherein she died due to burn injuries. Information was given by brother Bijendra Singh and one independent person Khem Singh. Initially, the allegation in FIR was of commission of murder. But after investigation, the police found it to be a case of abetment to commit suicide and accordingly filed the chargesheet for the offence under section 306 of IPC.

9. For the purpose of the offence of abetment,

prosecution relied on two documents Exhibit Ka-2 and Exhibit Ka-3. Exhibit Ka-2 is a complaint made by deceased to Principal of school in which the appellant was working indicating maltreatment by appellant, Bindra Devi and Bhawani Devi. Simultaneously, a police complaint was also made in P.S. Chamba, where a settlement Exhibit Ka-3 took place between them. It was also alleged by the respondent-State that appellant was having an extra-marital affair with a lady namely Bhawani Devi. It is urged by the respondent-State that the act of instigating or intentionally aiding the commission of offence of suicide was not only because of maltreatment of the deceased by the appellant, but also precipitated by extra-marital affair of appellant with Bhawani Devi. However, if we look at the postmortem report Exhibit Ka-1 as proved by PW1-Dr. K.K. Tamta, the cause of death was shock due to ante-mortem burn injuries by fire, and upon external or internal examination no other injury was found on the body of the deceased. Thus, it is clear that the deceased died as a consequence of burn injuries.

10. In this context, if we further examine the testimonies of the star witnesses; PW-4, Prem Singh (father of deceased), PW-2 Gabli Devi (mother of deceased) and PW-3 Avval Singh (brother of deceased), who have stated the contents of FIR on the fact of marriage and quarrel dated 14.05.1997; and they have also deposed about old disputes as well. From their statement, it is also clear that appellant and deceased both were staying at different places, i.e., in Nagani and Pangar respectively and there was an ongoing conflict between them. However, from the statements, the allegations of extra-marital affairs have not been proved.

11. The testimonies of star witnesses on fact of conflict between appellant and deceased is not enough to prove the charge of offence of section 306, IPC. From their testimonies, nothing has been elicited on record to show that the appellant has abetted by either instigating the deceased to commit suicide or by doing any act or illegal omission to intentionally aid at any time just prior to the date of commission of suicide by the deceased. The said testimonies may

conclude the cause of conflict of appellant with deceased, but the prosecution has failed to prove any act of appellant that can attract the ingredients of section 107 of IPC and to prove the commission of offence under section 306 of IPC. Therefore, the evidence which are brought on record by the prosecution to prove the charge under section 306 IPC, are not sufficient enough to bring home the charge.

12. In the above-mentioned conspectus and to understand the circumstances in which the conviction under section 306 of IPC can be proved, the judgment of this Court in the case of ***Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)*** ⁴, may profitably be referred, wherein this Court has indicated the meaning of instigation in commission of an offence of abetment. The relevant paras are reproduced as under:

"16. Speaking for the three-Judge Bench in *Ramesh Kumar case* [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , R.C. Lahoti, J. (as His Lordship then was) said that 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

4 (2009) 16 SCC 605

actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. *Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred.* A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

17. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action; provoke to action or reaction" (see *Concise Oxford English Dictionary*); "to keep irritating or annoying somebody until he reacts" (see *Oxford Advanced Learner's Dictionary*, 7th Edn.).

18. Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to

provoke, incite or encourage the doing of an act by the latter.

19. As observed in *Ramesh Kumar* [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation."

13. The judgment of ***Chitresh Kumar Chopra*** (supra) has further been considered by this Court in the case of ***M. Mohan v. State represented by the Deputy***

Superintendent of Police ⁵, wherein this Court observed as under:

"43. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". 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 others. 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.

44. 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.

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

5 (2011) 3 SCC 626

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."

14. On perusal of the aforesaid, it is clear that an offence of abetment involves *mens rea* to instigate or intentionally aid a person in doing a thing, and it should be proved beyond reasonable doubt. In the present case, after perusal of the evidence brought on record, it is not proved that appellant had the intention to abet the commission of suicide by the deceased. Further, merely because there was some dispute between the parties by itself would not establish the act of abetment. Nothing has been brought on record to show that there was any direct link between the act of appellant and commission of suicide by the deceased. Further, *prima facie* from the FIR it can be seen that the allegations were of commission of murder and not of abetment to commit suicide. Prosecution on the basis of Exhibits Ka-2 and Ka-3 had attempted to make a case of abetment, which is not brought to home by the testimonies of the star witnesses and other evidence. Thus, in absence of any

cogent evidence, the charge under section 306 of IPC against appellant is not proved beyond reasonable doubt.

15. Offence of abetment by instigation depends upon the intention of the person who abets and not upon the act which is done by the person who has abetted. Abetment may be by instigation, conspiracy or intentional aid as provided under Section 107 of the Code. In the instant case, the prosecution has made an attempt to drive home the guilt of the accused by relying upon the testimonies of PW-2 (mother of the deceased), PW-3 (brother of the deceased) and PW-4 (father of the deceased) wherein they have deposed that there were old disputes between the appellant and the deceased. Prosecution has also made an attempt to rely upon the two documents namely Ka-2 and Ka-3 referred to supra which is a complaint made by the deceased to the principal of the school alleging maltreatment by her husband (appellant) and the settlement that took place before the police. However, curiously it may be noted that prosecution has not alleged that on account of these two incidents the

deceased had committed suicide and the appellant had instigated her to commit the suicide by pressing in service explanation 2 of Section 107. However, evidence on record does not support the case of the prosecution as already discussed herein above nowhere the prosecution has alleged that appellant had played any active role either in instigating or aiding the commission of suicide by deceased. From the evidence on record, we find that there is no direct evidence to show that the appellant had by his acts instigated or provoked the deceased to commit suicide and has not in act which could be to have facilitated the commission of suicide by the deceased. On these aspects, we can take guidance from the judgments of ***Amalendu Pal alias Jhantu v. State of West Bengal (supra)***, ***Velladurai v. State Represented by the Inspector of Police (supra)*** and ***Jayedepsinh Pravinsinh Chavda and others v. State of Gujarat (supra)***.

16. Thus, after analyzing the evidence brought on record, Exhibit Ka-2 and Ka-3, and the testimonies of the witnesses PW-2 Gabli Devi, PW-3 Avval Singh and PW-4 Prem Singh we are of the considered view that

evidence placed on record are not sufficient to prove the allegations of abetment to commit suicide against appellant under section 306 of IPC. The trial Court and the High Court by the impugned judgment while convicting the appellant has erroneously appreciated the evidence as discussed above. Therefore, the findings of conviction and sentence as directed by the trial Court and maintained by the High Court stands set aside. Consequently, this appeal is allowed.

17. Accordingly, the appellant is acquitted from the charge of commission of offence under section 306 of IPC. The appellant is on bail and his bail bond shall stand discharged.

18. The original records received from the High Court/trial Court be returned forthwith. Pending application(s), if any, stand disposed of.

.....J.
(J. K. MAHESHWARI)

.....J.
(ARAVIND KUMAR)

NEW DELHI;
FEBRUARY 13, 2025.