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2026 INSC 1190

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1394 OF 2017

GOVERDHAN ....APPELLANT(S)

VERSUS

STATE OF RAJASTHAN ....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. The appellant was tried for the offence punishable under Section 306 of the Indian Penal Code, 1860[1] before the learned Additional Sessions Judge, Women Atrocities Cases No.1, Jaipur Metropolitan[2], in Sessions Case No.27 of 2011. The trial Court, *vide* judgment and order dated 9th

[1] For short, "IPC".
[2] Hereinafter, referred to as the "trial Court".

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December, 2016 convicted the appellant for the said offence and sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs.50,000/-, and, in default of payment of fine, to undergo further rigorous imprisonment for three months. The appeal preferred by the appellant against the judgment of conviction was dismissed by the learned Single Judge of the High Court of Judicature for Rajasthan at Jaipur[3] *vide* judgment dated 11th May, 2017. Being aggrieved thereby, the appellant has approached this Court by way of the instant appeal, upon grant of special leave.

Factual Background: -

3. Brief facts relevant and essential for disposal of the appeal are noted hereinbelow.

4. The appellant was married to Smt. Anju (deceased) on 21st November, 1996, and a son, namely, Hemant, was born out of the wedlock. The prosecution alleges that the appellant and his father, Shri Shanti Lal, used to harass Smt. Anju on account of demands for dowry and other related matters, and that she was ultimately turned out of her

[3] Hereinafter, referred to as the "High Court".

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matrimonial home in February, 2009, compelling her to reside at her parental home.

5. Being aggrieved by this maltreatment, Smt. Anju lodged FIR No.14 of 2009 for the offences punishable under Sections 498-A, 406 and 323 IPC on 5th February, 2009 against the appellant. Upon completion of the investigation, a chargesheet came to be filed against the appellant for the above offences.

6. Apart from the aforesaid criminal proceedings, Smt. Anju had also instituted proceedings against the appellant under the provisions of the Protection of Women from Domestic Violence Act, 2005, and sought maintenance. The prosecution alleges that, notwithstanding the institution of these proceedings, the appellant continued to harass Smt. Anju. It is further alleged that the appellant took advantage of the fact that his elder brother, Shri Raj Kumar, was employed in the police and tried to dissuade Smt. Anju from taking recourse to legal remedies.

7. The prosecution further alleges that, in culmination of his continued cruel conduct, the appellant sent four letters to Smt. Anju, containing abusive language and threats to kill her. The said

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letters were relied upon by the prosecution to establish the alleged harassment meted out to the deceased. It is alleged that, owing to the continuous harassment meted out to her by the appellant, Smt. Anju[4] set herself on fire at her parental home on 18th January, 2011, and succumbed to the burn injuries on the same day.

8. On 2nd February, 2011, Smt. Kamla Devi, mother of the deceased, lodged a complaint before the Court of the learned Judicial Magistrate No. 8, Jaipur Metropolitan, Jaipur, setting out the aforesaid allegations and alleging that the appellant's conduct had driven the deceased to take the extreme step of ending her life. The learned Magistrate forwarded the complaint to the Police Station, Galta Gate, Jaipur, for investigation in exercise of powers under Section 156(3) of the Code of Criminal Procedure, 1973[5].

9. As a consequence, FIR No.45 of 2011 came to be registered for the offence punishable under Section 306 IPC. Upon completion of the investigation, a chargesheet came to be filed against the appellant for the said offence. The case was

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[4] Hereinafter, referred to as the "deceased".
[5] For short, "CrPC".

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thereafter committed to the trial Court, which framed charge against the appellant for the offence punishable under Section 306 IPC. The appellant denied the charge, pleaded not guilty and claimed trial. In order to bring home the charge, the prosecution examined 16 witnesses and produced documentary evidence comprising the exhibits marked as Exhibit P-1 to Exhibit P-49, as reflected from the trial Court's record.

10. In his statement recorded under Section 313 CrPC, the appellant denied the incriminating circumstances appearing against him in the prosecution evidence. He stated that his wife had been residing at her parental home for the preceding three years and that, during this period, he had neither met her nor spoken to her.

11. The appellant further stated that his wife had, in all probability, died an accidental death as a result of a sudden fire, and that his in-laws had tried to give it a colour of suicide with a view to falsely implicate him, owing to the matrimonial strife prevailing between the spouses. In defence, the appellant examined Raj Kumar (DW-1), and also exhibited certain documents.

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12. Upon appreciation of the submissions advanced on behalf of the parties and evaluation of the evidence available on record, the learned trial Court proceeded to convict the appellant for the offence punishable under Section 306 IPC and sentenced him as noted above. The High Court affirmed the findings recorded by the trial Court, holding that the appellant had continuously harassed and humiliated the deceased and that such conduct tantamounted to instigation to commit suicide, thereby attracting the rigours of Section 306 IPC. The appeal preferred by the appellant was accordingly dismissed *vide* judgment dated 11th May, 2017, which is assailed in the present appeal before this Court pursuant to the grant of special leave.

Discussion and Analysis: -

13. We have heard and considered the submissions advanced by Shri Sushil Kumar Jain, learned senior advocate appearing on behalf of the appellant, and Ms. Sansriti Pathak, learned Additional Advocate General representing the State, and have also carefully perused the impugned judgment and examined the evidence available on record.

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14. Certain salient features emerging from the record merit consideration. As per the admission and discharge ticket (Exhibit D-5), the deceased was brought to SMS Hospital, Jaipur, on 18th January, 2011, and was admitted to the Burn Ward for treatment at 11:30 a.m. The case history was furnished by Smt. Indu, the elder sister of the deceased, who stated that the deceased was all alone at home when a sudden fire broke out, resulting in her sustaining burn injuries.

15. As per the inquest *panchnama* (Exhibit P-1), prepared by the police officers of Police Station Galta Gate, Jaipur, under Section 174 CrPC, the Investigating Officer made enquiries from the *panch* witnesses, including Shri Hazari Lal (PW-1; father of the deceased) and Shri Ashok Kumar (PW-2; brother of the deceased), whose statements were recorded as Exhibits P-3 and P-4, respectively, during the inquest proceedings. While the *panch* witnesses (PW-1 and PW-2) stated that the deceased had died due to burning, neither Shri Hazari Lal (PW-1) nor Shri Ashok Kumar (PW-2) divulged the circumstances under which the fire had originated or the cause thereof. The Inquiry statements of Shri Ashok Kumar

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and Shri Hazari Lal did not even faintly indicate that the deceased had committed suicide in their house.

16. Subsequently, on 2nd February, 2011, a complaint was lodged by the mother of the deceased 15 days after the incident which formed the basis for registration of the FIR.

17. It is also pertinent to note that the Forensic Science Laboratory (FSL) team inspected the place of occurrence on 18th January, 2011, and prepared the spot examination report (Exhibit P-33). However, the said report does not record the presence of any smell of kerosene oil at the place of occurrence.

18. Assistant Sub-Inspector Bhagwan Singh (PW-16), who was among the first police officers to reach the place of occurrence upon receiving information regarding the incident, inspected the site and prepared the site plan (Exhibit P-51). In his cross-examination, he agreed to the defence suggestion that an electric short circuit had occurred in the room and that a gas cylinder was also present there.

19. Certain other documents relied upon by the defence, viz., a copy of the information received by the Police Control Room, Jaipur City (Exhibit D-2), a copy of the wireless information record (Exhibit D-3), and

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a copy of the Duty Officer's register (Exhibit D-4), contain contemporaneous entries concerning the incident. While Exhibit D-2 records information regarding a fire at the concerned premises, Exhibit D-3 refers to a woman having sustained burn injuries due to an electric short circuit and being taken to the hospital by ambulance, whereas Exhibit D-4 records information attributing the fire to a gas cylinder.

20. The only palpable evidence relied upon by the prosecution to establish the charge of abetment to suicide comprised the four postcard letters (Exhibit P-16 to Exhibit P-19) allegedly written by the appellant to the deceased. The prosecution sought to establish the authorship of these letters by relying upon the handwriting expert's report (Exhibit P-47). It is, however, an admitted position that the Investigating Officer did not obtain any specimen handwriting of the appellant during the course of the investigation. The writings used for comparison with the disputed letters comprised the application/report (Exhibit P-24), allegedly handed over by the appellant to the Investigating Officer at the time of his arrest, and the pocket diary (Exhibit P-46), purportedly written by the appellant and produced before the

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Investigating Officer by his elder brother. The evidentiary value of the expert opinion would, therefore, depend not merely upon the similarities identified by the expert between the disputed and comparison writings, but also upon the prosecution establishing the authenticity and authorship of the writings used as standard of comparison. In the absence of reliable proof that the comparison writings were indeed authored by the appellant, the expert's opinion, by itself, would not conclusively establish that the disputed letters were written by him.

21. It is well settled that the science of handwriting identification is not infallible and that the opinion of a handwriting expert must be approached with due caution. In ***Magan Bihari Lal v. State of Punjab***[6], this Court emphasised the inherent limitations of such opinion evidence and cautioned against founding a conviction solely upon the opinion of a handwriting expert without adequate corroboration. The relevant observations in ***Magan Bihari Lal*** (supra) are reproduced hereinbelow:-

> **"7.** In the first place, it may be noted that the appellant was at the material time a Guard in the employment of the Railway Administration with his

[6] (1977) 2 SCC 210

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headquarters at Agra and he had nothing to do with the train by which wagon No. SEKG 40765 was despatched from Munda to Bikaner nor with the train which carried that wagon from Agra to Ludhiana. He was not a Guard on either of these two trains. There was also no evidence to connect the appellant with the theft of the blank Railway Receipt at Banmore Station. It is indeed difficult to see how the appellant, who was a small employee in the Railway Administration, could have possibly come into possession of the blank Railway Receipt from Banmore Station which was not within his jurisdiction at any time. It is true that B. Lal, the handwriting expert, deposed that the handwriting on the forged Railway Receipt Ex. PW 10/A was that of the same person who wrote the specimen handwritings Ex. PW 27/37 to 27/57, that is the appellant, but we think it would be extremely hazardous to condemn the appellant merely on the strength of opinion evidence of a handwriting expert. **It is now well settled that expert opinion must always be received with great caution and perhaps none so with more caution than the opinion of a handwriting expert. There is a profusion of precedential authority which holds that it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon and it has almost become a rule of law. It was held by this Court in *Ram Chandra* v. *State of U.P.* [AIR 1957 SC 381 : 1957 Cri LJ 559] that it is unsafe to treat expert handwriting opinion as sufficient basis for conviction, but it may be relied upon when supported by other items of internal and external evidence. This Court again pointed out in *Ishwari Prasad Mishra* v. *Md. Isa* [AIR 1963 SC 1728 : (1963) 3 SCR 722] that expert evidence of handwriting can never be conclusive because it is, after all, opinion evidence, and this view was reiterated in *Shashi Kumar Banerjee* v. *Subodh Kumar***

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Banerjee **[AIR 1964 SC 529] where it was pointed out by this Court that experts evidence as to handwriting being opinion evidence can rarely, if ever, take the place of substantive evidence and before acting on such evidence, it would be desirable to consider whether it is corroborated either by clear direct evidence or by circumstantial evidence. This Court had again occasion to consider the evidentiary value of expert opinion in regard to handwriting in *Fakhruddin* v. *State of M.P.* [AIR 1967 SC 1326 : (1967) 2 SCJ 885 : 1967 Cri LJ 1197] and it uttered a note of caution pointing out that it would be risky to found a conviction solely on the evidence of a handwriting expert and before acting upon such evidence, the court must always try to see whether it is corroborated by other evidence, direct or circumstantial. It is interesting to note that the same view is also echoed in the judgments of English and American courts. Vide *Gurney* v. *Langlands* [1822 5 B and Ald 330] and *Matter of Alfred Foster's Will* [34 Mich 21] . The Supreme Court of Michigan pointed out in the last-mentioned case:**

> **"Every one knows how very unsafe it is to rely upon any one's opinion concerning the niceties of penmanship — Opinions are necessarily received, and may be valuable, but at best this kind of evidence is a necessary evil."**

We need not subscribe to the extreme view expressed by the Supreme Court of Michigan, but there can be no doubt that this type of evidence, being opinion evidence is by its very nature, weak and infirm and cannot of itself from the basis for a conviction. We must, therefore, try to see whether, in the present case, there is, apart from the evidence of the handwriting expert B.

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> **Lal, any other evidence connecting the appellant with the offence**."
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> [Emphasis supplied]

22. The question whether a handwriting expert's report can be relied upon to establish the authorship of a disputed document was also considered by this Court in ***Patel Babubhai Manohardas v. State of Gujarat***[7]. This Court emphasised the importance of examining the handwriting expert where the prosecution seeks to rely upon the expert's opinion to establish the authorship of a disputed document and the genuineness of the report has not been admitted by the accused. The relevant observations in paragraphs 41 to 44 of the judgment in ***Patel Babubhai Manohardas*** (supra) are reproduced hereinbelow:-

> **"41.** The suicide note was sent to the Forensic Science Laboratory (FSL) for examination. The Deputy Chief Handwriting Expert of FSL, Gandhinagar opined that the handwriting was of the deceased. However, the prosecution did not examine the Deputy Chief Handwriting Expert as an expert witness. The records also do not indicate that the accused had admitted genuineness of the report of the handwriting expert.
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> **42.** In *Shashi Kumar Banerjee* v. *Subodh Kumar Banerjee (since deceased)*[11], this Court observed that expert's evidence as to handwriting is opinion

[7] 2025 SCC OnLine SC 503

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evidence. It can rarely, if ever, take the place of substantive evidence. Before acting on such opinion evidence, it is necessary to see if it is corroborated either by clear direct evidence or by circumstantial evidence.

43. In the case of *Murari Lal* v. *State of M.P.*[12], this Court opined that having due regard to the imperfect nature of the science of identification of hand-writing, the approach of the court should be one of caution. Reasons for the opinion must be carefully probed and examined. In an appropriate case, corroboration may be sought. Where the reasons for the opinion are convincing and there is no reliable evidence throwing a doubt, uncorroborated testimony of a handwriting expert may be accepted.

44. This Court dealt with the effect of placing reliance on the opinion of handwriting expert without examining him in court in *Keshav Dutt* v. *State of Haryana*[13]. One of the questions which fell for consideration in that case was whether the opinion of a handwriting expert can be admitted in evidence without examination of the handwriting expert. In this connection, this Court took the view that when the trial court chose to rely on the report of the handwriting expert, it ought to have examined the handwriting expert in order to give an opportunity to the accused to cross-examine the said expert. In that case, it was found that there was nothing on record to show that the accused persons had admitted to the report of the handwriting expert.

45. Finally, even if we take the suicide note as correct and genuine, we do not find any act of incitement on the part of the appellants proximate to the date on which the deceased committed suicide. No act is attributed to the appellants

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> proximate to the time of suicide which was of such a nature that the deceased was left with no alternative but to commit suicide. In such circumstances, it cannot be said that any offence of abetment to commit suicide is made out against the appellants."
>
> [Emphasis supplied]

23. Thus, if, at all, the prosecution wishes to rely upon the report of a handwriting expert in order to prove and attribute the handwriting on a particular document to that of another person, it is essential to examine the handwriting expert in evidence because handwriting comparison is not a perfect science and may be the subject matter of different interpretations. Hence, testing the opinion of the handwriting expert on the rigour of cross-examination is essential before the report can be relied upon. Such reports are not admissible under Section 293 CrPC (corresponding to Section 329 of the Bharatiya Nagarik Suraksha Sanhita, 2023) and hence, have to be proved as any other report by examining the expert in evidence. Admittedly, in the present case, the handwriting expert was not examined by the prosecution.

24. The finding recorded by the trial Court and affirmed by the High Court that the appellant had not specifically denied, in his statement recorded under

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Section 313 CrPC, authorship of the disputed letters, would not by itself discharge the prosecution of the burden of proving its case. It is a settled principle of criminal jurisprudence that the prosecution must stand on its own legs and establish the guilt of the accused beyond reasonable doubt. It cannot derive strength from any perceived weakness in the defence or treat the failure of the accused to furnish a specific denial as a substitute for proof of an incriminating circumstance. The statement of the accused under Section 313 CrPC is required to be considered in its entirety, and any omission to specifically deny a particular circumstance cannot, by itself, establish the authorship of a disputed document.

25. Hence, we are of the considered opinion that the trial Court and the High Court fell into grave error in placing reliance upon the disputed letters (Exhibits P-16 to P-19) without the prosecution having satisfactorily established their authorship through legally admissible and reliable evidence. Furthermore, the highest allegation of the prosecution, insofar as the aforesaid letters are concerned, is that the appellant had addressed communications containing abusive, derogatory and

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threatening language to the deceased and that, upon receiving the same, Smt. Anju became deeply distressed, went into depression and ultimately committed suicide. However, the entirety of the evidence led by the prosecution does not inspire confidence regarding the alleged causal connection between the contents of these letters, the time of delivery and the act of the deceased committing suicide. Shri Hazari Lal (PW-1), the father of the deceased, did not specifically state in his testimony that Smt. Anju had become perturbed upon receiving the letters in question. Shri Ashok Kumar (PW-2), the brother of the deceased, tried to give a suggestion that the deceased went under depression on receiving the letters of the appellant and committed suicide; however, he did not specifically refer to any of these letters in his evidence. The complainant-Smt. Kamla Devi (PW-3), the mother of the deceased, stated in her evidence that deceased was in shock on receiving the letters but the said allegation also seems to be a sheer exaggeration. It is also significant that the deceased expired on 18th January, 2011, whereas the complaint culminating in the registration of FIR No.45 of 2011 was lodged on 2nd February, 2011,

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after a delay of approximately fifteen days. No satisfactory explanation for this delay is borne out from the record of the prosecution case. Had there been an iota of truth in the said allegation, the complainant would not have waited for 15 days before filing the report. If, at all, the family members were aware of the fact that the deceased was feeling harassed and humiliated on account of the letters received just before her death, then there could not have been any reason for the witnesses not to have stated so in the inquest proceedings and incident would definitely have been reported immediately at the earliest opportunity.

26. It is significant to note that the prosecution did not propose any charge under Section 498A IPC against the accused. If, at all, the contents of the letters were such which caused mental harassment to the deceased Anju and which were of such gravity that compelled her to end her life, then a charge under Section 498A IPC was essential to be framed against the accused.

27. In any event, even assuming, for the sake of arguments, that the letters were authored by the appellant, their contents, which have been shown to

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us during the course of hearing, must be assessed in their entirety and in their proper context. The letters undoubtedly contain abusive, derogatory and, at places, threatening expressions directed towards the deceased. At the same time, they also contain fervent appeals by the appellant for reconciliation, including requests that the deceased should withdraw the pending Court cases and resume cohabitation with him. Exhibit P-16, in particular, contains an appeal to the deceased to live with the appellant cordially and to withdraw the pending litigation, *albeit* couched in language interspersed with threats and insults. The communications thus disclose a combination of hostility, coercive threats and an explicit desire for reconciliation. The letters must be considered as a whole rather than by isolating particular expressions from their surrounding context.

28. The letters also appear to reflect the appellant's apprehension that the continuation of the court proceedings would adversely affect him and the entire family and specifically their son, Hemant.

29. The suggestion that the deceased should distance herself from lawyers, doctors and police

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personnel, insofar as it is borne out by the letters, must likewise be considered in the context of the appellant's repeated appeals to her to withdraw the pending proceedings. The contents of the letters, read as a whole, indicate an attempt on the part of the appellant, apparently aggrieved by the prolonged separation from his wife and burdened by the pending matrimonial litigation, to exert pressure upon the deceased to abandon the proceedings and resume cohabitation with him. However, even if parts of the letters are regarded as offensive, the question that remains is whether the prosecution has established, beyond reasonable doubt, that the appellant's conduct, viewed in its entirety and in the circumstances of the case, constituted abetment of suicide within the meaning of Sections 306 and 107 IPC.

30. We feel that the contents of the letters, even if admitted to be in the handwriting of the accused, were not such which could have constituted the necessary ingredients of abetment as defined under Section 107 IPC. Admittedly, the deceased had left the company of the appellant and was living at her father's house for the last more than 2 years of the

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incident. She had instituted litigation against the appellant and was pursuing the same actively. Hence, the letters by themselves cannot be construed to be the instigating material which was the immediate cause for the victim to have committed suicide. As an upshot, it is our view that the prosecution has failed to prove with any degree of certainty that the appellant instigated or abetted the deceased to end her life. The prosecution has failed to establish the charge beyond all manner of doubt.

31. Consequently, we are of the considered opinion that the judgments rendered by the trial Court and the High Court, convicting the appellant for the offence punishable under Section 306 IPC and dismissing his appeal, respectively, cannot be sustained in facts and in law. The impugned judgments are, accordingly, set aside, and the appellant stands acquitted of the charge under Section 306 IPC.

32. The appeal is allowed accordingly.

33. The appellant is on bail and need not surrender. His bail bonds are discharged.

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34. Pending application(s), if any, shall stand disposed of.

.....J.
(SANDEEP MEHTA)

.....J.
(DEVENDRA KUMAR UPADHYAYA)

NEW DELHI;
NOVEMBER 03, 2026.