



HIGH COURT OF CHHATTISGARH AT BILASPUR
CRA No. 1522 of 2000

1. Chanduram S/o Sunher aged about 42 years, R/o Village Thekwadih P.S. District Durg M.P.
2. Chameli Bai Alias Chamarin W/o Chanduram aged about 33 years, R/o Village Thekwadih P.S. District Durg M.P. ---- **Petitioner**

Versus

- State Of M.P., through P.S. Gurur District Durg, Madhya Pradesh.

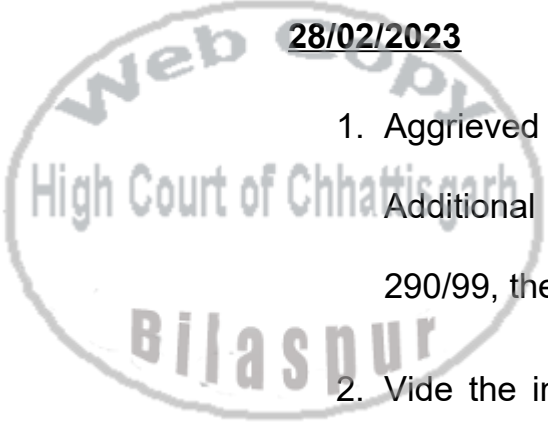
---- **Respondent**

For Petitioner	:	Mr. Pragalbha Sharma, Advocate
For State	:	Ms. Abhyunnati Singh, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

28/02/2023

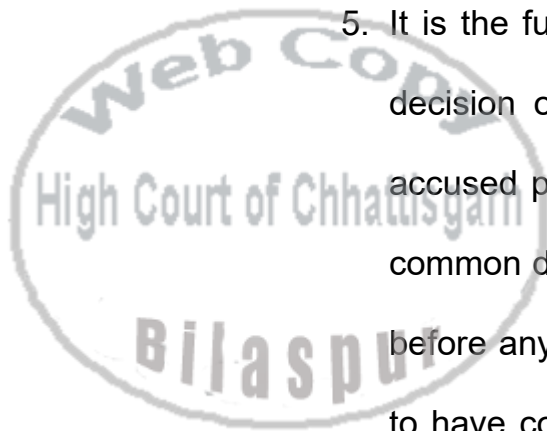
1. Aggrieved by the impugned Judgment dated 06.06.2000 passed by the Additional Session Judge, Balod District Durg in Session Trial No. 290/99, the Appeal has been filed.
2. Vide the impugned Judgment, the Appellants stand convicted for the offence punishable under Section 120-B & 306 of IPC and sentenced to undergo R.I. for seven years.
3. According to the Counsel for the Appellant, the two Appellants herein are husband and wife. The deceased in the instant case, upon whose death, the case has been made out, is Devki Bai, wife of another accused Sagar Ram. In all there were three accused put to trial in respect of the death of Devki Bai who died of consuming poison on 30.03.1999. The three accused persons were convicted vide the Judgment dated 06.06.2000. The two Appellants herein filed the instant appeal challenging the Judgment of conviction. The third accused Sagar Ram, husband of the deceased, filed a separate Appeal i.e. CRA





No. 1605/2000. Pending the Appeal before this High Court, the Appellant- Sagar Ram in Criminal Appeal No. 1605/2000, died and the Appeal stood dismissed as having abated leaving the present two Appellants.

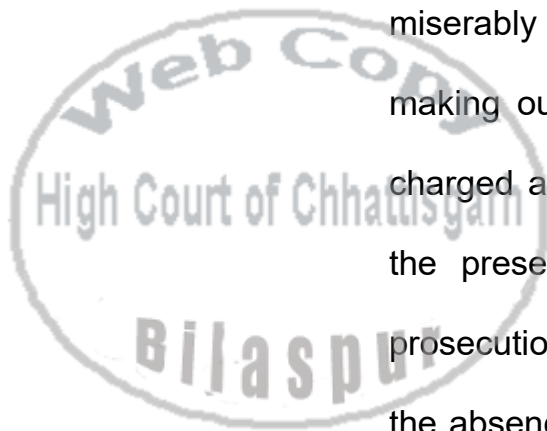
4. As per the prosecution story, it is a case where it is alleged that the accused- Sagar Ram (who has since died) is said to have a illicit relationship with the Appellant No. 2- Chemeli Bai in the instant case. When this fact came to the notice of villagers, a meeting was called. The two Appellants herein and Sagar Ram and the deceased Devki Bai, wife of the Sagar Ram, were socially boycotted from the Village.
5. It is the further case of the prosecution that as a consequence of the decision of social boycott taken by the Village-Panchayat, the three accused persons and the deceased Devki Bai is said to have taken a common decision for ending their lives by consuming poison. However, before anybody else could take a step, the deceased Devki Bai is said to have consumed the entire poison. After consuming the poison, she ran out of the house and came to Janki Bai (PW-2), the sister-in-law of Sagar Ram. There Devki Bai is said to have told Janki Bai (PW-2) that the three accused persons made her drink poison and before she could make any further statement, she collapsed. Immediately, thereafter, the Appellant No. 2- Chameli Bai also is said to have come to Janki Bai (PW-2), and she too fell unconscious before her and she too was taken to the hospital. There, Devki Bai succumbed. However, Chameli Bai survived.
6. Subsequently, a Crime was registered as Crime No. 453/99 at Police Station Gurur, District Durg (as it then exists, presently under District Balod). The matter was put to trial before the session Court. The





prosecution examined as many as 12 witnesses and in defence, three witnesses were examined. Vide the impugned Judgment, three accused persons were found guilty for the offence punishable under Section 120-B and 306 of IPC and have been ordered to undergo R.I. for 7 years.

7. It is the contention of the Appellants that the prosecution has not been able to provide sufficient and cogent proof so far as the role played by the present Appellants, in the deceased committing suicide by consuming pesticide
8. It is the further contention of the Appellants that the prosecution has miserably failed in establishing the ingredients that are required for making out an offence under Section 306 for which they have been charged and found guilty. No proof so far as abetment on the part of the present Appellants is concerned, has been produced by the prosecution, so as to make out a case under Section 107 of IPC and in the absence of which, the offence under Section 306 of IPC would not be made out at all. Therefore, the impugned Judgment is liable to be set aside/quashed and the Appellants deserve to be acquitted of all the charges levelled against them.
9. The State Counsel opposing the Appeal submits that from the evidence collected by the Police Authorities in the course of investigation, it was revealed that the accused- Sagar Ram, the husband of the deceased, to be in some sort of illicit relationship with the other accused Chameli Bai- the appellant No. 2 herein and because of which there was a social boycott imposed against the two families. Thereafter all four i.e. three appellants and the deceased Devki Bai had made a plan for ending their life by consuming poison together. However, before all three





accused could take a decision, the deceased Devki Bai of her own consumed the entire pesticide and succumbed. Thus, according to the State Counsel, the Appellants herein also were equally instrumental and had an active role played which led to the deceased consuming pesticide and dying on account of same.

10. Of the 12 witnesses examined, the relevant four witnesses were, Janki Bai (PW-2) the sister-in-law of one of the accused Sagar Ram, Chandrika bai (PW-3) the daughter of the Appellants herein, Bidesi Ram (PW-4) the brother of the deceased Devki Bai and R. P. Shukla (PW-10) the investigation officer of the matter.

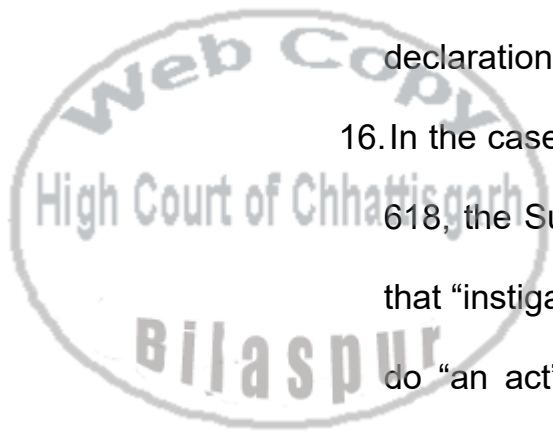
11. Chandrika bai (PW-3), in the course of her statement, had turned hostile and had not supported the case of the Prosecution. Bidesi Ram (PW-4), in his deposition, had not given any statement so as to meet the ingredients that are otherwise required for the offence of abetment except for the factual aspect which transpired earlier on the date of incident and which according to PW-4 could have been the reason for the deceased to have committed suicide. PW-10 again being an investigating officer was only the person who had reached to the spot much after the incident, and had collected the information in the course of investigating

12. It would be relevant at this juncture to take note of the provisions of Section 306 as is envisaged under Indian Penal Code.

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. Section 306 provides for offence of Abetment of suicide. It states that if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment.
14. In the case of State of West Bengal Vs. Orilal Jaiswal, (1994) 1 SCC 3, the Supreme Court in the case observed that the courts 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.
15. In the case of Mahendra Singh Vs. State of M.P., 1995 SUPP (3) SCC 731, Abetment of suicide- no ingredients of abetment attracted dying declaration of deceased wife alone not sufficient.
16. In the case of Ramesh Kumar Vs. State of Chhattisgarh, 2001 (9) SCC 618, the Supreme Court elucidated on the term 'instigation' and stated 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 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. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."
17. In the case of Sanju Alias Sanjay Singh V. State of M.P., 2002 (5) SCC, 371, the Apex Court quashed the charge sheet for offence under Section 306 of IPC to hold that the words uttered in a quarrel or on the spur of the moment, such as "to go and die" cannot be taken to be uttered with mens rea. It is in a fit of anger or emotion."





18. In the case of Randhir Singh Vs. State of Punjab, 2004 (13) SCC 129, the Supreme Court enunciated on the pith and purport of Section 306 IPC and opined as under :-

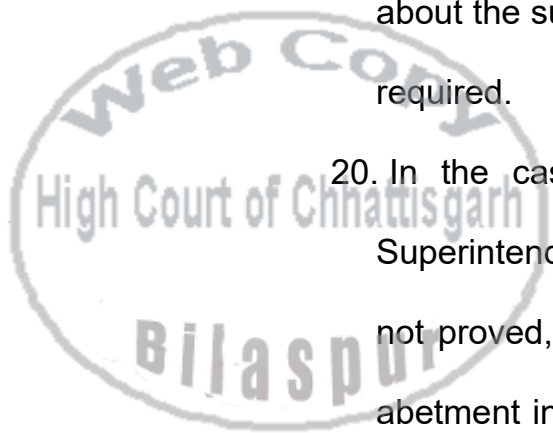
Abetment involves a mental process of instigating a person or intentionally aiding that person in doing a thing.

More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 of IPC.

19. In the case of Madan Mohan Singh Vs. State of Gujarat and another, 2010 (8) SCC 628, it was opined that in order to bring out an offence under Section 306 of IPC, specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required.

20. In the case of M. Mohan Vs. State, represented by the Deputy Superintendent of Police, it is held that :- Abetment of suicide- ingredient not proved, susceptibility of person concerned to commit suicide, held, abetment involves mental process of instigation or intentionally aiding a person in doing of a thing – there should be clear mens rea to commit offence under Section 306- it requires commission of direct or active act by the accused which lead the deceased to commit suicide seeking no other option and such act must be intended to push the victim into a position that he commits suicide.

21. In the case of Gurucharan Vs. State of Punjab, 2017 (1) SCC 433, the Apex Court in this case observed that the basic ingredients of Section 306 of IPC are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or





absence of any of these constituents would mitigate against this indictment.”

22. Recently, the Hon'ble Supreme Court in the case of **Marino Anto Bruno & Anr. Vs. the Inspector of Police** {2022 LiveLaw (SC) 834}, while dealing with the issue of an offence under Section 306 in Paragraph 24, 25 & 36 has held as under :-

“24. While analyzing the provisions of [Section 306](#) IPC along with the definition of abetment under [Section 107](#) IPC, a two-Judge Bench of this Court in *Geo Varghese Vs. State of Rajasthan and Another* 5 has observed as under:-

“13. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under [Section 309](#) IPC. The abetment of suicide by anybody is also an offence under [Section 306](#) IPC. It would be relevant to set out [Section 306](#) of the IPC which reads as under :-

“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.”

14. Though, the [IPC](#) does not define the word ‘Suicide’ but the ordinary dictionary meaning of suicide is ‘self-killing’. The word is derived from a modern latin word ‘suicidium’, ‘sui’ means ‘oneself’ and ‘cidium’ means ‘killing’. Thus, the word suicide implies an act of ‘self-killing’. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

15. [Section 306](#) of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same.

16. The ordinary dictionary meaning of the word ‘instigate’ is to bring about or initiate, incite someone to do something. This Court in the case of *Ramesh* 5 2021 SCC OnLine SC 873 *Kumar Vs. State of Chhattisgarh*1 has defined the word ‘instigate’ as under :-

“Instigation is to goad, urge forward, provoke, incite or encourage to do an act.”

17. The scope and ambit of [Section 107](#) IPC and its co- relation with [Section 306](#) IPC has been discussed repeatedly by this Court. In the case of *S.S.Cheena Vs. Vijay Kumar Mahajan and Anr*6, it was observed as under:-

“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 the Supreme 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.”

25. The ingredients of [Section 306](#) IPC have been extensively laid out in M. Arjunan Vs. State, represented by its Inspector of Police 7 which are as under: -

“The essential ingredients of the offence under [Section 306](#) I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There 6 (2010) 12 SCC 190 7 (2019) 3 SCC 315 should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under [Section 306](#) I.P.C.”

36. To convict a person under [Section 306](#) IPC, there has to be clear mens rea to commit offence. It also requires an active act or direct act which leads deceased to commit suicide finding no other option and the act must be such reflecting intention of the accused to push deceased into such a position that he commits suicide. The prosecution has to establish beyond reasonable doubt that the deceased committed suicide and Appellant No. 1 abetted the commission of suicide of the deceased. In the present case, both the elements are absent.”

23. Given the aforesaid facts and circumstances of the case and also the judgments cited in the preceding paragraphs, this Court has no hesitation in reaching to the conclusion that prosecution has failed to establish the evidence under Section 306 for which the appellants were charged and the entire evidences misses the necessary ingredients as is required under Section 107 and under Section 306 of the IPC.

24. In the absence of necessary ingredients required under the two aforesaid Sections, the charges levelled against the appellants have not been proved beyond reasonable doubt. As a consequence the judgment of the Trial Court is not sustainable and the same deserves to be and is accordingly set aside and quashed. The appellants stands acquitted from the charges levelled against them.

25. Accordingly, the Appellant stands partly allowed.

Sd/-

(P. Sam Koshy)
Judge