

certified copy of order dated 04.06.2025.

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, JAMMU

File No. 10/2025

CNR No. JKJM010000642025

Date of Institution: 17-12-2024

Date of Order: 04-06-2025

UT of J&K through SHO Police Station, R.S. Pura Jammu.

Through: *Mr. Anil Mangotra Ld. PP*

Versus

1. Sunita Kumari W/o Bishan Lal R/o Chak Manua Rakhwal Samba.

2. Jeeto Devi W/o Krishan Dass R/o Village. Dobah District Jammu.

Through: *Sh. Aseem Kumar Sawhney Advocate.*

F.I.R No.02/2020 of P/S R.S. Pura for offence u/s 306 IPC

Coram: Y.P Bourney

UID Code: JK00039

ORDER

1. I have heard both the sides on the question of charge/discharge and have gone through the charge sheet as well as supporting documents. The accusations against the accused ladies, daughter and mother duo are that they have been subjecting deceased Dr. Bishan Gorka to cruelty of such magnitude that he was left with no option but to end his life and finally he ended up in committing suicide by jumping from the roof top of his house etc.
2. It is pertinent to mention here that accused Sunita Kumari and deceased Dr. Bishan Gorkha, a Medical Officer got married in the year 1997 as per Hindu customs and ceremonies and in due course the couple was blessed with two children. They are further stated to have raised residential properties at Amritsar, Punjab and Samba, besides, their native place. It is alleged in the charge-sheet that accused Sunita Kumari often used to fight with the deceased and the other accused Jeeto Devi, his mother-in-law also used to harass him and both the ladies did not allow him to even meet his children. It is further the allegation that during March 2019 deceased Bishan Gorka went to his house at Samba but he was denied entry by both the accused ladies and his bag was thrown out and in utter dejection he had to proceed to his parental house at Jinder Kalan R.S. Pura and on 16.03.2019 deceased jumped from the terrace (a height of over 20 feet) and sustained multiple injuries leading to his death on 29.03.2019.

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for Bhartiya Sahasra Shiksha Yojana

3. A complaint under section 156(3) was lodged before Ld. Chief Judicial Magistrate on 06.06.2019 by Shanti Devi, mother of the deceased in which directions were passed to the SHO police station R.S. Pura to proceed in the matter in accordance with law. SHO registered the case vide FIR No. 0002 of 2020 for offence u/s 306 IPC on 05.01.2020 exactly after seven months and the investigation was conducted by S.I. Kuldeep Kumar which culminated into filing of the charge sheet in hand on 17.12.2024. Upon committal, it came up before this court on 07.01.2025.
4. Mr. Anil Mangotra Ld. PP has argued that as per the material collected by the investigating agency, the commission of offence u/s 306 IPC is prima facie disclosed and the accused ladies deserve to be charged and made to face the trial.
5. Mr. Aseem Sawhney Advocate learned counsel for the defence on the other hand has argued that there is no material much less sufficient material to charge the accused persons and the story projected by the witnesses does not appear to be probable at all, since there was no complaint for thirteen days till the deceased was hospitalized and accused Sunita Kumari was with him bearing all the expenses of his treatment and performed his last rites for next thirteen days at her in-laws' place. That complaint came to be lodged after more than two months on the pretext that a slip was recovered from the wallet of deceased one month after his demise wherein he had noted the reason for his committing the suicide but police took no action and hence, complaint u/s 156(3) CrPC. The slip in question was forwarded to FSL Srinagar, the expert who expressed his inability to identify the deceased as author of the same due to non-production of adequate admitted written for comparison. It is further argued that admittedly, the deceased was suffering from bipolar disorder and as per the literature available on internet, the disease is characterized by the presence of the following symptoms:

- Subjective report of depressed mood most of the day (or depressed mood observed by others)
- Anhedonia most of the day
- Significant weight loss when not dieting or weight gain or decrease or increase in appetite.
- Insomnia or hypersomnia
- Psychomotor agitation or retardation
- Fatigue or loss of energy

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- Feelings of worthlessness or excessive or inappropriate guilt
- Decreased concentration or indecisiveness
- Recurrent thoughts of death, recurrent suicidal ideation without a specific plan.

6. It is further argued that in the past also deceased had made an abortive attempt to commit suicide and had also remained hospitalized in the Department of Psychiatry Civil Hospital Jalandhar. That deceased was also taking treatment from Department of Psychiatry PGI Chandigarh. That a false complaint was manipulated against the accused ladies by the younger brother of the deceased by misleading his mother with mala-fide intentions and to cover up his misdeeds since he was having the ATM card of the deceased which he had misused for siphoning off money from the account of the deceased and had also fraudulently got transferred 7 kanals of their family land in the name of his wife. That mother of the deceased when contacted expressed her complete ignorance about the lodging of report with the police and had sworn on oath in an affidavit filed in support of an application to the learned Chief Judicial Magistrate that there was no foul play in the death of her son.

7. I have given my anxious thoughts to the arguments advanced at bar by both sides and the evidence available on record. Section 306 of the IPC reads as under:

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. The basic ingredients to constitute an offence under Section 306 of the IPC are suicidal death and abetment thereof. Abetment of a thing is defined under Section 107 IPC as under: 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.

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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.”

8. At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.....”

16. In ‘P. Vijayan v. State of Kerala and another’, 2010 (2) SCC 398, Supreme Court held :

“11. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.

12. The scope of Section 227 of the Code was considered by this Court in the case of State of Bihar v. Ramesh Singh : (1977) 4 SCC 39 wherein this Court observed as follows:

“4.....Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial....”

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9. Hon'ble Supreme Court in long line judgments has held time and again that in order to make out an offence under section 306 IPC, the intention on the part of the accused to abet, aid or instigate the deceased to commit suicide is prerequisite condition. It has been reiterated that in order to make out an offence under Section 306 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. It has been further held that intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC. [see *Madan Mohan Singh vs. State of Gujarat and Another*, (2010) 8 SCC 628] Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See *Amalendu Pal alias Jhantu vs. State of West Bengal*, (2010) 1 SCC 707 and *M. Mohan vs. State*, (2011) 3 SCC 626 and *Ramesh Kumar vs. State of Chhattisgarh*, (2001) 9 SCC 618]. The principle has been reiterated by the latest in *Mahendra Awase Vs. State of Madhya Pradesh* 2025 INSC 76.

10. In *Geo Varghese v. State of Rajasthan and another*, (2021) 19 SCC 144, Hon'ble Court considered the provisions of Section 306 IPC along with the definition of abetment under Section 107 IPC and it was observed that ordinary dictionary meaning of the word 'instigate' is to bring about or initiate, incite someone to do something. Apex Court in *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618, has defined the word 'instigate' to goad, urge forward, provoke, incite or encourage to do an act.

11. The scope and ambit of Section 107 IPC and its co-relation with Section 306 IPC has further been discussed by Hon'ble Apex Court in the case of *S. S. Cheena versus Vijay Kumar Mahajan and Another* (2010) 12 SCC 190. It was observed that:

"25. 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 other option and that act must have been intended to push the deceased into such a position that he committed suicide."

12. Supreme Court in **M. Arjunan versus State represented by its Inspector of Police, (2019) 3 SCC 315**, while explaining the necessary ingredients of Section 306 IPC, observed 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 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 IPC."

13. In **Ude Singh & Others versus State of Haryana, (2019) 17 SCC 301**, it was held that in order to convict an accused under Section 306 IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. It was observed as under:

In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. **In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence.** Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation

means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap shot of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased."

14. Reverting back to the case in hand, there are allegations in the complaint as well as the statements of the complainant Shanti Devi, mother and Sham Lal Gorka, brother of the deceased recorded u/s 164 CrPC that relations of the couple got strained shortly after their marriage and they started fighting on petty issues. However, these allegations are belied from the conduct and circumstances of the couple who not only continued in the relationship for more than two decades but also raised properties with as well a outside the state and were also blessed with two children in due course and that too without any complaint by anybody. The differences and arguments and daily squabbles are not uncommon in any matrimonial relationship.

15. It is further alleged by these witnesses that accused Sunita did not allow the deceased to meet their children and in the year 2018 accused Sunita rented out the house at Beas to one Hasina Bano. During those days, deceased met with an accident at Jalandhar and perhaps he himself had attempted to end his life but survived and remained hospitalized at Jalandhar hospital for about a week whereafter he was referred to PGI

Chandigarh and during this period accused Sunita made flying visits to him. However, no complaint is shown to have been lodged against the accused at that point of time also. Further, admittedly deceased was undergoing treatment at PGI for about one month and it is alleged that accused Sunita paid a flying visit and forbade while leaving not to bring the deceased to her house at Samba since studies of their children were affected. It is further alleged that they brought the deceased to his parental house and latter resumed his duties after two months but used to go for treatment and follow up at PGI. So, it remains undisputed that deceased was suffering from psychological disorder as argued by the Ld. counsel for defence for which he was taking treatment at PGI Chandigarh.

16. It is further alleged that during February/March 2019 deceased along with his driver went to his house at Samba to bring his belongings but was not allowed to enter by his wife accused Sunita and both the accused ladies threw out his belongings. So, deceased returned in bad shape being mentally disturbed and for 3/4 days when it was Sunday and mother of deceased had gone to attend Satsang and his brother along with his wife had also gone out that deceased jumped from the rooftop and received critical injuries. The very fact that the deceased returned to his house and in the company of the witnesses for three four days before he took the extreme step would reveal that deceased had sufficient time to reflect upon and recover and as such, there was no nexus between his fight with the accused ladies and the commission of suicide. The slip allegedly recovered from the wallet of the deceased has remained unidentified and as such could not be shown to be in the handwriting of the deceased. Even if it is admitted in the handwriting of the deceased, it bears date as 28th October 2018 i.e. five months between the writing on the slip and the actual date of occurrence and as such, had hardly any connection with the occurrence. Had there been any foul play in the death of her son, the complainant would not have waited for two months for lodging a complaint and the police would not have taken seven months for registering the FIR even after the directions of the learned Chief Judicial Magistrate.

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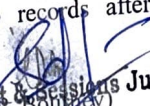
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17. Thus, from the material on record, it cannot be believed that accused, abetted or instigated the deceased to commit suicide though, they might have insulted him and denied entry to his house but use of abusive language itself is not sufficient to constitute the offence unless there is something more to suggest that accused persons by their persistent conduct created a situation leaving no option with the deceased except to end his life. The process of criminal law thus appears to have been used as a tool for insulting and harassing a widowed lady with her mother who, on the one hand lost her husband at the crucial juncture and on the other, had to face the stigma of having pushed her husband to take the extreme step.

18. For the foregoing reasons, the material on record is not sufficient to establish prima facie the involvement of the accused ladies in the commission of offence punishable under section 306 IPC. The chargesheet is, therefore, dismissed and accused are discharged. Seized items, if any, shall stand released in favour of rightful claimant after the period of appeal is over. File be consigned to records after due compilation under rules.

Announced
04-06-2025


Pr. District & Sessions Judge
(P.T. Boudhary)
Principal Sessions Judge
Jammu

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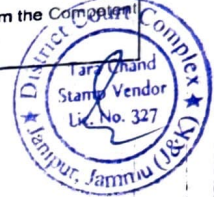


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