



2025:CGHC:48838

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1107 of 2016**

Shailesh Kushwaha S/o Bihari Kushwaha Aged About 25 Years
R/o Village Pendari, Tanwaripara, Police Station Basantpur,
District Balrampur Ramanujganj, Chhattisgarh., Chhattisgarh

... Appellant**versus**

State of Chhattisgarh Through The Station House Officer, Police
Station Basantpur, District Balrampur Ramanujganj,
Chhattisgarh., Chhattisgarh

---- Respondent

(Cause-title taken from Case Information System)

For Appellant : Mr. D.N. Prajapati, Advocate
For Respondent/State : Ms. Isha Jajodiya, Panel Lawyer

Hon'ble Shri Bibhu Datta Guru, Judge**Judgment on Board****Per Bibhu Datta Guru, Judge****23.09.2025**

Challenge in this appeal is to the judgment of conviction and
order of sentence dated 16-08-2016 passed by the learned
Additional Sessions Judge, Ramanujganj, C.G. in Sessions Case
No.355/2011 whereby learned Court convicted and sentenced the
appellant as under:-

Conviction	Sentence
Section 306 of IPC	R.I. for seven years and fine of Rs.500/- with default stipulation

1. Case of the prosecution, in brief, is that on 12.04.2011, the complainant Harilal Kushwaha (PW-1), father of deceased/Rekha informed at P.S. Wadrafnagar that his daughter Rekha was married to the accused Shailesh in the year 2009. After the marriage, the accused used to beat the deceased under the influence of alcohol. When the deceased visited the house of her parents, she informed about the assault made by her husband in intoxication. On the night of 11.04.2011 at around 3:00 AM, a neighbor named Brihaspatiya came and informed the complainant that Rekha had died after consuming poison. Thereafter, he went to the house of accused in village Pendari along with his family, and saw that his daughter Rekha had died and her body was placed outside in the courtyard. Based on this information, merg intimation was registered. Spot map was prepared. The dead body of deceased was sent for postmortem, which was conducted by Dr. R.B. Prajapati, PW-6 and submitted a report vide Ex.P-14. During the investigation, the appellant was arrested vide Ex.P-11 and after completing the investigation, final report was prepared.

2. In course of trial the prosecution examined as many as 07 witnesses to bring home the charges. The appellant abjured the guilt; pleaded innocence; and false implication.
3. The learned trial Court after appreciating the oral and documentary evidence available on record proceeded to convict the appellant herein for the aforementioned offence and sentenced him as mentioned herein-above against which this appeal has been preferred by the appellant-accused herein questioning the impugned judgment of conviction and order of sentence.
4. Learned counsel appearing for the appellant would submit that there is absolutely no any evidence against the appellant conclusively connecting him with the commission of crime. He submits that the allegation whatsoever leveled against the appellant does not constitute an offence under Section 306 of the IPC. The learned trial Court has overlooked the fact that the independent witness Arjun Ram PW-4, who is neighbor of the appellant, has not supported the case of the prosecution and turned hostile. Learned counsel would further submit that the circumstantial evidence does not complete the chain nor an inference of guilt can be drawn on the basis of such evidence as has been brought on record by the prosecution. He submits that before the incident, neither the deceased nor her

father/complainant lodged any report regarding the assaulting of deceased by the appellant. Hence, the present appeal deserves to be allowed. He placed reliance upon the decision of the Supreme Court in the matter of **Mohit Singhal and Another Vs. State of Uttarakhand and Others** reported in **(2024) 1 SCC 417**, **Shenbagavalli & Ors Vs. Inspector of Police, Kancheepuram District & Anr** reported in **2025 (3) C.G.L.J. 407 SC** and **Smt. Bisahin Bai & Anr Vs. State of C.G.** reported in **2025(2) C.G.L.J. 217**.

5. *Per-contra*, learned State counsel supported the impugned judgment of conviction and order of sentence and submits that the prosecution has proved the offence beyond reasonable doubt by leading evidence of clinching nature. The learned trial Court has rightly convicted the appellant for the aforesaid offence, thus, the present appeal deserves to be dismissed.
6. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
7. PW-6 Dr. R.B. Prajapati, who conducted the postmortem of deceased and submitted the following report:-

“External examination revealed a female body of

average height, in a state of consciousness, with her head tilted to the left, wearing a red blouse, a pink sari, and a pink petticoat. Her eyes and mouth were open. Postmortem stiffness had passed from the head and neck to the arms and legs. No external injuries were found on the neck or other parts of her body. The lips and nails of the thumbs and fingers were blue. The hyoid bone and vocal cords were normal"

Opinion: *The cause of death was reported as asphyxiation, and the time between death and the postmortem was between 12 and 36 hours. To confirm the cause of asphyxiation, the viscera was preserved and handed over to the police for histopathological examination and testing for any toxic substances.*

8. According to the FSL report, the viscera fragments and the deceased's vomit contained the organophosphorus insecticide methyl parathion. Therefore, the deceased died from asphyxiation due to poisoning.
9. PW-1, Harilal, father of deceased stated in his evidence that deceased/Rekha is his daughter, and the accused is his son-in-law. He stated when Rekha returned her maternal home for staying about 15 days, she told him that the accused used to assault her and tell her to go and get a land settlement from her maternal home. After some days, he left her daughter to her matrimonial home. Later, the appellant again assaulted the deceased and the same was informed

to him. After 8-10 days, the accused informed to the house of Balchand that the deceased had consumed poison and died. Thereafter, he along with his wife and son, reached the house of the appellant, where the deceased lying dead. In para 6 of cross-examination, it is stated that Rekha completed her first year of studies with the support of her husband. He further stated that Rekha gave birth to a boy as her first child, and the entire family was happy about it. The *Annaprashan* ceremony (a ritual performed when the baby is six months old) for Rekha's child was about to take place.

10. PW-4 Arjun Ram, neighbor of the appellant stated in his evidence that the accused got married to Rekha in the year 2009 in the village Sarhari. It is incorrect to say that just few days after the marriage, the accused used to always beat his wife Rekha in intoxication. It is correct that the accused was advised once or twice by the villagers regarding the issue of beating his wife. He stated that because of assaulting by the accused, his wife went to her parental home in Sarhari. After a few days, both the parties reached a compromise and Shailesh brought his wife back to his home in Pendari. In cross-examination, he stated that he does know whether the accused was married to Rekha in the year 2009. He further stated that if any panchayat/ meeting was held in the village Sarhari regarding the dispute

between Shailesh and his wife, he is not aware of it.

11. PW-3 Ramakumari, mother of deceased stated in her evidence that after marriage, her daughter was living cozily for about 10-15 months. After that, the accused started drinking alcohol and beating her. Rekha used to tell her about this over phone. When Rekha came to her parental home, she also told her regarding the act of the appellant. Once, the accused assaulted Rekha and drove her away, so she came to her parental home and stayed with them for about 10-15 days. Rekha told her that the accused said he wanted land and money and asked her to demand it from her parents.
12. From perusal of the above statement of the witnesses and medical as well as the FSL report, it is clear that the deceased consumed poison herself.
13. Section 306 IPC provides that if any person commits suicide, whoever abets the commission of such suicide, shall be liable to be punished. The ingredients of abetment are set out in Section 107 of IPC which reads as under :-

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

First.- Instigate 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."

14. The Hon'ble Supreme Court in the matter of **Kumar @ Shiva Kumar v. State of Karnataka, 2024 INSC 156 = AIR Online 2024 SC 111** has reiterated that to convict an accused for committing an offence of abetment of suicide under Section 306 of the IPC, it must be proved by the prosecution that the accused, 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.
15. In the recent decision, the Supreme Court in **Shenbagavalli (Supra)**, has reiterated that for an offence under Section 306 IPC, it is not sufficient to show that the deceased was subjected to harassment or humiliation. The prosecution must establish that there was a proximate act of instigation, intentional aid, or conspiracy on the part of the accused which directly led to the suicide. The Court emphasized that the mental element of "mens rea" is indispensable and that mere quarrels, harsh words or strained matrimonial relations, without a direct and proximate link with the act of suicide, cannot constitute abetment.

16. In ***Mohit Singhal (Supra)***, the Supreme Court held that to draw inferences under Section 306 IPC, the act of *instigation* must be of such **intensity** and **proximity** that the deceased had no real option but to commit suicide. The Court observed that abusive words or threats made well in advance without a proximate or continuing act cannot qualify as instigation. The mere fact of financial pressure or demands, if not tied up with a direct and immediate inducement, would not sustain an abetment charge.
17. In the instant case, looking to the statements of PW-1 and PW-3, parents of deceased, who stated that after the marriage, their daughter was living happily with the appellant. Allegation against the appellant is that he used to assault her and demand land and money from her parents, but before the incident, there was no any complaint/FIR was lodged by deceased or her parents regarding the assault and demanding of money or land by the appellant. Apart from that, deceased never made complaint regarding any harassment or instigation. From the statement of father of deceased, it is manifest that the appellant had supported the deceased to complete study of 1st year of college. It is apparent that when the deceased delivered the first child, all the family members were happy. Thus, the ingredients of presumption of abetment of suicide was not proved.

18. From perusal of the record, the only allegation against the appellant is that he used to assault the deceased and demanded money or land from her parents. However, looking to the postmortem report, there were no injuries marks on the body of the deceased. Moreover, while discussing the evidence, it is not manifest that the appellant instigated the deceased to commit suicide.
19. This Court finds none of the ingredients required in law to make out a case under Section 306 IPC. The prosecution has failed to prove the offence under section 306 of IPC against the appellant beyond all reasonable doubt.
20. Considering the above facts and circumstances of the case, this Court is of the view that the prosecution has failed to prove its case and the trial Court has not properly appreciated the evidence. Therefore, the judgment of conviction and order of sentence are hereby set-aside.
21. In the result, the appeal is **Allowed**. The impugned judgment is set aside. The appellant is acquitted from all the charges leveled against him. The appellant is on bail. Surety and personal bonds earlier furnished by him at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 481 of the BNSS. The appellant shall appear before the higher Court as and when directed.

22. The trial Court record along with the copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

SD/-

(Bibhu Datta Guru)
Judge

Gowri/

Amardeep

HEAD NOTE

To convict an accused for an offence under Section 306 IPC, it is not sufficient to show that the deceased was subjected to harassment or humiliation. The prosecution must establish that there was a proximate act of instigation, intentional aid, or conspiracy on the part of the accused which directly led to the suicide