

Jayedeepsinh Pravinsinh Chavda & Ors.

v.

State of Gujarat

(Criminal Appeal No. 5175 of 2024)

10 December 2024

[Vikram Nath* and Prasanna B. Varale, JJ.]

Issue for Consideration

Matter pertains to correctness of the order passed by the High Court refusing to discharge the appellants-accused from offences punishable u/s.306, 498A and 114 of IPC.

Headnotes[†]

Code of Criminal Procedure, 1973 – s.227 – Discharge of accused – Propriety – FIR by the girl's father against the appellants-husband and in-laws for offences u/ss.306, 498A, 114 IPC alleging that the girl committed suicide after 12 years of marriage due to the physical and mental harassment meted out by the husband which included the husband selling her ornaments, given to her as streedhan and harassed her, whenever she demanded them back – Application seeking discharge u/s.227 by the appellant on the ground that since the incident took place twelve months ago, the offence u/ss.306, 498A, 114 IPC not made out against them – Discharge application dismissed holding it did not seem just and proper to discharge or acquit any accused person without recording evidence on all the facts alleged – Revision Petition also dismissed holding that the appellants failed to bring any material on record to prove that a *prima facie* case is not made out to frame charges against them – Correctness:

Held: From a perusal of the statement by the informant and other witnesses, FIR, findings of the Investigating Officer in the chargesheet as well as the statements of the deceased's cousins recorded during investigation *prima facie* indicate that the deceased was subjected to physical as well as mental cruelty by her husband and in-laws – Also the specific instance related to the alleged selling of the gold ornaments and subsequent cruelty upon the demand

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for return made by deceased – Preliminary analysis points towards the probable commission of the offence of cruelty as provided u/s. 498-A IPC – Thus, the appellants cannot be discharged for offence u/s. 498-A IPC – As regards, offence u/s. 306 IPC, no proximate link between the alleged facts, instances of harassment and her subsequent death by hanging – Alleged incident of selling of gold ornaments and subsequent physical and mental harassment, as alleged, occurred almost a year before the FIR was registered at the instance of the father of the deceased – Even if true, do not reflect any intention to instigate, incite or provoke the deceased to commit suicide – Even the statements of the deceased's cousins only mention instances which occurred a year prior to the death of the deceased – Mere harassment and such issues between the wife and her husband along with the in-laws do not appear to create a scenario where she was left with no option other than to end her life – Thus, *prima facie*, it appears that the appellants did not have the requisite *mens rea* and neither did they commit any positive or direct act or omission to instigate or aid in the commission of suicide by the deceased – Ingredients for the offence u/s. 306 IPC not made out, thus, cannot be charged u/s. 306 IPC – Appellants discharged from the charges u/s. 306 IPC, however the charge u/s. 498A IPC upheld – Penal Code, 1860. [Paras 14, 15, 26-28]

Penal Code, 1860 – s.306 – Abetment of suicide – Necessary ingredients – Explanation:

Held: For a conviction u/s. 306 IPC, there must be clear evidence of direct or indirect acts of incitement to commit suicide – Cause of suicide, especially in the context of abetment, involves complex attributes of human behavior and reactions, requiring the Court to rely on cogent and convincing proof of the accused's role in instigating the act – Mere allegations of harassment are not enough unless the accused's actions were so compelling that the victim perceived no alternative but to take their own life – Such actions must also be proximate to the time of the suicide – Court examines whether the accused's conduct, including provoking, urging, or tarnishing the victim's self-esteem, created an unbearable situation – If the accused's actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation – Each case demands a careful evaluation of facts, considering the accused's intent and its impact on the victim. [Para 24]

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U. Suvetha v. State [2009] 7 SCR 902 : (2009) 6 SCC 757; *State of A.P. v. M. Madhusudhan Rao* [2008] 14 SCR 1170 : (2008) 15 SCC 582; *S.S. Chheena v. Vijay Kumar Mahajan* [2010] 9 SCR 1111 : (2010) 12 SCC 190; *Ramesh Kumar v. State of Chhattisgarh* [2001] Supp. 4 SCR 247 : (2001) 9 SCC 618; *M. Mohan v. State* [2011] 3 SCR 437 : (2011) 3 SCC 626; *Amalendu Pal alias Jhantu v. State of West Bengal* [2009] 15 SCR 836 : (2010) 1 SCC 707; *Kamalakar v. State of Karnataka* [2023] 14 SCR 787 : (2007) SCC OnLine Kar 824; *Ude Singh v. State of Haryana* [2019] 9 SCR 703 : (2019) 17 SCC 301 – referred to.

List of Acts

Code of Criminal Procedure, 1973; Penal Code, 1860.

List of Keywords

Discharge of accused; Suicide after 12 years of marriage; Physical and mental harassment; Streedhan; Application seeking discharge u/s.227 CrPC; Offence of cruelty as provided u/s.498-A IPC; Offence u/s.306 IPC; Proximate link between the instances of harassment and subsequent death by hanging; Selling of gold ornaments; Mere harassment; Requisite *mens rea*; Positive or direct act or omission to instigate or aid in the commission of suicide; Abetment of suicide; Clear evidence of direct or indirect acts of incitement to commit suicide.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 5175 of 2024

From the Judgment and Order dated 09.05.2024 of the High Court of Gujarat at Ahmedabad in CRLRA No. 536 of 2024

Appearances for Parties

Tejas Barot, Sr. Adv., Shamik Shirishbhai Sanjanwala, Ms. Rhea Chokshi, Aditya Tripathi, Advs. for the Appellants.

Ms. Swati Ghildiyal, Ms. Devyani Bhatt, Ms. Neha Singh, Advs. for the Respondent.

Digital Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****Vikram Nath, J.**

1. Leave granted.
2. The present criminal appeal arises from an order of the Gujarat High Court, dated 09.05.2024, whereby the Court rejected the Criminal Revision Application No. 536 of 2024 filed by the appellants herein and refused to discharge the appellants – accused from offences punishable under sections 306, 498A and 114 of the Indian Penal Code, 1860.¹
3. FIR No. 11206038210259 of 2021 dated 18.04.2021 was registered at the instance of the deceased's father against the appellants herein for offences under sections 306, 498A, 114 of the IPC. It was alleged that the appellant no.1 was married to the deceased – wife in the year 2009. The deceased – wife was residing in the matrimonial house with her in-laws, that is, appellant nos. 2 and 3. For the first five years of the marriage, no child was born to the couple. The deceased – wife was subjected to physical and mental harassment owing to this and thus returned to her parental home. When she returned to her matrimonial home on being convinced by her parents, a son was born to the deceased in the next few years. Around twelve months before the alleged incident, the deceased had informed her father – the informant that the appellant – accused had sold her ornaments, given to her as *streedhan* during her marriage, and whenever she demanded return of the same, she was physically and mentally harassed. On 18.04.2021, the informant received information that the deceased had committed suicide by hanging herself. It is alleged that it was due to the physical and mental harassment meted out by the appellant – accused that the deceased was compelled to commit suicide.
4. Appellants had earlier sought quashing of the FIR, which petition was dismissed by the High Court and even the Special Leave Petition before this Court against the dismissal order of the High Court was dismissed as withdrawn. The appellants thereafter preferred

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an application seeking discharge under Section 227 of the Code of Criminal Procedure, 1973² on the ground that, *prima facie*, the ingredients for the offence of abetment as provided under Section 107 of IPC are not made out against them. As per the complaint the incident had taken place twelve months ago. In the circumstances *prima facie* instigation is not proved, therefore the offence as per sections 306, 498A, 114 of the IPC are not made out against them. The Sessions Court, vide order dated 28.02.2024, dismissed the discharge application observing that in the circumstances of the case, it did not seem just and proper to discharge or acquit any accused person without recording evidence on all the facts alleged.

5. Appellants challenged the above order before the High Court in a Criminal Revision Petition, wherein the High Court in the impugned order has dismissed the same and held that the appellants failed to bring any material on record to prove that a *prima facie* case is not made out to frame charges against them. The Court, while dismissing the revision petition, observed that at the stage of charge framing, the Court's role is preliminary and limited to determining whether a *prima facie* case exists. The test applied is whether the materials presented by the prosecution, taken at its face value, disclose ingredients of the alleged offence. The Court is not required to evaluate the probative value of the evidence or assess its sufficiency for conviction. Instead, it only has to consider whether there is a strong suspicion that the accused might have committed the offence. This suspicion must be based on credible material and not on arbitrary conclusions. In the present case, witness statements revealed that the deceased had faced consistent physical and mental harassment by the accused. The harassment included selling the deceased's gold ornaments, which was her *streedhan*, and torturing her when she demanded their return. Witnesses also indicated that the harassment intensified before her suicide, particularly during a recent family event, and directly contributed to her decision to end her life. These statements provided sufficient material to establish strong suspicion against the accused. The Court further noted that the appellants failed to present any material demonstrating that the allegations were patently absurd or inherently improbable. As such, the High Court upheld the decision of the Sessions Court to frame charges under Sections 306

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and 498A of the IPC. The revision petition was dismissed, with the High Court finding it devoid of merit and an attempt to delay the trial.

6. Aggrieved by this judgment, the appellants are before us on several grounds, *inter alia*, that the allegations against them are completely baseless and they have been roped in on concocted facts and there is nothing on record to show how the appellants were even remotely involved in abetting the suicide of the deceased. Further, the appellants also claimed that allegations made against them in the FIR as well as statements brought on the record are vague and general, and do not constitute an offence either under section 306 or section 498A, IPC. And thus, there is no *prima facie* case against them to condemn them to face trial as the key ingredient of *mens rea* required to make out a case under section 306, IPC is absolutely lacking. That apart, from the alleged selling of the ornaments there was no bone of contention between the deceased and the appellants. Having been together with appellant no. 1 for a duration of almost twelve years there has been no other complaint filed against any of the appellants under section 498A, IPC nor is the claim made by the informant that there was a constant demand for dowry or that the appellant kept the deceased badly or treated her badly. The only instance, as alleged in the FIR, of harassment was allegedly met out to the deceased when she inquired about getting back the jewellery that was allegedly sold off by appellant no.1 and his family members which, admittedly, as per the order of the Trial Court, occurred a year prior to death of the deceased.
7. We have heard the learned counsels for parties and have perused the material on record. We find that the following issues arise for our consideration:
 1. Whether a *prima facie* case under Section 498A, IPC is made out against the appellant – accused?
 2. Whether a *prima facie* case under Section 306, IPC is made out against the appellant – accused?
 3. Whether the appellant – accused can be discharged for the offences under sections 306 and 498A, IPC?
8. Section 498A, IPC provides for punishment to the husband or to relatives of the husband of a woman subjecting the woman to cruelty. ‘Cruelty’ under this provision has been explained to mean –

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- a. any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
 - b. harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.
9. This Court in the case of [U. Suvetha v. State](#),³ laid down the following ingredients to constitute the offence under section 498-A, IPC:
- i. The woman must be married;
 - ii. She must be subjected to cruelty or harassment; and
 - iii. Such cruelty or harassment must have been done either by husband of the woman or by the relative of her husband.
10. This Court has also held in the judgment in the case of [State of A.P. v. M. Madhusudhan Rao](#),⁴ that not every kind of harassment would amount to ‘cruelty’ within the meaning of the provision, to constitute the offence punishable therein. Every case has to be analysed on its individual facts to assess whether the act of the accused persons constitutes cruelty. Further, cruelty can either be mental or physical, and it is to be seen on the facts of each case.
11. From the above understanding of the provision, it is evident that, ‘cruelty’ simpliciter is not enough to constitute the offence, rather it must be done either with the intention to cause grave injury or to drive her to commit suicide or with intention to coercing her or her relatives to meet unlawful demands.
12. In the present case, the deceased has committed suicide after twelve years of marriage. In these twelve years, the informant and other witnesses on record have stated that the deceased had informed them on multiple occasions that she was subjected to physical and mental harassment by the appellants herein. It has also been stated

3 [\[2009\] 7 SCR 902](#) : (2009) 6 SCC 757

4 [\[2008\] 14 SCR 1170](#) : (2008) 15 SCC 582

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that once before she had returned to her parental home owing to the alleged cruelty and was later sent back to her matrimonial house. Deceased's father, who is the informant, has also stated that around twelve months prior to her death, the appellants had sold the deceased's *streedhan* and had tortured her when she demanded them back. The same has also been stated by her relatives who have been examined by the Investigating Officer during investigation.

13. The appellants' argument that the deceased had not made a single complaint for cruelty or harassment against the appellants in the twelve years of marriage cannot be sustained. Merely because she did not file any complaint for twelve years does not guarantee that there was no instance of cruelty or harassment.
14. Further, the argument that ingredients of section 498A, IPC are not made as the allegations made therein are general and vague, also does not strengthen the case of the appellants as the allegations, with specific, instances stated by the informant and other witnesses *prima facie* constitute a case for offence under section 498-A, IPC. From a perusal of the FIR, findings of the Investigating Officer in the chargesheet as well as the statements of the deceased's cousins recorded during investigation *prima facie* indicate that the deceased was subjected to physical as well as mental cruelty by her husband and the in-laws. There is also the specific instance related to the alleged selling of the gold ornaments and subsequent cruelty upon the demand for return made by the deceased. A preliminary analysis, as required during the stage of charge-framing, points towards the probable commission of the offence of cruelty as provided under section 498-A, IPC.
15. Hence, the appellants cannot be discharged for offence under section 498-A, IPC and should be charged with and tried for the same.
16. 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."

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“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.”

17. 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.
18. 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

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of a deliberate and conspicuous intent to provoke or contribute to the act of suicide. The same position was laid down by this Court in [S.S. Chheena v. Vijay Kumar Mahajan](#),⁵ 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 306IPC 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.”

19. 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](#),⁶ 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.”

5 [\[2010\] 9 SCR 1111](#) : (2010) 12 SCC 190

6 [\[2001\] Supp. 4 SCR 247](#) : (2001) 9 SCC 618

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20. 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.
21. 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.
22. 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.
23. 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. The same position has been laid down by this court in several judgments, such as:

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- i. [M. Mohan v. State](#),⁷
- ii. [Amalendu Pal alias Jhantu v. State of West Bengal](#),⁸
- iii. [Kamalakar v. State of Karnataka](#).⁹

24. Therefore, for a conviction under Section 306 IPC, there must be clear evidence of direct or indirect acts of incitement to commit suicide. The cause of suicide, especially in the context of abetment, involves complex attributes of human behavior and reactions, requiring the Court to rely on cogent and convincing proof of the accused's role in instigating the act. Mere allegations of harassment are not enough unless the accused's actions were so compelling that the victim perceived no alternative but to take their own life. Such actions must also be proximate to the time of the suicide. The Court examines whether the accused's conduct, including provoking, urging, or tarnishing the victim's self-esteem, created an unbearable situation. If the accused's actions were intended only to harass or express anger, they might not meet the threshold for abetment or investigation. Each case demands a careful evaluation of facts, considering the accused's intent and its impact on the victim.
25. This Court in [Ude Singh v. State of Haryana](#),¹⁰ held that to convict an accused under Section 306 IPC, the intent or mental state to commit the specific crime must be evident when assessing culpability. It was observed as under:

"16. 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

7 [\[2011\] 3 SCR 437](#) : (2011) 3 SCC 626

8 [\[2009\] 15 SCR 836](#) : (2010) 1 SCC 707

9 [\[2023\] 14 SCR 787](#) : (2007) SCC OnLine Kar 824

10 [\[2019\] 9 SCR 703](#) : (2019) 17 SCC 301

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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.

16.1. 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 aboveresferred, 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 306IPC. 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 show 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

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factors having bearing on the actions and psyche of the accused and the deceased.”

26. On a careful and close consideration of the facts and the material on record in the present case and in light of the law laid down by this Court regarding Section 306, IPC, there appears no proximate link between the alleged facts, instances of harassment and her subsequent death by hanging. The alleged incident of selling of gold ornaments and subsequent physical and mental harassment, as alleged, occurred almost a year before the FIR was registered at the instance of the father of the deceased. Even the statements of the deceased's cousins only mention instances which occurred a year prior to the death of the deceased. Further, selling of gold ornaments and the same was followed by discord and harassment upon their demand, even if true, do not reflect any intention to instigate, incite or provoke the deceased to commit suicide. Mere harassment and such issues between the wife and her husband along with the in-laws do not appear to create a scenario where she was left with no option other than to end her life. There is, therefore, absence of *mens rea* to instigate suicide of the deceased persons. Therefore, *prima facie*, it appears that the appellants did not have the requisite *mens rea* and neither did they commit any positive or direct act or omission to instigate or aid in the commission of suicide by the deceased.
27. Hence, the ingredients for the offence under Section 306, IPC are not made out even on a preliminary analysis of the material on record. Therefore, they cannot be charged under Section 306, IPC and thus deserve to be discharged of the same.
28. Consequently, the appeal filed by the appellants is partly allowed, they are discharged from the charges under Section 306 of the IPC, however the charge under Section 498A of the IPC is upheld and the trial under this provision shall proceed against them.
29. Pending application(s) if any, shall stand disposed of.

Result of the case: Appeal partly allowed.