



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 12/1995

Shri Rupa Ram S/o Shri Gena Ramji aged about 25 years, R/o
Village Bhakarpura. Tehsil Guddamalani District Barmer
(Rajasthan)

Presently lodged in Central Jail, Jodhpur

----Appellant

Versus

The State Of Rajasthan

----Respondent

For Appellant(s) : Ms. Kusha Sharma (Amicus Curiae)

For Respondent(s) : Mr. Rajesh Bhati, AGA with
Mr. Ravindra Singh Bhati

HON'BLE MR. JUSTICE FARJAND ALI

Judgment

Reportable

Date of Conclusion of Arguments : 08/12/2025

Date on which Judgment is Reserved : 08/12/2025

Full Judgment or Operative Part : Full Judgment

Date of Pronouncement : 09/01/2026

BY THE COURT:-

1. This appeal has been filed under Section 372(2) of the Code of Criminal Procedure against the judgment dated 22.12.1994 passed by the learned Additional Sessions Judge, Barmer in Sessions Case No.22/94, whereby the appellant was convicted under Section 306 of the Indian Penal Code and sentenced to undergo seven years' rigorous



imprisonment along with a fine of Rs.100/-. In default of payment of fine, the appellant was further directed to undergo one month's simple imprisonment.

2. Learned counsel Ms. Kusha Sharma is hereby appointed as Amicus Curiae to assist the Court on behalf of the appellant under the free legal aid scheme of Rajasthan State Legal Services Authority. The remuneration to learned counsel shall be paid by RLSA as the per the rules.

3. The facts, in brief, are that on 04.04.1994, the appellant himself lodged a written report at Police Station Guddamalani, stating therein that his wife, Smt. Loonga, had committed suicide at their matrimonial home. On the basis of the said information, proceedings under Section 174 of the Code of Criminal Procedure were initiated. An inquiry under Section 174 Cr.P.C. was conducted by P.W.-1 Chuna Ram, the then Tehsildar of the area, who had been appointed by the District Magistrate to conduct the inquest. The morgue proceedings bearing No. 4/94 were conducted in which the father of the deceased, P.W.-3 Rai Mal, and her mother, P.W.-8 Smt. Mathura, also participated. After completion of the inquest inquiry, the Tehsildar prepared his investigation report and forwarded the same to Police Station Guddamalani for registration of a regular case and further investigation. Consequently, the police registered a case against the appellant, carried out investigation and ultimately filed a challan against him for the offence under





Section 306 IPC before the competent court, which thereafter committed the case to the Court of Additional Sessions Judge, Barmer.

4. The learned Additional Sessions Judge, Barmer, after conducting trial, convicted and sentenced the appellant vide judgment and order dated 22.12.1994 in the manner stated hereinabove. Aggrieved by the aforesaid judgment and order of conviction and sentence, the appellant has preferred the present appeal.
5. Heard learned counsels present for the parties and gone through the materials available on record.
6. It is an undisputed fact emerging from the record that the deceased was married to the appellant about four years prior to the date of the incident. A male child aged about three years was born out of the wedlock. The deceased ended her life at the matrimonial home after four years of marriage.
7. As per the post-mortem report (Exhibits 11 and 12), the cause of death of the deceased was asphyxia. No external or internal injury was found on her body. P.W.-1 Chuna Ram, the Tehsildar, conducted the inquest proceedings and concluded the inquiry under Section 174 Cr.P.C. P.W.-2 Mahipal Singh, the then Deputy Superintendent of Police, arrested the appellant after conducting investigation. According to the opinion expressed by P.W.-2, the deceased had gone to her parental house, and upon returning, she was rebuked by her husband, which,





according to him, constituted the immediate cause for her to take the extreme step.

8. P.W.-3 Rai Mal, the father of the deceased, alleged that his daughter was subjected to cruelty by her in-laws on account of demand of dowry. He initially went to the extent of alleging that his daughter had been killed; however, such allegation stood negated by the prosecution itself. In his cross-examination, P.W.-3 admitted the existence of a prevailing social custom in their community, whereby the daughter of the appellant's brother was married to the son of this witness. Both marriages one between the appellant and the deceased and the other being a cross-marriage were solemnized simultaneously. He further admitted that a dispute arose when the betrothal of his son was discontinued by the family of the appellant.
9. P.W.-4 Swarooparam, P.W.-5 Bhagwan Singh, P.W.-7 Moda Ram and P.W.-9 Jawanaram are formal witnesses whose testimonies are largely hearsay in nature and do not directly implicate the appellant on the crucial aspect of alleged abetment. P.W.-8 Smt. Mathura, the mother of the deceased, raised suspicion regarding the death of her daughter and made allegations of cruelty and dowry demand. However, significant discrepancies and contradictions are discernible between her testimony and that of her husband, P.W.-3.
10. A careful perusal of the inquest proceedings conducted under Section 174 Cr.P.C. reveals that neither P.W.-3 nor P.W.-8 made any allegation therein regarding cruelty,





harassment or dowry demand against the appellant or his family members. The silence maintained by the prime witnesses at the earliest point of time assumes considerable significance.

It is also evident from the admissions made by P.W.-3 that he never lodged any complaint before any authority regarding the alleged maltreatment of his daughter during her lifetime. The absence of contemporaneous complaints or corroborative material renders the allegations levelled subsequently highly doubtful.

11. The existence of admitted family and social disputes arising out of the cross-marriage arrangement and the discontinuance of the betrothal of P.W.-3's son furnishes a plausible background for strained relations between the two families, thereby affecting the credibility of the allegations. The testimony of P.W.-8 further discloses, in cross-examination, that the family of the appellant had been ostracized by the society and that, as a consequence, the deceased was also not permitted to visit her parental home. These circumstances indicate the presence of social pressure and family discord.
12. Even if it is assumed that the deceased may have been scolded or rebuked for visiting her parental home against the wishes of her in-laws, such conduct, by itself, does not amount to "cruelty" or "abetment" of the nature contemplated under Section 306 IPC. There is no material on record to establish that the conduct of the appellant was





such as would drive the deceased to a position of complete mental imbalance compelling her to end her life. No direct or cogent evidence has been brought on record by the prosecution to demonstrate intentional instigation, active aid or persistent conduct on the part of the appellant, which could reasonably be said to have driven the deceased to commit suicide.

13. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. The prosecution evidence, when evaluated as a whole, falls short of establishing the essential ingredients of abetment beyond reasonable doubt.

14. This Court would like to emphasize that an offence under Section 306 of the IPC should not be invoked mechanically. It must be established that strong circumstances exist to show that the accused actively contributed to the suicide of the deceased. The term "abetment" is defined under Section 107 of the IPC, which includes instigating someone to commit suicide, conspiring with others to facilitate the act, or aiding the suicide through any act or omission. In such cases, the prosecution bears the burden of proving that the accused's actions of instigation or incitement were in close proximity to the act of suicide by the deceased.

15. In certain circumstances, the offence may be inferred from the overall situation, where the accused is shown to have placed the victim in a position of no escape, compelling





them to end their life. However, this Court firmly believes that a prosecution under Section 306 IPC cannot be initiated casually or merely to appease the sentiments of the deceased's family. The Hon'ble Supreme Court has consistently held that abetment involves a mental process of instigating a person or intentionally aiding them in committing an act.

16. It must also be borne in mind that in cases of alleged abetment of suicide, there must be proof, either direct or circumstantial of an actual act of instigation leading to the suicide. Mere allegations of harassment, without any positive or overt act proximate to the time of occurrence, which directly led or compel the deceased to take their life, do not constitute a sustainable prosecution under Section 306 IPC. Given the absence of cogent, reliable, clinching, and convincing evidence on record, this Court is of the view that the charge under Section 306 IPC cannot be substantiated.

17. In view of the evidence available and the legal position, this Court feels that the prosecution miserably failed to prove the charge of abetment to commit suicide against the appellant beyond reasonable doubt. The learned trial Court failed to appreciate the correct, legal and factual aspects of the matter.

18. Accordingly, the instant appeal is allowed and the judgment dated 22.12.1994 passed by the learned Additional Sessions Judge, Barmer in Sessions Case No.22/94 is hereby quashed and set aside. He is acquitted of the charge of





section 306 IPC. He is on bail. His bail bonds are discharged.
He need not surrender.

19. Record be sent back forthwith.

20. However, keeping in view the provisions of Section 437-
A Cr.P.C., the appellant is directed to furnish a personal bond
in the sum of Rs.40,000/- and a surety bond in the like
amount before the learned trial court, which shall be
effective for a period of six months to the effect that in the
event of filing of a Special Leave Petition against the present
judgment on receipt of notice thereof, the appellant shall
appear before the Supreme Court.

(FARJAND ALI),J

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