



2026:UHC:1053

Judgment reserved on:22.12.2025  
Judgment delivered on:18.02.2026

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**  
**Criminal Appeal No.204 of 2011**

Sunil Dutt Pathak .....Appellant  
Vs.  
State of Uttarakhand .....Respondent

**Presence:**

Mr. Siddharth Sah, learned counsel for the Appellant.

Mr. Vijay Khanduri, learned Brief Holder for the State of Uttarakhand.

**Hon'ble Ashish Naithani, J.**

1. The present criminal appeal has been preferred under Section 374(2) of the Code of Criminal Procedure assailing the judgment and order dated 30.08.2011 passed by the learned Sessions Judge, Udhampur, in Sessions Trial No. 113 of 2006, whereby the Appellant, Sunil Dutt Pathak, has been convicted for the offence punishable under Section 306 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of seven years along with a fine of ₹10,000/, with a default stipulation.
2. The case, as unfolded in the First Information Report and during trial, is that the deceased, who was the legally wedded wife of the Appellant, committed suicide by hanging on 15.09.2004 at her matrimonial home situated within the jurisdiction of Police Station Khatima, District Udhampur.
3. It was alleged that the Appellant used to suspect the character of the deceased and, on that account, subjected her to mental harassment.



and humiliation. Such conduct on the part of the Appellant created an unbearable situation for the deceased, which ultimately drove her to commit suicide.

4. The post-mortem report indicated that the cause of death was asphyxia as a result of ante-mortem hanging. There was no allegation of homicidal violence.
5. After completion of investigation, a charge-sheet was submitted against the Appellant. The case was committed to the Court of Sessions and registered as Sessions Trial No. 113 of 2006.
6. Upon appreciation of evidence, the learned trial court acquitted the Appellant of the offences under Sections 304-B and 498-A IPC, holding that the ingredients of dowry death and cruelty in connection with dowry were not established beyond reasonable doubt. However, the learned trial court convicted the Appellant under Section 306 IPC, observing that the conduct of the Appellant in suspecting the character of his wife amounted to abetment of suicide.
7. The conviction under Section 306 IPC is thus founded not on any allegation of dowry demand or physical cruelty, but essentially on the allegation that the Appellant used to doubt the character of the deceased and allegedly subjected her to mental harassment on that basis.
8. Aggrieved by the conviction and sentence under Section 306 IPC, the Appellant has preferred the present appeal. The procedural journey of this appeal, including its admission and interim orders, is reflected in the record of Criminal Appeal No. 204 of 2011
9. Learned Counsel appearing for the Appellant has assailed the impugned judgment on the ground that the essential ingredients of abetment as defined under Section 107 IPC have not been established, and therefore, the conviction under Section 306 IPC is legally unsustainable.



10. It is submitted that for an offence under Section 306 IPC, the prosecution must prove not only the fact of suicide but also that the accused had abetted the commission of suicide by instigation, conspiracy, or intentional aiding, coupled with the requisite mens rea.
11. Learned Counsel contends that in the present case, there is no evidence of any specific overt act on the part of the Appellant immediately preceding the suicide. There is no allegation of any direct incitement, exhortation, or conduct compelling the deceased to take the extreme step.
12. It is further argued that the allegation that the Appellant used to suspect the character of the deceased, even if taken at face value, does not constitute “instigation” within the meaning of Section 107 IPC. Suspicion, strained relations, or marital discord, by themselves, do not amount to abetment unless accompanied by active incitement or intentional aiding.
13. Learned Counsel for the Appellant submits that the prosecution witnesses are primarily close relatives of the deceased, and their testimonies are interested in nature. It is argued that their statements are general and omnibus, lacking specific instances of cruelty or harassment of such intensity as would drive a person to commit suicide.
14. It is contended that the learned trial court, while acquitting the Appellant of offences under Sections 304-B and 498-A IPC, has nonetheless convicted him under Section 306 IPC without identifying any distinct act constituting abetment. According to learned Counsel, this approach is internally inconsistent and contrary to settled principles of criminal jurisprudence.
15. Learned Counsel for the Appellant further submits that there is no evidence of any suicide note blaming the Appellant, nor any material



establishing a proximate and live link between the alleged conduct of the Appellant and the act of suicide.

16. It is argued that the learned trial court has proceeded on the basis of moral suspicion rather than legal proof, and has equated matrimonial discord with criminal abetment, which is impermissible in law.
17. Lastly, learned Counsel for the Appellant submits that suspicion, however strong, cannot take the place of proof beyond reasonable doubt, and that the State has failed to establish the essential elements of abetment, entitling the Appellant to acquittal.
18. Per contra, learned Brief Holder appearing for the State supports the impugned judgment and contends that the learned trial court has rightly appreciated the evidence on record.
19. It is submitted that the consistent testimony of the prosecution witnesses demonstrates that the Appellant used to suspect the character of the deceased and subject her to humiliation and mental harassment on that account.
20. Learned Counsel for the State contends that such repeated humiliation and mental cruelty created a hostile and oppressive environment in the matrimonial home, which ultimately drove the deceased to commit suicide.
21. It is further argued that abetment need not always be in the form of direct exhortation and that instigation may be inferred from the cumulative conduct of the accused.
22. According to the counsel for State, the surrounding circumstances, read in totality, indicate that the conduct of the Appellant had a direct bearing on the mental state of the deceased, and therefore, the learned trial court was justified in recording a conviction under Section 306 IPC.



23. It is lastly submitted that this Court, while exercising appellate jurisdiction, should not lightly interfere with findings of fact recorded by the trial court unless they are perverse or wholly unsupported by evidence.

24. Heard learned counsel for the Parties and perused the records.

25. There is no dispute with regard to the fact that the deceased committed suicide by hanging on 15.09.2004. The post-mortem report clearly indicates that the cause of death was asphyxia as a result of ante-mortem hanging. The foundational fact of suicide, therefore, stands established.

26. The core question that arises for consideration is whether the Appellant can be said to have abetted the commission of suicide within the meaning of Section 306 IPC read with Section 107 IPC.

27. Section 306 IPC provides punishment for abetment of suicide. In order to bring home a charge under Section 306 IPC, the prosecution must establish: (i) that a person committed suicide, and (ii) that the accused abetted the commission of such suicide.

28. Abetment has been defined under Section 107 IPC to include instigation to commit an act, engaging in conspiracy for its commission, or intentionally aiding the doing of that act. The essence of abetment is a positive act on the part of the accused with the intention to provoke, incite, or encourage the commission of the act.

29. The jurisprudence developed by the Hon'ble Supreme Court consistently holds that mere harassment, ordinary domestic discord, or casual remarks cannot amount to instigation unless there is clear mens rea and a proximate nexus between the conduct of the accused and the act of suicide.

30. Instigation, in the legal sense, connotes active suggestion or stimulation of the mind of the victim to commit suicide. It must be



shown that the accused had the intention to drive the deceased to commit suicide or had knowledge that his conduct was likely to result in such consequence.

31. In the present case, the entire case rests on the allegation that the Appellant used to suspect the character of his wife and allegedly subjected her to mental harassment on that basis. The question is whether such conduct, even if assumed to be true, satisfies the statutory requirement of abetment.
32. A careful scrutiny of the testimonies of the prosecution witnesses reveals that the allegations against the Appellant are general and omnibus in nature. The witnesses have deposed about suspicion and strained relations but have not attributed any specific overt act of instigation, provocation, or intentional aiding immediately preceding the suicide.
33. Significantly, the learned trial court itself has acquitted the Appellant of the offences under Sections 304-B and 498-A IPC. The finding of acquittal on those charges indicates that the evidence was not considered sufficient to establish cruelty of the nature contemplated under Section 498-A IPC or dowry-related harassment under Section 304-B IPC.
34. In such circumstances, the conviction under Section 306 IPC must be supported by clear and cogent evidence demonstrating that the Appellant's conduct amounted to abetment in the strict legal sense. However, the impugned judgment does not identify any distinct act of instigation or intentional aiding beyond the allegation of suspicion regarding the character of the deceased.
35. Matrimonial discord, suspicion, and quarrels, though unfortunate, are not uncommon in marital life. Criminal liability under Section 306 IPC cannot be fastened merely because the relationship between



spouses was strained or because the accused harboured doubts about the character of the deceased.

36. Equally important is the requirement of proximity. The law requires a live and proximate link between the conduct of the accused and the act of suicide. The evidence on record does not establish any such proximate act occurring immediately prior to the suicide.
37. The learned trial court appears to have inferred abetment from the cumulative circumstances of suspicion and alleged mental harassment. However, inference cannot substitute proof. The prosecution must establish beyond reasonable doubt that the accused had the mens rea to abet and that his acts were such as to push the deceased into a position where she was left with no other alternative.
38. The absence of any suicide note implicating the Appellant, though not decisive by itself, assumes significance in the present case where the evidence is otherwise general in nature. There is no contemporaneous material showing that the deceased blamed the Appellant for her extreme step.
39. It is a settled principle of criminal law that suspicion, however strong, cannot take the place of proof. Courts must guard against the tendency to convert moral blame into criminal liability unless the statutory ingredients are strictly satisfied.
40. The learned trial court, in convicting the Appellant under Section 306 IPC, appears to have equated suspicion of character with abetment of suicide. Such an approach dilutes the stringent requirements of Section 107 IPC and expands the scope of Section 306 IPC beyond its legislative intent.
41. The essential ingredients of abetment, namely, mens rea and active or proximate conduct amounting to instigation or intentional aiding, are conspicuously absent.



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42. Consequently, the conviction of the Appellant under Section 306 IPC cannot be sustained in law.

## ORDER

In view of the discussion and findings recorded hereinabove, this Court is of the considered opinion that the State has failed to establish the essential ingredients of abetment as contemplated under Section 107 IPC so as to sustain the conviction of the Appellant under Section 306 IPC.

While the factum of suicide stands proved, the evidence on record does not demonstrate any act of instigation, intentional aiding, or proximate conduct on the part of the Appellant which could legally amount to abetment of suicide. The conviction recorded by the learned trial court is thus not supported by legally admissible and cogent evidence satisfying the standard of proof beyond reasonable doubt.

The impugned judgment and order dated 30.08.2011 passed by the learned Sessions Judge, Udhampur Singh Nagar, in Sessions Trial No. 113 of 2006, convicting the Appellant under Section 306 IPC and sentencing him to rigorous imprisonment for seven years with fine, is hereby set aside.

The criminal appeal is accordingly allowed.

The Appellant is acquitted of the charge under Section 306 IPC.

Let a copy of this judgment be transmitted to the trial court concerned for information and compliance.

**(Ashish Naithani J.)**

Dated:18.02.2026

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