

# Mahendra Awase vs The State Of Madhya Pradesh on 17 January, 2025

**Author: Abhay S. Oka**

**Bench: Abhay S. Oka**

2025 INSC 76

REPORTABLE

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 221 OF 2025  
(@ SPECIAL LEAVE PETITION (CRL.) NO. 11868 OF 2023)

MAHENDRA AWASE

APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH

RESPONDENT(S)

JUDGMENT

K.V. Viswanathan, J.

1. Leave granted.

2. The present appeal calls in question the judgment and order dated 25.07.2023 in Criminal Revision No. 1142 of 2023 of the High Court of Madhya Pradesh at Indore. By the said judgment, the High Court declined the prayer of the appellant to discharge him from the offences punishable under Section 306 of the Indian Penal Code ('IPC' for short) and maintained the charges as framed by the Trial Court on 28.02.2023.

Brief Facts:

3. On 31.12.2022 a First Information Report was registered at PS Maingaon on the information of Dharmendra. The informant stated that his brother Bhagwan Singh was residing near his house along with his son Ranjeet Chauhan; that on 11.10.2022 Ranjeet had left home around 10 AM on his Motorcycle to go to the farm; that when he did not return home till around 2 PM, he called him, but he got no response; that his nephews - Shivam Chauhan and Kuldeep Chauhan started searching for Ranjeet and while searching they went towards Rangaon. There they found a Motorcycle parked on the side of the road and when they searched nearby, around 6 PM in the evening, they found Ranjeet hanging on a rope noose from a tree on the bank of Borgaon drain about 100 mtrs. away from the Motorcycle. The informant further stated that he informed Bhagwan Singh - father of Ranjeet Singh.

4. That during inquest under Section 174 Cr.P.C, a written suicide- note and a mobile were found. The suicide-note mentioned about the deceased being harassed by the appellant - Mahendra Awase. Statements of witnesses were recorded. A chargesheet came to be filed on 21.01.2023. The chargesheet mentioned that the appellant had committed offences punishable under Section 306 of the IPC.

5. The suicide note reads as under:-

“I Ranjeet Singh s/o Bhagwan Singh Chauhan "illegible" taking my life on my own because life will help me in taking my problems for which I have to take this step.

I did loan for one Ritesh Malakar in which as witness my cheques were attached for reason of which Awase, person who give and take loan is harassing much for this reason I have to take this step.

Sd/-

Ranjeet Singh 10.10.2022” [Emphasis supplied] Apart from the suicide note, it further transpires that statements of witnesses were recorded to the effect that the deceased was staying disturbed for the past few months and when asked he had mentioned to them that Mahendra Awase, the appellant was harassing him with respect to repayment of a loan which one Ritesh Malakar had taken from Shree Saakh Cooperative Society Limited, Khargone.

6. It further transpires that the forensic laboratory had confirmed certain audio recordings of the conversation between the deceased and the appellant. Transcripts of the conversation were also produced.

7. The transcripts are extracted hereinbelow, as is available from the Panchnama:-

“Speaker 1: Deceased Shumbam @ Ranjit son of Bhagwan Singh Chauhan, caste Rajput, aged 26 years, resident of Temla.

Speaker 2: Mahender Awasey, resident of Janki Nagar, Khargone.

The data of mobile obtained from the Cyber Forensic Unit, Khargone is perused and protected in aforesaid Pen Drive (DGNET 24 GB, F22) in a Lab Case 80-22>2022-12-05. 16-22-36>Lab Case 80-22 Exbt. A> files>recorded Audio in the file being AUD-20221010- WA0007 which is prepared on 10.10.2022 at 07:26 AM being of 151 KB before the aforementioned Panchas and transcribed thereof as under:

Speaker- 1 Sir in the evening, in the evening, let me go at least.

Speaker- 2 Let's go. (\*\*\*\*\*) abusive language. Now let me know whether we are to go in the evening? Yes, we are to go in the evening. Bhaiya since when you are to go. When I made a phone call only then you realized that we are to go in the evening.

Speaker- 1 No, he has met me two times while on the way. Now, I may go to his home and only there I may convince him. What else can I do I also told him that I have nothing more. Dear I have only 30-35 thousand rupees. You may give him and get freed.

Speaker- 2 What are you narrating me. From where you may give money, (\*\*\*\*\*) abusive language. Speaker- 1 Yes, Sir.

Speaker- 2 Tell him I have no concern with it. Speaker- 1 You have got it and now you may return. That is all.

Speaker- 2 Listen, if you are not giving today then you may deposit Rs. 11,800/- with penalty in the office at 11:00 AM. If you cannot, I am not in your favour. If you don't want to talk then I will tell my authority.

Speaker- 1 No, No. Sir it is our duty. Speaker- 2 You will pay money tomorrow because you had committed it. Speaker- 1 Yes, Sir.

Speaker- 2 Otherwise, I will come to the Pump.

You can run up to when you can.

[Emphasis supplied] Specimen Transcript Speaker-2-Name of suspect/accused Mahender son of Ghanshyam Awasey, aged 27 years, resident of Janki Nagar, Khargone.

Speaker-2 Let's go. (\*\*\*\*) abusive language.

Now let me know whether we are to go in the evening? Yes, we are to go in the evening. Bhaiya since when you are to go. When I made a phone call only then you realized that we are to go in the evening.

Speaker-2 What are you narrating me? From where you may give money, (\*\*\*) abusive language.

Speaker-2 Tell him I have no concern with it. Speaker-2 Listen, if you are not giving today then you may deposit Rs. 11,800/- with penalty in the office at 11:00 A.M. If you cannot, I am not in your favour. If you don't want to talk then I will tell my authority.

Speaker-2 You will pay money tomorrow because you had committed it. Speaker-2 Otherwise, I will come to the Pump.

You can run up to when you can. Speaker-2 Thereafter, I will come home. The neighbours will hear the story. I will put banners at your house. That's it.

Speaker-2 You have signed the file indicating that this person has obtained the loan and now is not traceable. You may come and meet me and see that some people have written. If I may get it written which will not be right. The modesty of your parents will also hurt.

Speaker-2 Then, you may make payment of money. (\*\*\*\*) abusive language. You may return my money. That's all. You go and arrange.

[Emphasis supplied]

8. The appellant prayed for discharge from the proceedings. However, based on the material available, on 28.02.2023, the First Additional Sessions Judge, Khargone framed the following charges.

“On 11.10.2022 between about 10:00 hrs to 18:00 hrs and before that, you mentally tortured the deceased Ranjit Chauhan at Rangaon Road, on the banks of Borgaon drain, Temla, under District Khargone, Police Station Maingaon, and forced him to commit suicide due to which he committed suicide by hanging himself. Your said act is punishable under Section 306 of the Indian Penal Code.”

9. Aggrieved by the order framing charge, the appellant approached the High Court by filing a revision but the same has been dismissed by the impugned order. Aggrieved, the appellant is before us.

10. We have heard Shri Pardeep Kumar Yadav, learned counsel for the appellant and Shri Abhimanyu Singh, learned counsel for the respondent and perused the records of the case.

11. Section 306 of the IPC reads as under:-

“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.”

12. Section 107 of the IPC reads as under:-

“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." As is clear from the plain language of the Sections to attract the ingredient of Section 306, the accused should have abetted the commission of a suicide. A person abets the doing of a thing who Firstly - 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.

13. In *Swamy Prahaladdas vs. State of M.P. and Another*, [1995 Supp (3) SCC 438], the appellant remarked to the deceased that 'go and die' and the deceased thereafter, committed suicide. This Court held that:-

"3. ...Those words are casual nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite 'mens rea' on the assumption that these words would be carried out in all events. ..."

14. In *Madan Mohan Singh vs. State of Gujarat and Another*, (2010) 8 SCC 628, this Court held that in order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306.

15. In *Amalendu Pal alias Jhantu vs. State of West Bengal*, (2010) 1 SCC 707, this Court held as under:-

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

[Emphasis supplied]

16. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to

have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

17. M. Mohan vs. State, (2011) 3 SCC 626 followed Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618, wherein it was held as under:-

41. This Court in SCC para 20 of Ramesh Kumar has examined different shades of the meaning of "instigation". Para 20 reads as under: (SCC p. 629) "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."

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant- accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn." Thereafter, this Court in Mohan (supra) held:-

45. The intention of the legislature and the ratio of the cases decided by this Court are 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 this act must have been intended to push the deceased into such a position that he/she committed suicide." [Emphasis supplied]

18. As has been held hereinabove, to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.

19. Applying the above principle to the facts of the present case, we are convinced that there are no grounds to frame charges under Section 306 IPC against the appellant. This is so even if we take the prosecution's case on a demurrer and at its highest. A reading of the suicide note reveals that the appellant was asking the

deceased to repay the loan guaranteed by the deceased and advanced to Ritesh Malakar. It could not be said that the appellant by performing his duty of realising outstanding loans at the behest of his employer can be said to have instigated the deceased to commit suicide. Equally so, with the transcripts, including the portions emphasised hereinabove. Even taken literally, it could not be said that the appellant intended to instigate the commission of suicide. It could certainly not be said that the appellant by his acts created circumstances which left the deceased with no other option except to commit suicide. Viewed from the armchair of the appellant, the exchanges with the deceased, albeit heated, are not with intent to leave the deceased with no other option but to commit suicide. This is the conclusion we draw taking a realistic approach, keeping the context and the situation in mind.

Strangely, the FIR has also been lodged after a delay of two months and twenty days.

20. This Court has, over the last several decades, repeatedly reiterated the higher threshold, mandated by law for Section 306 IPC [Now Section 108 read with Section 45 of the Bharatiya Nyaya Sanhita, 2023] to be attracted. They however seem to have followed more in the breach. Section 306 IPC appears to be casually and too readily resorted to by the police. While the persons involved in genuine cases where the threshold is met should not be spared, the provision should not be deployed against individuals, only to assuage the immediate feelings of the distraught family of the deceased. The conduct of the proposed accused and the deceased, their interactions and conversations preceding the unfortunate death of the deceased should be approached from a practical point of view and not divorced from day-to-day realities of life. Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law laid down by this Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section

306.

21. For the above reasons, we hold that the case against the appellant is groundless for framing of a charge under Section 306. Hence, we discharge the appellant from proceedings in Sessions Case No. 19 of 2023 pending on the file of First Additional Sessions Judge, Khargone District, Mandleshwar and quash and set aside the said proceedings. The appeal is allowed and the impugned order dated 25.07.2023 passed by the High Court in Criminal Revision No. 1142 of 2023 is set aside.

.....J. [ABHAY S. OKA] .....J. [K. V. VISWANATHAN] New Delhi;

17th January, 2025.