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Judgment Reserved On: 13.02.2026

Judgment Delivered On: 02.04.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 205 of 1985

Rameshwar Prasad Gupta

.....Appellant

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: G.P.Dixit, Kameshwar Singh
Counsel for Respondent(s)	: A.G.A.

Court No. - 83

HON'BLE SANJIV KUMAR, J.

1. This criminal appeal, under Section 374 (2) Code of Criminal Procedure, 1973 (in short 'Cr.P.C.'), has been preferred by appellant, Rameshwar Prasad Gupta, against judgment and order dated 31.01.1985 passed by Mr. Badri Niwas, Ist Additional Sessions Judge, Ballia, in Sessions Trial No. 124 of 1983 (State Vs. Lachia Devi and others), arising out of Case Crime No. 259 of 1982, under Sections 306 IPC, Police Station Sukhpura, District Ballia.

2. By the impugned judgment and order, appellant-Rameshwar Prasad Gupta, was convicted and sentenced to undergo rigorous imprisonment for five years and awarded a fine of Rs.1000/- for offence punishable under Section 306 IPC, with default stipulation.

3. Brief facts of the prosecution case are that the first informant Paras Nath Gupta, son of Late Kedarnath Gupta, resident of Dildarnagar, Police Station Dildarnagar, District Ghazipur, filed a written application (*Tahrir*)

dated 13.12.1982, at Police Station Sukhpura, District Ballia, stating therein that his daughter, Manju, was married to Rameshwar Prasad Gupta, son of Awadh Prasad, resident of Hanumanganj, Police Station Sukhpura, District Ballia, about two years ago. After the marriage, his daughter Manju was harassed by her sister-in-law (*Jethani*) for want of dowry. On 08.11.1982, his daughter wrote a letter to him, in which, she demanded a radio or Rs.2000/- for her in-laws. On 19.11.1982, Jagannath, from Hanumanganj, came and informed him that his (first informant's) son-in-law, Rameshwar, is seriously ill and asked him to go to Sadar Hospital, Ballia. Thereupon, the first informant went to District Hospital, Ballia and also to the shop of his son-in-law, where he came to know that his daughter had been set ablaze and her last rites have also been performed. Thereafter, he kept inquiring about his daughter's cause of death and came to know that she was burnt by her husband, mother-in-law and sister-in-law for want of dowry. Upon this information, FIR was registered under Case Crime No. 259 of 1982, under Section 306 IPC against the appellant, Rameshwar Prasad Gupta, co-accused Lallan Prasad Gupta, Smt. Lachia Devi and Smt. Sushila Devi.

4. The investigation of the case was entrusted to S.O. Hari Nath Sharma, Police Station, Sukhpura. The Investigating Officer reached at the place of occurrence and collected some articles and a letter written by deceased Manju Gupta addressed to her mother. He also inspected the place of occurrence and prepared its site-plan (Ext. Ka-6). He recorded statements of the first informant and other witnesses and, after completion of investigation, filed charge-sheet against all the four accused, under Section 306 IPC, before the concerned Magistrate.

5. The learned Magistrate took cognizance of the offence and summoned the accused. They appeared before the Court and were furnished copies of relevant prosecution papers under Section 207 Cr.P.C. and thereafter, the case was committed to the Court of Sessions for trial. The appellant and other co-accused persons appeared before the Trial Court and charge under Section 306 IPC was framed against them to which they pleaded not guilty and claimed to be tried.

6. The prosecution, in order to prove its case, has examined P.W.1 Paras Nath Gupta, (father of the deceased and first informant), P.W.2 Radhika Devi, (mother of the deceased), P.W.3 Kailash Singh, (scribe of FIR), P.W.4 Hari Nath Sharma, (Investigating Officer) and P.W.5, Dr. G.K. Tripathi, (who conducted post-mortem examination of the deceased). Their testimony, in brief, is enumerated as under.

7. P.W.1 Paras Nath Gupta, is the father of the deceased and also the first informant of the case. He has deposed on oath that his daughter Manju Gupta was married to appellant Rameshwar Prasad Gupta. He had given Rs.3000/- in marriage along with some other goods. Only two-in-one radio could not given, however, he had promised to give it later. After the marriage, his daughter went to her matrimonial house. Whenever, she visited her parental house, she used to tell her mother that her in-laws taunted and harassed her for not bringing a radio. She had told that her mother-in-law Lachia Devi, sister-in-law (Jethani) Sushila Devi, husband Rameshwar Prasad and brother-in-law (Jeth) Lallan, are demanding radio and caused her harassment. P.W.1 further stated that he had promised the appellant and co-accused to give a radio after sometime. His daughter insisted not to go to her in-laws house, however, somehow she was convinced to go to her matrimonial house.

8. It is further deposed by P.W.1 that on 05.11.1982, he received a letter from his daughter Manju (Ext. Ka-1), in which, she wrote to give Rs.2000/- or a radio. The incident occurred on 18.11.1982. Her daughter was living with her husband Rameshwar in village Hanumanganj. The next day of the incident, at about 12 noon, a person named Jagannath Prasad came and informed that his son-in-law Rameshwar is seriously ill and admitted in District Hospital, Ballia. Thereupon, he along with his friend Syed Hasan went to District Hospital, Ballia and came to know that his daughter Manju has died and her last rites have also been performed. Thereafter, he went to Lallan Prasad's shop, where his son-in-law Rameshwar Prasad was also present. He went to the hospital as well. He stayed the entire night with them and in the morning left for his village Dildarnagar. He kept inquiring about the cause of his daughter's death and came to know that her in-laws were

taunting her with regard to demand of dowry and had set her ablaze and that they compelled her to such an extent that she committed suicide. It is further stated by P.W. 1 that thereafter he, along with his wife, Radhika met Superintendent of Police, Ballia, who asked him to go to Police Station Sukhpura, where his report was lodged on the basis of his written application (*Tahrir*), (Ext. Ka-2). P.W.1 has further stated that all the four accused harassed his daughter due to want of radio and his daughter used to say about her harassment with her friends.

9. In cross-examination, P.W.1 has stated that Jagannath Prasad had reached at his house at about 11:00 a.m. or 12 noon. He runs a hotel in Dildarnagar. He has two other daughters and a son. Rameshwar Prasad has a shop of ready-made garments at Meena Bazar Road. The accused also have a bangles shop at Meena Bazar. He has written in his application (Ext. Ka-2) that his daughter demanded a radio. He further stated that he had written in his application (*Tahrir*) that his daughter had demanded a radio, however, it was not written that the accused were demanding it. Under pressure, he had promised to give a radio to the accused. After the marriage, the accused did not post any letter demanding radio. Except for letter (Ext. Ka-1), deceased Manju did not write any other letter regarding demand of radio and her harassment by her in-laws, although, earlier, Manju had written many letters. Upon showing him letter dated 15.10.1982, the witness said that this letter is signed and written by his daughter Mala, which the witness has proved as Ext. Kha-1. He has further stated that he went to District Hospital Ballia, but nobody was found there. Thereafter, he went to Meena Bazar at about 06:00 p.m., at the shop of the accused, where Lallan Prasad was present. It is further stated that he does not remember the person, who told him that his daughter was burnt because many persons were present there. He could not ascertain at which place her daughter's cremation took place. He slept with accused Rameshwar Prasad, at the shop, the entire night. In hospital, he could not know that his daughter was brought and admitted in the hospital. He cannot tell name of any person from whom he inquired about the cause of his daughter's death. He has denied the suggestion that deceased Manju had demanded a radio for her own use because she used to live alone at the

house and her sister-in-law and mother-in-law worked at the bangles shop. He also denied the suggestion that after the last rites of the deceased, he himself, along with his wife, came to the accused's house and proposed marriage of their another daughter Mala with Rameshwar, to which they refused and thereafter a false case was lodged against them.

10. P.W.2, Radhika Devi, is the mother of the deceased. She has stated on the same lines as stated by P.W.1. She has stated that during the *Tilak* ceremony, they could not give a two-in-one radio, but promised to give the same later on. Her daughter had written a letter prior to her death, in which she had asked to send a radio or Rs.2000/-. She has said that whenever her daughter came to her parental home, she used to say that her husband, sister-in-law and mother-in-law tease her and caused her harassment and she has belief that radio was the cause of her daughter's harassment, which compelled her to commit suicide. In cross-examination, P.W.2 has stated that they had not promised to give a radio though accused Rameshwar was raising demand for it.

11. P.W.3 Constable Kailash Singh is a formal witness, who scribed the *chik* FIR on 13.12.1982 and entered its gist in the G.D. at the Police Station. He has said that on the basis of *Tahrir* (Ext. Ka-2), given by the first informant, he had scribed the *chik*-FIR, which he has proved as Ext. Ka-3.

12. P.W.4 S.O. Hari Nath Sharma is the Investigating Officer of the case. He has stated about the investigation carried out by him and said that during investigation, he prepared the inquest report and collected post-mortem report and other papers. He recorded statements of the first informant, other witnesses and the accused. The informant had handed over him a letter written by the deceased. He searched accused Rameshwar Prasad's room on 12.12.1982 and found some suspicious articles, which he kept in his possession and prepared its recovery memo (Ext. Ka-4). He inspected the place of occurrence and prepared its site-plan, which he has proved as Ext. Ka-6. After concluding investigation, he filed two charge-sheets before the competent court, which he proved as Exts. Ka-7 and Ka-8. As secondary witness, he has proved inquest and related papers written by S.I. P.N. Singh as Exts. Ka-9 to Ka-14.

13. In cross-examination, he has stated that the deceased was admitted in hospital in a burnt condition on 18.11.1982 at 06:30 p.m. and she died on 19.11.1982 at 08:30 a.m. She was alive when she was admitted in the hospital. He did not deem it necessary to record the statement of the doctor, who treated the deceased in the hospital, as he was provided the post-mortem report and all other papers. She was admitted by her in-laws and other people. He came to know that after her death, a fake proceeding for recording her dying declaration was conducted by the accused, but he did not record it in his case diary. Many people were secretly telling that the deceased was harassed by her in-laws, which compelled her to commit suicide, but he has not recorded their names in the case diary.

14. P.W.5 Dr. G.K. Tripathi, is a formal witness, who has conducted post-mortem of the deceased on 19.11.1982 at 03:45 p.m. in the District Hospital, Ballia. He has stated that the body of the deceased was average built. Rigor mortis was present over upper and lower part of body. Eyes and mouth were closed. There were no sign of decomposition. In the form of ante-mortem injuries, the entire body was burnt right from face, neck, chest, stomach and legs. It was 80-90 degree of burn. Both lungs were found congested and blood was present in all the chambers of heart. The stomach was found empty. There were gas and fecal matter in large intestine. In the opinion of the Doctor, the cause of death was shock, as a result of burn injuries and the death could have occurred on 19.11.1982 at 04:30 a.m. in District Hospital, Ballia. The doctor has proved the post-mortem report as Ext. Ka-15 and has said that there were no other physical injury except for the burn injuries and burn injuries could have been caused on 18.12.1982 at 05:00-06:00 p.m.

15. In cross-examination, he has said that in the ordinary course of nature, at the time of cooking or from the flame of a lantern etc. or due to nervousness, this degree of burn is possible. There was no smell of kerosene oil etc. emanating from the body.

16. After closure of prosecution evidence, statements of accused were recorded under Section 313 Cr.P.C., in which, they denied the prosecution case. It was admitted that deceased Manju was married to appellant

Rameshwar Prasad. It was also admitted that after marriage, Manju used to come to her parental house of her own will. It was further stated that witnesses are deposing against them due to enmity and the victim had died due to burn injuries while cooking. At the time of incident, the accused were not present at the home. Actually, informant Paras Nath wanted to solemnize marriage of his second daughter Mala with the appellant, Rameshwar Prasad, to which, the accused were not agreed and as a result, a false case has been lodged against them. It was further stated that at the time of incident, the accused were at the shop.

17. The defence has produced D.W.1, Dr. S.P. Narain as defence witness, who has stated that he was posted as Medical Officer, Ballia on 18.11.1982 and on that day at about 06:30 p.m., Smt. Manju wife of Rameshwar was brought in a burnt condition to the hospital by her brother-in-law (Jeth) Lallan Prasad. He found following ante-mortem injuries:

Superficial burn injuries over face, neck, chest and half of the back. Both arms and lower limbs were burnt. There was erythema and blisters at places over the body. It was about 90 per cent burn and the patient was conscious.

18. D.W.1 has stated that the injuries were kept under observation, which were caused by burn and were fresh in nature. He further said that he had brought accidental register prepared by him at the time of medical examination and proved the same as Ext. Kha-2. He also brought bed head ticket of the deceased prepared by him and other doctors. He has also said that he had sent a memo to S.D.M., Ballia for recording dying declaration of the injured, and in this regard, he had made an endorsement on memo book at Page No. 39, which he has proved as Ext. Kha-3. He has said that he had sent a carbon copy of this memo at 06:40 p.m. to S.D.M., Ballia, but he was not available. He has made endorsement in this regard at 08:00 p.m. He has also said that he has sent information to S.O. Kotwali, regarding this memo.

19. In cross-examination, D.W. 1 has said that S.D.M., Ballia was not available. He did not send memo to any other officer for recording dying declaration of the injured. He himself did not take any statement of the deceased Manju. She was talking and was conscious. She did not tell him,

how she got burn injuries. As recording of her dying declaration had to take place, therefore, he did not ask of her burn injuries from herself or her family members. She was crying in pain at the time of admission in the hospital.

20. After hearing arguments of both the parties and perusing the material as well as evidence on record, the Trial Court came to the conclusion that the prosecution has been able to prove its case beyond reasonable doubt. The testimony of prosecution witnesses was found consistent, reliable and trustworthy. It is also held by the Trial Court that ocular evidence is supported by medical evidence and the prosecution has proved that the appellant, Rameshwar Prasad Gupta, had committed offence of abetment to suicide. The Trial Court found that charge under Section 306 IPC is not proved against co-accused Lachia Devi Sushila Devi and Lallan Prasad Gupta, who were acquitted by the impugned judgment and order.

21. Heard Shri Kameshwar Singh, learned counsel for the appellant and Shri Rajesh Kumar Rao, learned Additional Government Advocate for the State and perused the material available on record.

22. Learned counsel for the appellant submits that there is not sufficient evidence to prove the charge against the appellant. It is further submitted that the victim/deceased was not subjected to any cruelty or harassment by the appellant and she demanded a radio or Rs.2000/- from her mother through a letter for her personal use, as she remained alone during the daytime, while other family members had to be present at the shops. It is further submitted that essential ingredients of Section 306 IPC are not proved. It was her brother-in-law (*Jeth*) Lallan, who had admitted the deceased in District Hospital, Ballia and even the doctor had tried to get her dying declaration recorded, however, unfortunately it could not be recorded. It is also submitted that the first informant himself stayed with the appellant at his house the entire night, when the deceased had died and inquest was prepared and post-mortem was conducted.

23. Learned counsel for the appellant next submits that the death of the victim was accidental, due to burn injuries sustained while cooking and that

is the reason, the FIR was not lodged by the first informant promptly and it was after about twenty five days, the FIR was lodged, as the first informant wanted to solemnize marriage of his other daughter Mala with the appellant, which proposal he had refused. It is further submitted that the alleged letter of the deceased does not disclose that the deceased was being subjected to any harassment or cruelty by the appellant. Therefore, the Trial Court failed to consider the evidence on record correctly and has illegally convicted and sentenced the appellant.

24. Per contra, learned AGA has submitted that the prosecution case is proved beyond reasonable doubt. The deceased was subjected to cruelty and harassment for want of a radio or Rs.2000/- by the appellant, which compelled her to commit suicide. There is consistency in the statement of witnesses, which are reliable and trustworthy. The ocular evidence is supported with medical evidence. Therefore, the appellant was rightly convicted by the Trial Court.

25. It is settled law that in a criminal case, the burden of proof lies upon the prosecution to prove its case beyond reasonable doubt. Here, in the present case, it is not in dispute that the appellant is the husband of deceased, Manju, and the first informant is her father. The first argument of the appellant is that the FIR has been lodged belatedly and there is no reasonable explanation of delay, which raises doubt over the prosecution case. In this regard, the prosecution case is that the incident occurred on 18.11.1982 at about 04:00 or 05:00 p.m. and thereafter, victim Manju was admitted in District Hospital, Ballia in a burnt condition, where on 19.11.1982, at about 04:30 a.m., she succumbed to her injuries. As per P.W.1 Paras Nath Gupta, the father of the deceased, on 19.11.1982, one person named, Jagannath, came to his house from Hanumanganj and informed that his son-in-law, Rameshwar Prasad, is seriously ill and is admitted in District Hospital, Ballia, thereupon, he went to District Hospital, Ballia and then at the shop of his daughter's brother-in-law, he came to know that his daughter was set ablaze by her in-laws and her last rites have also been performed. Then the

first informant lodged the FIR on 13.12.1982 at 05.20 p.m. Therefore, the FIR was lodged after a delay of 25 days.

26. From the statement of P.W.1, Paras Nath Gupta, it emerges that on 19.11.1982 itself, he came to know that his daughter was killed, but surprisingly he did not lodge any FIR the same day or soon thereafter and the FIR was lodged belatedly after a gap of 25 days. The explanation of delay, given on behalf of the prosecution is that, in the meantime, the informant kept inquiring about the cause of death of his daughter. This explanation is not very convincing, as the first informant has stated that on the same day i.e. 19.11.1982, he came to know that his daughter was killed by the appellant, so there was no reason why he would inquire further and wait for 25 days to lodge the FIR. The first informant has also not disclosed the name of any person(s) from whom he acknowledged that his daughter was set ablaze by the accused. It is also relevant that he stayed the entire night with the appellant, at his shop, and in the morning he left for his home. If he came to know that the appellant and his family had killed his daughter, then there was no reason for him to inquire from others about her death and also stay with the accused the entire night and lodge FIR after so much delay. In view of the above, no proper explanation of delay in lodging the FIR has been given by the prosecution, which raises serious suspicion over the prosecution case.

27. The lodging of FIR belatedly without any reasonable explanation and its effect has been well discussed by the Supreme Court in **Meharaj Singh (L/NK.) v. State of U.P., (1994) 5 SCC 188**, where it has been observed in para 12 as under:

“FIR in a criminal case and particularly in a murder case is a vital and valuable piece of evidence for the purpose of appreciating the evidence led at the trial. The object of insisting upon prompt lodging of the FIR is to obtain the earliest information regarding the circumstance in which the crime was committed, including the names of the actual culprits and the parts played by them, the weapons, if any, used, as also the names of the eye witnesses, if any. Delay in lodging the FIR often results in embellishment, which is a

creature of an after thought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story. With a view to determine whether the FIR, was lodged at the time it is alleged to have been recorded, the courts generally look for certain external checks. One of the checks is the receipt of the copy of the FIR, called a special report in a murder case, by the local Magistrate. If this report is received by the Magistrate late it can give rise to an inference that the FIR was not lodged at the time it is alleged to have been recorded, unless, of course the prosecution can offered a satisfactory explanation for the delay in dispatch or receipt of the copy of the FIR by the local Magistrate Prosecution has led no evidence at all in this behalf. The second external check equally important is the sending of the copy of the FIR along with the dead body and its reference in the inquest report. Even though the inquest report, prepared u/s 174 Cr.P.C. is aimed at serving a statutory function, to lend credence to the prosecution case, the details of the FIR and the gist of statements recorded during inquest proceedings get reflected in the report. The absence of those details is indicative of the fact that the prosecution story was still in embryo and had not been given any shape and that the FIR came to be recorded later on after due deliberations and consultations and was then ante timed to give it the colour of a promptly lodged FIR.”

28. In view of the above discussion and the decision of the Supreme Court in **Maharaj Singh** (supra), the inordinate delay in lodging the FIR in this case, with no proper explanation, raises serious doubt over the prosecution case.

29. Here, it is relevant to mention that the prosecution has examined only two witnesses of fact namely, Paras Nath Gupta (P.W.1) and Smt. Radhika Devi (P.W.2). P.W.1 Paras Nath Gupta is the father and P.W.2 Smt. Radhika is the mother of the deceased. It has come in their evidence that the husband and in-laws of their daughter were demanding a two-in-one radio or Rs.2000/- in dowry and in this connection they harassed the deceased. The appellant has denied any such demand of dowry and harassment. In this regard, the prosecution has produced an original letter (Ext. Ka-1) written by

Manju, the deceased, to her mother Radhika Devi and it is submitted by the prosecution that in this letter it is disclosed that the appellant demanded a two-in-one radio or Rs.2000/- from the deceased, which goes to show that it was the appellant, at whose instance, she wrote this letter demanding the aforesaid items from her mother.

30. In this regard, a perusal of letter (Ext. Ka-1) reveals that this letter is written in a very plain and simple language and there is no whisper in it, which can give an impression that the deceased was being harassed by the appellant for want of a radio or Rs.2000/- in dowry. The deceased has simply written to her mother to send a two-in-one radio or Rs.2000/-. It has nowhere been mentioned in the letter that she was being asked to fulfil the said demand by the appellant. There is no content in the letter that the deceased was being harassed by the appellant for demand of these items. Allegedly, this letter was written about 13 days prior to the date of incident. It has come in evidence that the marriage of the deceased was solemnized with appellant on 10.03.1980 and after about two and a half years, this incident had occurred.

31. The appellant has been charged for offence punishable under Section 306 IPC, which is ‘abetment to suicide’. In this regard, in **Jayedepsingh Pravinsingh Chavda & Others V State of Gujarat, 2025 (2) SCC 216**, Hon’ble Supreme Court has observed as under:

“21. Section 306 of the IPC provides for punishment for the offence of abetment of suicide. It has to be read with Section 107 of the IPC 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 of the IPC penalizes 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 of the 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 306 of the IPC, 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.

24. The same position was laid down by this Court in **S.S. Chheena v. Vijay Kumar Mahajan** (2010) 12 SCC 190 , wherein 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 option and that act must have been intended to push the deceased into such a position that he committed suicide.”

*25. To bring a conviction under section 306, IPC it is necessary to establish a clear mens rea to instigate or push the deceased to commit suicide. It requires certain such act, omission, creation of circumstances, or words which would incite or provoke another person to commit suicide. This Court in the case of **Ramesh Kumar v. State of Chhattisgarh (2009) 9 SCC 918**, defined the word “instigate” as under:*

“20. 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. The present one is not a case where the accused had 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 in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

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 306 IPC cannot be sustained.

29. The act of abetment must be explicitly demonstrated through actions or behaviors 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 connection between the accused's behavior and the tragic 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."

32. In view of the above legal position, mere harassment is not sufficient to constitute an offence under Section 306 IPC, unless it is accompanied by deliberate acts of incitement or facilitation and the act or omission of the accused should be proximate to the time of suicide, and should have clear connection between the accused's behaviour and the tragic outcome.

33. From the evidence of P.W.1 and P.W.2, it is not clear what kind of harassment was caused to the deceased by the appellant. Merely stating that the deceased was being harassed is not sufficient, but the nature and act or omission of the appellant, which constituted the harassment, has also to be disclosed and proved. It has nowhere been stated by both these witnesses regarding any act or omission of the appellant, which amounted to harassment of the deceased and the act or omission of the accused, that was proximate to the time of suicide and had clear connection between the accused's behaviour and the tragic outcome.

34. Besides this, as per settled law, as discussed above, mere harassment is not sufficient to constitute an offence for abetment to suicide. As per prosecution, soon after marriage, the demand of a radio or Rs.2000/- was raised by the appellant and it continued up to the time of incident. If that was the case, though not proved, then what overt act was committed by the appellant, soon before the incident, which forced or compelled the deceased to take such extreme step to commit suicide, has not been proved.

35. Admittedly, the appellant has two shops out of them one is bangles shop. As per appellant, he runs bangles shop along with his mother and sister-in-law. During the day time the deceased used to live alone in the house and for this reason, the deceased had written a letter to her mother to send a radio or Rs.2000/- so that she could entertain herself in leisure time. It is the case of the appellant that the deceased caught fire while cooking in the house and at that time, the appellant and other family members were at the bangles shop and, after getting the news, they had taken her to the hospital where in the next morning, she died. In the meantime, the treating doctor, who had medically examined her tried to contact concerned S.D.M., District Ballia, to record dying declaration of the deceased, but unfortunately, the S.D.M. was not available. Therefore, her dying declaration could not be recorded.

36. In this regard, the defence has examined D.W.1 Dr. S.P. Narain, who has prepared injury report of the deceased, when she was taken to District Hospital, Ballia. He has stated that the deceased had sustained burns about

95 per cent burnt but was conscious, so he wrote a letter to S.D.M., District Ballia, to record her dying declaration and sent it twice to S.D.M. The defence has proved letter sent by the doctor to S.D.M. concerned. It has come in evidence that she was admitted by her brother-in-law (*Jeth*) in District Hospital, Ballia. So it gives force to the contention of the appellant and if the appellant had any design to cause death of the deceased or to abet her to commit suicide, then she would not have been taken to hospital.

37. It has come in the statement of P.W.4, the Investigating Officer, Hari Nath Sharma, that the Doctor did not try to get the dying declaration of the deceased recorded and any such step taken by the doctor is fake, but he has also stated that he has not mentioned any such observation in the case diary. So this is an afterthought statement of the Investigating Officer, without any substance in it. The defence has examined D.W.1, Dr. S.P. Narain, who has proved the injury report of the deceased, when she was admitted to District Hospital, Ballia and also the letter written to S.D.M., Ballia to record her dying declaration. The doctor has also stated that no smell of kerosene oil was emanating from the body of the deceased. All these evidences give weight to the defence version.

38. It is the case of the appellant that after the death of Manju, the first informant and his family came to him and proposed first informant's second daughter Mala's marriage with the appellant, which he refused and as a result, being annoyed, this FIR was lodged on false and concocted facts. The unexplained delay in lodging the FIR gives force to this contention of the appellant.

39. In view of the aforesaid discussion, this Court comes to the conclusion that the prosecution has miserably failed to prove that the appellant caused any harassment of the deceased and soon before the incident he committed any overt act or omission, which abetted the deceased to commit suicide by setting herself ablaze. There is no such evidence that the appellant committed any harassment to the deceased for want of dowry. Therefore, the Trial Court has failed to appreciate the evidence on record, correctly and as a result conviction and guilt of the appellant was passed on conjunctures.

40. In view of the above, the prosecution has not been able to prove charge under Section 306 IPC against the appellant and as a result the impugned judgment and order of conviction and sentence of the appellant for offence punishable under Section 306 IPC is not sustainable.

41. This appeal is, accordingly, **allowed** and impugned judgement and order dated 31.01.1985, convicting and sentencing the appellant, Rameshwar Prasad Gupta, under Section 306 I.P.C. is **set aside** and the appellant is **acquitted** of the charge under Section 306 I.P.C.

42. The appellant is on bail. His bail bonds and personal bonds are cancelled and the sureties discharged. He need not surrender.

43. The appellant shall execute a personal bond in the sum of Rs.25,000/- under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 437-A of the Code of Criminal Procedure, 1973) for his appearance, in the event of an appeal being preferred against his acquittal.

44. Let a copy of this order be sent to the learned Trial Court concerned alongwith the Trial Court record for information and necessary compliance.

(Sanjiv Kumar,J.)

April 02, 2026

Subham