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CRA-2236-2016

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI

ON THE 15<sup>th</sup> OF JANUARY, 2026

CRIMINAL APPEAL No. 2236 of 2016

*THE STATE OF MADHYA PRADESH*

*Versus*

*NISAR MOHD AND OTHERS*

.....  
Appearance:

*Shri Dayaram Vishwakarma - Govt. Advocate for appellant/State.*

*Shri Anoop Kumar Saxena - Advocate for respondents.*  
.....

ORDER

This appeal under Section 378 of Cr.P.C. has been filed by the State assailing the judgment and order of acquittal dated 10.08.2015 passed in S.T. No.49/2011(State of M.P. vs. Nisar Mohd. and others) by the learned Second Additional Sessions Judge, Chhattarpur (M.P.) whereby respondents/accused have been acquitted of the offence under Section 306 of IPC.

2. As per the prosecution case, the deceased Wasim was married to Shaheen in the year 2008 at Manihari Mohalla, Chhattarpur. After the marriage, the in-laws of the deceased used to frequently visit his house to take Shaheen with them; however, the deceased did not permit her to leave the matrimonial home. On 15.10.2009, the brother of Shaheen, namely Riyaz, took her to Chhattarpur on the pretext of attending his engagement ceremony, but thereafter did not send her back to the matrimonial home of the deceased. Subsequently, Shaheen filed a maintenance petition against the deceased and also initiated other legal proceedings. It is further alleged that whenever the deceased went to his in-laws' house to bring Shaheen back, she was not sent with him. On 14.10.2010, deceased



Wasim reached the house of his in-laws at Chhattarpur and committed suicide by consuming a poisonous substance. Upon receipt of information, a Marg intimation was registered and an inquest was conducted under Section 174 of the Code of Criminal Procedure.

3. During the course of investigation, dead body of the deceased was duly identified and a Panchnama was prepared. The postmortem examination of the deceased was conducted, wherein the doctor opined that the cause of death was consumption of poisonous substance. On lodging of the FIR, the criminal law was triggered and set in motion.

4 . After completion of the investigation, a charge sheet was submitted in the competent court, which on its turn committed the case to the court of session where the respondents/accused were tried.

5 . The learned Trial Judge on the basis of the averments made against the accused in the charge sheet framed charge punishable under Section 306 of IPC. The respondents abjured their guilt. They took the plea that they have been falsely implicated in the matter and they claimed to be tried.

6. The prosecution, in order to bring home the charges examined as many as 15 witnesses, which are Munnilal (PW-1), Dr. S.K.Gupta (PW-2), Maharaj Singh (PW-3), Naeem Soudagar (PW-4), Rahil Soudagar (PW-5), Smt. Fajlun Nisha (PW-6), Ramavtar Chorasiya (PW-7), Mod. Nawab (PW-8), Naseem Soudagar (PW-9), Gopal Das (PW-10), Dr. B.M. Chourasiya (PW-11), Praveen Kumar Singh (PW-12), J.D. Verma (PW-13), A.K. Poranik (PW-14) and Ashok Valmiki (PW-15) and placed Ex.P/1 to P/31, documents on record.

7. The learned Trial Court after appreciating and marshalling the evidence came to hold that the allegations levelled against the accused are not found to be proved and eventually acquitted the accused persons/respondents of the charges under



Section 306 of IPC. Hence, this appeal.

8. It is submitted by the learned counsel for the present appellant/State that the learned trial Court has erroneously acquitted the respondents/accused persons, despite the prosecution having adduced cogent and reliable evidence. From the prosecution evidence on record, it is clearly revealed that the accused persons exerted immense pressure upon the deceased and did not allow him to reside peacefully with his wife. As a result of such continuous harassment and pressure, the deceased was compelled to commit suicide. In this regard, document Ex.P/16, which is a suicide note, was seized by the police. Keeping in view the suicide note, coupled with the statements of the prosecution witnesses, the offence under Section 306 of the IPC is clearly made out against the accused persons. The suicide note was written by the deceased himself, which in fact stands duly substantiated by the evidence of handwriting expert, K.K. Puranik (PW-14). Hence, the acquittal of the accused persons is erroneous, unsustainable in law, and liable to be set aside. It is, therefore, prayed that the impugned judgment be set aside and by allowing the appeal and respondents/accused persons be convicted and punished appropriately for the aforesaid offences.

9 . Per contra, learned counsel appearing on behalf of the respondents has pointed out that the findings of acquittal recorded by the learned Trial Court are based on a proper and judicious appreciation of the evidence on record and do not suffer from any perversity, illegality, or infirmity. Consequently, the impugned judgment of acquittal warrants no interference and deserves to be affirmed.

10. Heard learned counsel for the parties and perused the case diary.

11. As far as the cause of death, as to whether deceased Wasim committed suicide or not, is concerned, the important witness is Dr. S.K. Gupta (PW-2), who has stated that he has conducted postmortem of the dead body of the deceased and



it is found that the cause of death was cardio respiratory arrest. But no reason of such arrest could be explained. He cannot say that what has been consumed by deceased. In cross-examination though, he has deposed that cardio respiratory arrest may be caused by consuming poison, but no definite opinion could be given by this witness in that respect. Though viscera has been saved and sent for forensic analysis and Forensic report (Ex. P/ 31), indicates that there was aluminum phosphate pesticides found in the viscera, but it is pertinent to mention here that such report and its recital has not been explained to the accused persons in examination under Section 313 of Cr.P.C. In absence of putting evidence/factum and recital of report before the accused persons in the examination under Section 313 of Cr.P.C., such report cannot be helpful for the prosecution.

12. Though the independent witnesses including Naeem (PW-4), Rahil (PW-5), Smt.Fajlun Nisha (PW-6) and Naseem (PW-9) have stated that the deceased has consumed some poisonous substance but they have not seen the deceased consuming such poison nor any abstract of such poison or any vessel etc. used for such poisonous substance has been seized. Thus, in the entirety of these facts and circumstances of the case, even the fact that the deceased has committed suicide is not established with the cogent and reliable evidence and beyond reasonable doubt.

13. As far as the instigation or abetment to suicide exerted by the accused persons is concerned, in this respect, Naeem (PW-4) has stated that after the marriage of daughter of Naseem (PW- 9) with the deceased, daughter Shahin (DW-1) remained living with the deceased in Nowgaon but the accused persons, who are the parents and relatives of Shahin (DW-1) don't want to let Shahin



((DW-1) live with the deceased. He also deposed that after 3-4 months of the marriage, the accused persons along with other relatives have come in two vehicles and said that they will take Shahin ((DW-1) forcefully. Police has been informed at that time and police has taken the accused persons to the police station. Shahin ((DW-1) herself has denied to go with the accused persons as she was pregnant at that time. In the evening, a Panchayat was convened in the leadership of chairperson of Nagar-Palika, but since Shahin ((DW-1) was not ready to go with the accused persons, the accused persons have returned without Shahin ((DW-1) to their native place Chhattarpur. After one and a half year, when there was a engagement ceremony of Shahin's brother, Shahin ((DW-1) has visited in-law's house alongwith the deceased. The deceased returned but Shahin ((DW-1) remained in the in-law's house. After 3 or 4 days when the deceased visited Chhatarpur, the in-laws have denied to send Shahin ((DW-1) with the deceased. They abused and insulted the deceased and compelled him to leave the house.

14. Witness Naeem (PW-4) further deposed that when the matter went to Parivar Paramarsh Kendra, then the Kendra has passed an order directing Shahin ((DW-1) and deceased to live together as husband and wife. But the accused persons have not send Shahin ((DW-1) with the deceased. Later an application under Section 125 of Cr.P.C has been filed by accused persons on behalf of Shahin ((DW-1) despite Shahin's unwillingness to institute such application in the Court. Thereafter, they heard that the deceased has consumed some poisonous substance. The statement of this witness has been substantiated by Rahil (PW-5), Smt. Fajlun (PW-6) mother of the deceased and Naseem (PW-9) Father of the deceased. Statements of all these witnesses are full of contradictions, variations and omissions, which show that they have exaggerated the story. Such omissions,



contradictions and variations on material points renders their testimony doubtful.

15. Naeem Soudagar (PW-4) has stated that since the accused persons abused and insult the deceased, therefore, deceased has committed suicide. Rahil Soudagar (PW-5) has stated that the accused persons meted out mental cruelty to the deceased, therefore, he committed suicide. Smt. Fajlun Nisha (PW-6) has stated that accused persons have exerted pressure on the deceased, therefore he committed suicide. While Naseem Soudagar (PW-9) has stated that the deceased, when he was admitted in the hospital, had by way of sign communicated to him that there was a dispute arose between him and his father- in- law and they gave him some poisonous substance to consume. Therefore, these witnesses are not identical on the point that what was the reason for committing suicide by the deceased.

16. It is revealed from the statements of these witnesses i.e. the statements of PW-4, PW-5, PW-6 and PW-9 that the dispute between the accused persons and deceased in respect of wife of the deceased namely Shahin (DW-1) had been referred to the Panchayat, Parivar Paramash Kendra and thereafter, the matter went to the Court in form of proceedings under Section 125 of the Cr.P.C., but no document in this respect has been filed and proved on behalf of the prosecution being important piece of evidence. No particular date of such dispute of giving threat or committing insult of the deceased has been explained by these witnesses.

17. As far as the suicide note (Ex. P/16) is concerned which is *verbratim* as under:-

"बिआन में बषीम अकरम सौदागर

मै अपनी सास व ससूर व साले से परेशान हू जिस मेरी पत्नी भी है उसने मुझे बुलाया है इसलिये मैं उन के घर जा रहा हु मुझे कुछ होता है तो वो जुम्मेदार होंगे मुझे मनसिक तोर पर परेशान किया और मेरी कई बार बेजती की मैं मजबुर इसलिये हू कि मेरी एक पुत्री है बलके मेरा एक मुकदमा भी चल रहा है जिसकी परमीस से मैं यहा आता हू मुझे मजिस्ट्रेड ने हर 15 दिन में मिलने आ सकता हूं इस लिये मे अपनी पुत्री इरम से मिलने जाता राहता हू



यह बिआन मेरे पास हर 15 दिन में मेरे पास रहता है

मेरा बिआन

बषीम अकरम

14-10-2010"

18. The recital of this document clearly shows that the deceased was going to take his wife Shahin, but since his father-in-law and brother-in-law used to tease him. Therefore, it is stated that if something is happened with him, they will be responsible. It is not revealed from this document that it was written just before committing suicide. As no factum that he is going to commit suicide has been stated in this document nor it indicates the cause of such suicide, therefore, it cannot be said to be a suicide note. Moreover, this document Ex.P/8 has been seized by police after a long delay i.e. on 28.12.2010, while the death of the deceased took place on 14.10.2010 and FIR has been lodged on 11.11.2010. It is revealed from the testimony of witnesses especially Naseem (PW-9) that Wardboy Ashok (PW-15) has given him this document, which has been taken out of the clothes of the deceased just after his dead body was brought in the hospital. Ashok (PW-15) has also substantiated this fact, but it has not been clarified by this witness that why such important document, was not forthwith handed over to the police. Ashok (PW-15) has admitted that he has not given this document to the doctor concerned nor given it to the police, rather after 01 or 02 days, he has given this documents to Naseem (PW-9), which doesn't reflect his natural conduct.

19. In respect of this document Ex.P/16 report of fingerprint expert, Exhibit P/29 and P/30 have been filed by the prosecution. The observations of fingerprint expert A.K.Puranik (PW-14), that he found that a similar person has written and signed the document Ex.P/16 cannot be found believable in respect that it has been written and signed by the deceased himself, because the seizure of Ex.P/16 from the person of deceased is doubtful and doubt has also been raised in respect



of documents of natural writing of deceased. Hence, comparison with such natural writing doesn't render any support to the prosecution.

20. Munnilal (PW-1) was head constable at that time, who has prepared *Shav Panchanama and inquest report* (Exhibit P/2 and P/3) and registered margin intimation as Exhibit P/1 and has sent the dead body for postmortem examination. He admitted in the cross-examination that he has inspected the entire dead body of the deceased and his clothes wearing by the deceased but no document or any other articles have been found.

21. As far as the statement of Naseem (PW- 9) in respect of oral dying declaration by the deceased is concerned, it has not been a part of the prosecution story. This fact has not been contained in the police statement or FIR. that the deceased, while admitting in the hospital by way of sign, has communicated to this witness Naseem (PW-9) that his father-in-law had some dispute due to which, he has consumed some poisonous substance. Therefore, such oral dying declaration is not found believable.

22. Praveen Kumar (PW-12) is the Investigating Officer. He has admitted in the cross-examination that he has not taken any explanation from of Constable Munni Lal as to where he has placed viscera since 15.10.2011 to 11.11.2010 and why he has kept it between this period with him before deposition of this article in the Malkhana. Moreover, no entry of Malkhana registered in that respect has been submitted on behalf of the prosecution. He also admitted in the cross-examination that during the investigation, he has not seen any suicide note. It is also admitted by this witness that the parents of the deceased have not lodged any report that deceased has consumed poison.

23. J.D. Verma (PW-13), who is also the Investigating Officer, conducted the





investigation partly. In his cross-examination, he admitted that while preparing the *Lash Panchnama*, no incriminating article was found and no document was seized from the dead body of the deceased. He further admitted that he did not inquire from ward boy Ashok, as to why the alleged suicide note (Ex. P/16) was not handed over either to the concerned doctor or to the police. No further inquiry was made from Ashok regarding the presence of any witnesses at the time when the said document was allegedly found, nor was any explanation sought or offered for the delay in handing over the document. The witness Ashok also failed to explain such delay. The Investigating Officer further admitted that the Seizure Memo (Ex. P/8) reflects that the documents were seized from the possession of Naseem (PW-9).

24. Under Section 107 of IPC "abetment" involves a mental process of instigating a person or intentionally adding a person in doing of 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 the Hon'ble Apex Court in this respect shows that in order to convict a person under Section 306 of 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 other option and must have been intended to push the deceased into such a position that he committed suicide. The word 'instigated' literally means to goad, urge forward, provoke, incite or encourage to do an act and a person is said to instigate another when he actively suggests or stimulates him to the act by any means, or language, direct or indirect, whether it takes the form of express solicitation or the hint or of hints, insinuation or encouragement.

25. The Hon'ble Supreme Court in the case of **Jaydeepsinh Pravinsinh Chavda and**



others Vs State of Gujarat, (2025) 2 SCC 116 has held in paragraphs 21 to 23 and 26 to 29 as under:-

*"21. Section 306 IPC provides for punishment for the offence of abetment of suicide. It has to be read with Section 107IPC which defines the act of "abetment". The provisions read 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."*

*"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.*

**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 facilitate the commission thereof, is said to aid the doing of that act."*

*22. Section 306 IPC penalises those who abet the act of suicide by another. For a person to be charged under this section, the prosecution must establish that the accused contributed to the act of suicide by the deceased. This involvement must satisfy one of the three conditions outlined in Section 107 IPC. These conditions include the accused instigated or encouraged the individual to commit suicide, conspiring with others to ensure that the act was carried out, or engaging in conduct (or neglecting to act) that directly led to the person taking his/her own life.*

*23. For a conviction under Section 306IPC, it is a well-established legal principle that the presence of clear mens rea—the intention to abet the act—is essential. Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the*



*accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide.*

*26. The essential ingredients to be fulfilled in order to bring a case under Section 306 IPC are:*

*(i) the abetment;*

*(ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide.*

*27. Thus, to bring a case under this provision, it is imperative that the accused intended by their act to instigate the deceased to commit suicide. Thus, in cases of death of a wife, the court must meticulously examine the facts and circumstances of the case, as well as assess the evidence presented. It is necessary to determine whether the cruelty or harassment inflicted on the victim left them with no other option but to end their life. In cases of alleged abetment of suicide, there must be concrete proof of either direct or indirect acts of incitement that led to the suicide. Mere allegations of harassment are insufficient to establish guilt. For a conviction, there must be evidence of a positive act by the accused, closely linked to the time of the incident, that compelled or drove the victim to commit suicide.*

*28. It is essential to establish that the death was a result of suicide and that the accused actively abetted its commission. This can involve instigating the victim or engaging in specific actions that facilitated the act. The prosecution must prove beyond doubt that the accused played a definitive role in the abetment. Without clear evidence of an active role in provoking or assisting the suicide, a conviction under Section 306IPC cannot be sustained.*

*29. The act of abetment must be explicitly demonstrated through actions or behaviours of the accused that directly contributed to the victim's decision to take their own life. Harassment, in itself, does not suffice unless it is accompanied by deliberate acts of incitement or facilitation. Furthermore, these actions must be proximate to the time of the suicide, showcasing a clear outcome. It is only through the establishment of this direct link that a conviction under Section 306 IPC can be justified. The prosecution bears the burden of proving this active involvement to hold the accused accountable for the alleged abetment of suicide. The same position has been laid down by this Court in several judgments, such as:*

*(i) M. Mohan v. State;*



- (ii) *Amalendu Pal v. State of W.B.*;  
(iii) *Kamalakar v. State of Karnataka.*"

26. Recently, in the case of *Abhinav Mohan Delkar Vs. The State of Maharashtra and others*, 2025 LiveLaw (SC) 812, the Hon'ble Supreme Court has observed in paragraphs 21 to 23 as under:-

*"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."*

27. 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.
28. 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 reappraisal 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."...*

29. *Ex consequenti*, in the light of aforesaid discussions and the ratio of law laid down by Hon'ble Apex Court in aforesaid cases coupled with careful analysis of the evidence, the observations made by the learned trial Court in the impugned judgment are not found to be perverse, illegal or 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 the learned trial court, the appeal being bereft of merit is hereby dismissed.

30. The order of the trial Court with regard to disposal of property is affirmed.

(RAJENDRA KUMAR VANI)  
JUDGE