



IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI

ON THE 28<sup>th</sup> OF JANUARY, 2026

**CRIMINAL APPEAL No. 1190 of 2016**

***THE STATE OF MADHYA PRADESH***

*Versus*

***RAM DAS AND OTHERS***

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**Appearance:**

*Smt. Vineeta Sharma - Dy. Govt. Advocate for the appellant.*

*Shri Ashish Kumar Kurmi - Advocate for the respondents.*

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**ORDER**

This criminal appeal under Section 378(3) of the Code of Criminal Procedure, 1973 has been filed by the appellant against the judgment dated 08.07.2010 passed by the learned 15th Additional Sessions Judge, Jabalpur (M.P.) in Sessions Trial No.356 of 2008, whereby the respondents No.2 and 3/accused have been acquitted of an offence under Section 306 read with Section 34 of the Indian Penal Code.

2. The case of the prosecution in brief is that Kirti Prasad Shrivastava (P.W.4), a railway employee, was on night duty at Devi Railway Station on 18th May, 2008. While returning from guard brake duty, he saw a woman's dead body under a stationary freight train on the down loop line. He informed Assistant Station Master, S. K. Shrivastava, who informed GRP and PS Panagar. The body was subjected to postmortem examination (Exhibit P/8) and then buried. Bhakt Prahlad Patel, the deceased's elder



brother informed GRP, leading to registration of Merg No.8. Investigation was done by DSP N. K. Tiwari (P.W.2). The body was identified by the husband, Ramdas and elder brother based on clothes and jewelry. The father of the deceased filed report (Exhibit P/6) stating his daughter was married to Ramdas, 08 years ago and was being harassed by him and mother-in-law Radhabai and her grand mother-in-law.

3. On the basis of the aforesaid complaint, the police registered a case for the offence punishable under Section 306 read with Section 34 of the I.P.C. under Crime No.42/2008, and after completion of investigation, filed the charge-sheet before the Judicial Magistrate First Class, Jabalpur. The learned Magistrate, in turn, committed the case to the Court of Sessions, where it was registered as S.T. No.356/2008. Charge under Section 306 read with Section 34 of the I.P.C. was framed against respondents No.2 and 3, to which they abjured their guilt and claimed to be tried.

4. The prosecution examined witnesses namely Constable Rameshwar Paraste (P.W.1), N. P. Tiwari (P.W.2), Dr. R. P. Pyasi (P.W.3), Keerat Prasad Srivas (P.W.4), Bhakt Prahlad Patel (P.W.5), Ramsewak (P.W.6), Gaya Prasad Patel (P.W.7), R. V. Singh Vimal (P.W.8), G. S. Ukey (P.W.9), R. K. Pandey (P.W.10), Vishwanath Prasad Patel (P.W.11) and Devraj Singh Kushwaha (P.W.12) and exhibited 24 documents (Ex.P/1 to Ex.P/14) in support of the prosecution case. On the defence side, Member Dahiya (D.W.1), and exhibited documents Ex.D/1 to Ex.D/7.

5. After conclusion of trial and hearing of both parties, the learned trial Court by the impugned judgment acquitted respondents No.2 to 6 from the



charge under Section 306 read with Section 34 of the I.P.C.

6. Learned counsel appearing on behalf of the appellant has submitted that despite sufficient, cogent and reliable evidence on record in respect of guilt of respondents No.1 and 2, trial Court erroneously acquitted them by the impugned judgment. It is also submitted that brother of deceased, father of deceased (P.W.6) and brother-in-law of deceased (P.W.7) have supported the prosecution story in toto. Moreover, story of prosecution has been further substantiated by the evidence of Doctor concerned and Investigating Officer. Learned counsel has contended that, upon due consideration of the entire evidence and statements on record, the learned trial Court has erred in law and on facts in acquitting the respondents No.2 and 3 of the charge under Section 306 read with Section 34 of the IPC. Accordingly, it has been prayed that the present appeal be allowed, the judgment of acquittal be set aside, and the respondents No.2 and 3 be convicted and sentenced appropriately in accordance with law.

7. *Per contra*, learned counsel appearing on behalf of the respondents No.2 and 3/accused persons have vehemently opposed the appeal. It is submitted that learned trial Court in para 55 and 57 has categorically stated that guilt has not been proved beyond doubt and cogent and reliable evidence. Death of the deceased was found to be accidental. Since there was no evidence to indicate that deceased has committed suicide. Therefore, no offence under Section 306 of IPC is made out. It is submitted that the learned trial Court upon proper appreciation of the evidence available on record and due consideration of the oral and documentary evidence has



rightly acquitted the respondents No.2 and 3 of the charges levelled against them. It is also submitted that on the basis of the evidence available on record the essential ingredients of "abettment" as defined under Section 107 of the IPC punishable under Section 306 of the IPC have not been established against the respondents. Hence, considering the overall facts, the defence evidence, and the prosecution testimony, no offence under Section 306 read with Section 34 of the I.P.C. is made out against the respondents No.2 and 3/accused persons. Therefore, there exists no ground for interference with the well-reasoned judgment of acquittal passed by the learned trial Court.

9. Heard the learned counsel for the parties and perused the record.

10. To bring home the charge under Section 306 of the Indian Penal Code, it is incumbent upon the prosecution to establish the essential ingredients constituting the offence of abettment, as defined under Section 107 of the IPC, which reads as under:-

*"107. A person abets the doing of a thing, who-*  
*Firstly.- 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.*

11. The said definition of abetment elucidates that there has to be instigation by a person to do a thing, secondly the person must engage himself with one or more than one person conspiring to do something and



thirdly, there should be an intentional aid by the said person or illegal omission on the part of the said person for doing of that thing. If the said ingredients are established from the evidence available on record only in that condition accused can be convicted under Section 306 of the IPC which mandates that if any person commit suicide and whosoever abets the commission of such suicide shall be punished under this section.

12. In the present case, the dead body of the deceased was found under a stationary freight train. The prosecution has failed to adduce any direct or circumstantial evidence conclusively establishing that the death was suicidal. The post-mortem report does not decisively rule out the possibility of accidental death. No suicide note or contemporaneous material indicating suicidal intent has been brought on record. The testimonies of the father, brother and other relatives of the deceased regarding harassment are general and omnibus in nature. They do not disclose any specific incident, proximate in time, which could be said to have driven the deceased to commit suicide. It is well settled that vague and remote allegations of cruelty or harassment do not satisfy the legal requirement of abetment.

13. The learned trial Court, in paragraphs 55 and 57 of the impugned judgment, has meticulously evaluated the evidence and recorded a finding that the prosecution failed to prove the guilt of the accused beyond reasonable doubt. The view taken by the trial Court is a plausible and reasonable view based on the evidence on record.

It is trite law that an appellate court should not interfere with an order of



acquittal unless the findings are perverse, manifestly illegal or grossly unjust. Merely because another view is possible, interference is not justified. No such perversity or illegality is discernible in the impugned judgment.

apart from the parents and brother of the deceased namely Devidin Yadav (P.W.8), Smt. Bhuri Bai Yadav (P.W.9) and Vinod Yadav (P.W.10) three other witnesses namely Wakil Ahmed (P.W.3), Ashok Yadav (P.W.4) and Deepak Yadav (P.W.5) have also been examined by the prosecution in support of its case. Though the parents and brother of the deceased have supported the prosecution version in their examination-in-chief by stating that on account of a dispute relating to land, respondents No.2 to 6/accused persons used to harass deceased Arvind and that prior to convening of the Panchayat meeting they had assaulted him, yet from the testimony of these witnesses it reveals that the Panchayat meeting was convened three days prior to the recovery of the dead body of the deceased. Had there been any physical assault upon the deceased, corresponding injuries would have been reflected in the postmortem report; however, Dr. K.P. Rajput (P.W.7), who conducted the postmortem examination, has categorically deposed that except a ligature mark on the neck of the deceased, no other injury was found. He further opined in his cross-examination that the death was suicidal in nature and proved the postmortem report, which was exhibited as Ex.P/9.

13. It is also stated by the parents and brother of the deceased that the respondents No.2 to 6/accused frequently harassed the deceased on account of land dispute, but there is no previous FIR or complaint filed on behalf of the deceased or their parents and brother before appropriate authority against



respondents No.2 to 6/accused persons which naturally would have been lodged in normal course. The parents and brother of the deceased have exaggerated their statements and stated that the accused persons have committed the murder of the deceased and after killing the deceased they hanged him with a tree. There are material contradictions, omissions and variations in the statements of these witnesses vis-a-vis police statements recorded during investigation. These witnesses also admit that the cases were pending before the Sub Divisional Officer (Revenue), Ajaygarh and in the Courts regarding land disputes between them and respondents No.2 to 6/accused persons. Though, it is denied by them that before the date of incident, an stay order has been passed against them. This fact has been established by the statement of accused Kandhi Yadav (D.W.2), who has filed the copy of such stay order which was passed just two days before the date of incident i.e. on 05.07.2018 as Ex.D/5 by way of which, the stay order was passed by the Sub Divisional Officer (Revenue), Ajaygarh against the deceased and others. It is also stated by this witness that the complainant Devidin Yadav (P.W.8) etc. has previous rivalry against him due to land/house dispute. They convened the Panchayat and falsely implicated him.

14. A suggestion has been given by the prosecution itself to Kandhi Yadav (D.W.2) that "ये कहना सही है कि मेरा अवरिंद से कोई झगड़ा नहीं था" which by itself indicates that no quarrel or physical altercation had taken place between the accused persons and the deceased.

15. The independent witness Wakil Ahmed (P.W.3), in his examination-



in-chief, has categorically stated that he is unaware of the reason which led the deceased Arvind to commit suicide, and that no quarrel or physical altercation had taken place in his presence. Likewise, witness Ashok Yadav (P.W.4) has admitted in his cross-examination that the deceased was a simple and hypersensitive person. Similar is the statement of witness Deepak Yadav (P.W.5), who has admitted that the deceased Arvind was a person of sensitive disposition and that even a harsh word spoken to him would affect him deeply. Witness Ashok Yadav (P.W.4) has further admitted in paragraph 6 of his cross-examination that Devidin Yadav (P.W.8) desired to acquire the house and land of accused Kandhi Yadav, which led to the dispute between them and ultimately became the underlying cause of death of deceased Arvind. Deepak Yadav (P.W.5) has also admitted in his cross-examination that since no decision was rendered by the Panchayat, Arvind felt distressed, although he could not affirm that because of this reason Arvind has committed suicide. It is pertinent to note that these three witnesses, namely Wakil Ahmed (P.W.3), Ashok Yadav (P.W.4) and Deepak Yadav (P.W.5), though their testimony to some extent runs contrary to the prosecution version, were neither declared hostile nor cross-examined by the prosecution. Consequently, their statements remain unchallenged and are binding upon the prosecution.

16. The Hon'ble Apex Court in the case of *Kunju Muhammed @ Khumani and others vs. State of Kerala, (2003) 1 SCC 761*, is relevant to refer here:-

*"16. We are at pains to appreciate this reasoning of the High Court. This witness has not been treated hostile by the prosecution,*



*and even then his evidence helps the defence. We think the benefit of such evidence should go to the accused and not to the prosecution. ....*

17. In the case of *S.S. Cheena vs. Vijay Kumar Mahajan and others*, *(2010) 12 SCC 707*, the Hon'ble Apex Court has held as under:-

*"28. 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. 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 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 that act must have been intended to push the deceased into such a position that he committed suicide.*

*29. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day to day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation."*

18. In the case of *M. Mohan vs. State*, *AIR 2011 SC 1238*, the Hon'ble Apex Court has held that :-

*"45. 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.*

*46. 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 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."*

19. Again, the ingredients under Sections 107 and 306 of the IPC was



interpreted by the Hon'ble Supreme Court in the case of *Prakash and Ors. vs. State of Maharashtra and Anr., 2024 SCC OnLine SC 3835* and the Hon'ble Apex Court has held as under:-

*"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."*

20. This Court in the case of *Mohsin son of Jafruddin Vs State of M.P., 2017 (11) Manisa 139 (M.P.)*, while following the ratio laid down by the Hon'ble Apex Court has held as under:-

*"12. In the case of Abdul Hanif Vs State of M.P. 2002 (11) MPWN 12, it has been reiterated that mere threatening or beating by the accused persons to the deceased does not constitute any instigation "for commission of suicide."*

21. Keeping in view the law laid down in the aforesaid decisions and upon due consideration of the evidence discussed hereinabove, this Court is of the considered opinion that the learned trial Court has committed no illegality or



perversity in acquitting respondents No.2 to 6/accused persons. The prosecution has failed to establish, by cogent, reliable and trustworthy evidence the essential ingredients of the offence of abetment as defined under Section 107 of the Indian Penal Code read with Section 306 of the IPC. Accordingly, the findings recorded by the learned trial Court warrant no interference.

22. In the case of *State of Gujarat v. Jayrajbhai Punjabhai Varu, (2016) 14 SCC 151* the Hon'ble Apex Court has held that prosecution has to prove the guilt of the accused beyond all reasonable doubt. It is also the rule of justice in criminal law that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other towards his innocence, the view which is favourable to the accused should be adopted. In case of *Nikhil Chandra Mondal v. State of W.B., (2023) 6 SCC 605* Hon'ble Apex Court has observed that it is a settled principle of law that however strong a suspicion may be, it cannot take place of a proof beyond reasonable doubt. Unless finding of the trial Court is found to be perverse or illegal/impossible, it is not permissible for the appellate Court to interfere with the same.

23. Recently in case of *Mallappa & others v. State of Karnataka, (2024) 3 SCC 544* the Hon'ble Apex Court has again summarized the principles while deciding the appeal against acquittal which are as follows :-

*"42. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which*



*come into play while deciding an appeal from acquittal could be summarised as:-*

*(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive — inclusive of all evidence, oral or documentary;*

*(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;*

*(iii) If the court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;*

*(iv) If the view of the trial court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;*

*(v) If the appellate court is inclined to reverse the acquittal in appeal on a reappreciation of evidence, it must specifically address all the reasons given by the trial court for acquittal and must cover all the facts;*

*(vi) In a case of reversal from acquittal to conviction, the appellate court must demonstrate an illegality, perversity or error of law or fact in the decision of the trial court. ....*

24. *Ex consequenti*, in the light of the aforesaid discussion and the ratio of law laid down by Hon'ble Apex Court in aforesaid cases, on careful analysis of the evidence, the observations made by the learned Trial Court in the impugned judgment are not found to be faulty. The learned Trial Court on proper appreciation of evidence available on record has rightly acquitted the accused/respondents. There is no ground for interference with the findings of the trial Court. Therefore, while affirming the findings of acquittal of respondents by trial court, the appeal being bereft of merit is hereby dismissed.

25. The order of the Trial Court with regard to the disposal of the property



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is affirmed.

**(RAJENDRA KUMAR VANI)**  
**JUDGE**

mrs. mishra