

[s 306.5] Vicious habits like drinking and gambling and beating wife.—

The wife of the accused poured kerosene oil on herself and set herself ablaze. In her dying declaration she said that her husband used to take liquor after borrowing money from villagers and beat her after taking liquor. The Court said that this in itself did not amount to abetment.⁵⁹¹ The statement in the dying declaration was that the husband used to get drunk, beat her and consistently abuse her. He also told her that he did not bother if she lived or died and asked her to die. The Court held that this did not mean that the accused intended to lead her to commit suicide. The offence of abetment was not made out.⁵⁹²

[s 306.6] Extra-marital relationship.—

Extra-marital relationship as such is not defined in the [IPC, 1860](#). The mere fact that the husband has developed some intimacy with another, during the subsistence of marriage and failed to discharge his marital obligations, as such would not amount to "cruelty", but it must be of such a nature as is likely to drive the spouse to commit suicide to fall within the explanation to [section 498A, IPC, 1860](#). Court, on facts, found that the alleged extra-marital relationship was not of such a nature as to drive the wife to commit suicide.⁵⁹³

It has been held that the creation of circumstances for the victim to commit suicide amounts to abetment. In this case, the deceased husband felt humiliated at the activities of indulgence of his wife with the accused. The accused openly spoke of his relationship with the wife of the deceased. The outrageous acts of the accused drove the deceased to suicide. The accused was held to be guilty of abetting suicide.⁵⁹⁴

[s 306.7] Failure to appear at arranged marriage, no abetment.—

The accused settled marriage ceremony date with the girl with whom he was in love affair but did not turn up. The girl committed suicide. It was not proved that the accused intended to lead her to suicide by not marrying or knew that suicide was a likely consequence. It being an independent act of the victim girl, the accused was acquitted.⁵⁹⁵

[s 306.8] Pressure for repayment of loan.—

Where the accused had lent a certain amount to a lady and he was persistently demanding repayment from her, which was no offence, the accused did not know that she had purchased poisonous tablets and might commit suicide, he was held not liable for abetment of suicide.⁵⁹⁶

[s 306.9] Pressure for accounting proceeds—importance of suicide note.—

The deceased was the owner of a finance firm. The accused joined as a partner of the group of persons who owned land. The deceased sold the plots and handed over proceeds to the accused who neither handed over the money to the group nor effected

transfer in favour of purchasers. The latter pressurised the deceased as a result of which he committed suicide.

This fact figured in the suicide note. The Court attached importance to this fact and held the accused guilty of causing abetment.^{597.}

[s 306.10] Pressure for parting with *streedhan*.—

The accused was forcing his wife to transfer the land to his name which she had received as a part of her *streedhan* from her father. He concealed her letters. These facts drove her to suicide. He was convicted under section 498A for the offence of cruelty. On the same evidence he was convicted under [section 306](#) read with [section 221, Cr PC, 1973](#).^{598.}

[s 306.11] Demand for recruitment money.—

A demand for a sum of money for recruitment in a job does not amount to instigating suicide.^{599.}

[s 306.12] Advice.—

Instigation necessarily indicates some active suggestion or support or stimulation to the commission of the act itself, and advice can become an instigation only if it is found that it was an advice which was meant actively to suggest or stimulate the commission of an offence.^{600.} Following this, it was held that where two persons were in love with a married woman and quarrelled over her and one of them (the accused) along with the lady taunted the other to commit suicide. The frustration thus caused led him to suicide. It was held that no fault could be found with cognizance of the offence under section 306.^{601.}

[s 306.13] Abetment by defamation.—

The publication of a defamatory article against the victim was held to be not sufficient abetment for leading the victim to suicide.^{602.}

[s 306.14] Abetment by rape.—

The Supreme Court examined the possibility of such an abetment, but there was no punishment because the incident of rape itself could not be proved. The suicide was committed by the woman more than five and a half months after the incident. Her statements could not be regarded as dying declaration because there were no circumstances at the time which were related with her death. There was delay in lodging FIR and also in conducting medical examination. There was no evidence to connect the accused with the crime. The cause for commission of suicide was not legally proved.^{603.} Where the suicide was allegedly committed because of rape, if the rape is not proved, conviction of accused for abetment to suicide is not proper.^{604.}

[s 306.15] Instigation from Superior officers.—

In *Madan Mohan Singh v State of Gujarat*,⁶⁰⁵ the deceased was a driver in the Microwave Project Department. He had undergone a bypass surgery for his heart, just before the occurrence of such incident and his doctor had advised him against performing any stressful duties. The accused was a superior officer to the deceased. When the deceased failed to comply with the orders of the accused, the accused became very angry and threatened to suspend the deceased, rebuking him very harshly for not listening to him. The accused also asked the deceased how he still found the will to live, despite being insulted so the driver committed suicide. For the purpose of bringing home any charge, *vis-à-vis* [section 306/107 IPC, 1860](#) against the accused, Supreme Court stated that there must be allegations to the effect that the accused had either instigated the deceased in some way, to commit suicide or had engaged with some other persons in a conspiracy to do so, or that the accused had in some way aided any act or illegal omission to cause the said suicide. If the making of observations by a superior officer, regarding the work of his subordinate, is termed as abetment to suicide, it would become almost impossible, for superior officers to discharge their duties as senior employees. In *Vaijnath Kondiba Khandke v State of Maharashtra*,⁶⁰⁶ action was taken against the deceased and his salary was stopped for a month. The Supreme Court held that merely on that count it cannot be said that there was guilty mind or criminal intent to drive a person to commit suicide. That action simpliciter cannot be considered to be pointer against such superior officer for attracting [section 306 IPC, 1860](#), unless the situation is created deliberately so as to drive a person to commit suicide.

[s 306.16] Instigation by principal/Teachers.—

Student committed suicide, because the Principal scolded, hit and asked him to apologise before students in the assembly, when *gutka* pouches were recovered from his bag. Even if these allegations are taken as unrebutted facts even then there is no evidence to show that the petitioner had instigated or intentionally aided the commission of suicide.⁶⁰⁷ Accused, supervisor of school gave beatings to deceased student for sitting on his scooter. The deceased on account of the above incident had committed suicide. Even if it is true that accused had beaten the deceased, it could not be said that it was an act of attempt to commit suicide or instigating the commission of suicide by deceased.⁶⁰⁸

[s 306.17] Failure to provide plot after taking money.—

The allegation against the accused was that he had taken money from the deceased for providing him a plot of land but refused to do so and that led to the commission of suicide. There was no evidence to the effect that the accused goaded or urged, or provoked or incited or even encouraged the commission of suicide. The Court said that the mere failure to fulfil the promise concerning a plot of land was not sufficient for satisfying the ingredients of section 306.⁶⁰⁹

[s 306.18] 304B and 306 [IPC, 1860](#).—Difference.—

It has been held that cruelty or harassment sans demand of dowry which drives the wife to commit suicide attracts the offence of abetment of suicide under [section 306](#)

[s 306.19] Sentence under sections 306 and 498A.—

The Calcutta High Court observed that composite sentence for conviction under both the sections should not be passed.^{611.}

[s 306.20] Proof.—

Instigation has to be gathered from the circumstances of the case. All cases may not be of direct evidence in regard to instigation having a direct nexus to the suicide. There could be cases where the circumstances created by the accused are such that a person feels totally frustrated and finds it difficult to continue existence.^{612.} In *Chitresh Kumar Chopra v State (Govt of NCT of Delhi)*,^{613.} the Supreme Court **reiterated** the legal position laid down in its earlier three Judges Bench judgment in the case of *Ramesh Kumar v State of Chhattisgarh*,^{614.} and held that where the accused by his acts or continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an instigation may be inferred. In order to prove that the accused abetted commission of suicide by a person, it has to be established that:—

- (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted; or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and
- (ii) that the accused had the intention to provoke urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of *mens rea* is the necessary concomitant of instigation.^{615.}

[s 306.21] Burden of Proof.—

The effect of these new provisions on the matter of burden of proof is amply demonstrated by the decision of the Supreme Court in *Gurbachan Singh v Satpal Singh*.^{616.} The bride died in her in-laws' home within seven months of her marriage. Evidence ruled out accidental death thus confirming the prosecution version of suicide. As to the question of instigation, Ray J, proceeded as follows:^{617.}

The prosecution witnesses clearly testified to the greedy and lustful nature of the husband and others in that they persistently taunted the deceased and tortured her for not having brought sufficient dowry from her father. It is also in evidence that they taunted her for carrying an illegitimate child. All this ... caused depression in her mind and drove her to take the extreme step of putting an end to her life by sprinkling kerosene oil on person and setting it afire. Circumstantial evidence (unaccounted delay in providing treatment and informing her parents living not far away) and the evidence of prosecution witnesses clearly proves beyond reasonable doubt that the accused persons instigated and abetted Ravinder Kaur. The findings arrived at by the High Court without considering the circumstantial evidence as well as the evidence of prosecution witnesses cannot be sustained. As such the findings of the High Court are liable to be reversed and set aside.

The Supreme Court has reiterated in *Wazir Chand v State of Haryana*⁶¹⁸, that before section 306 can be acted upon, there must be clear proof of the fact that the death in question was a suicidal death. In this case the evidence adduced was not able to justify a finding of suicide. The only other possibility was accidental burning of the newly-married woman though she was being victimised for insufficient dowry and there is no chance of an accident being abetted. The husband and in-laws were, however, found guilty under section 498A for causing harassment for dowry.

[s 306.22] Section 113A of Indian Evidence Act, 1872.—

Section 113A was inserted by the [Criminal Law \(Second Amendment\) Act, 1983](#), w.e.f. 26 December 1983. When death takes place within seven years of her marriage, presumption under [section 113A of the Indian Evidence Act, 1872](#) springs into action. When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.⁶¹⁹ Section 113A only deals with a presumption which the Court may draw in a particular fact situation which may arise when necessary ingredients in order to attract that provision are established. Criminal law amendment and the rule of procedure was necessitated so as to meet the social challenge of saving the married woman from being ill-treated or forcing to commit suicide by the husband or his relatives, demanding dowry. Legislative mandate of the section is that when a woman commits suicide within seven years of her marriage and it is shown that her husband or any relative of her husband had subjected her to cruelty as per the terms defined in [section 498A IPC, 1860](#), the Court may presume having regard to all other circumstances of the case that such suicide has been abetted by the husband or such person. Though a presumption could be drawn, the burden of proof of showing that such an offence has been committed by the accused under [section 498A, IPC, 1860](#) is on the prosecution.⁶²⁰

Once the prosecution succeeds in establishing the component of cruelty leading to a conviction under section 498A, in our view only in a rare case, the Court can refuse to invoke the presumption of abetment, if other requirements of [section 113A of the Indian Evidence Act, 1872](#) stand satisfied.⁶²¹

[s 306.23] Constitutional validity.—

The scope of the pronouncement of the Apex Court that attempt to commit suicide is *ultra vires* the [Constitution](#) does not make the offence of abetment to commit suicide *ultra vires* the [Constitution](#) because the former is volitional and well-planned act of the person concerned whereas the latter is on the different footing as therein a third person forces the other person to take his life by committing suicide.⁶²² The Constitutional validity of section 306 (abetment of suicide) has been upheld in a decision of the Bombay High Court also.⁶²³ Section 306 constitutes an entirely independent offence. It is based on this principle of public policy that nobody should involve himself in, or instigate or aid, the commission of a crime. It is not violative of [Article 14](#) or [21](#) of the [Constitution](#).

[s 306.24] Abetment of attempt to commit Suicide.—

Section 306 prescribes punishment for abetment of suicide while section 309 punishes attempt to commit suicide. Abetment of attempt to commit suicide is outside the purview of section 306 and it is punishable only under section 309 and read with [section 107 IPC, 1860](#).⁶²⁴ A conviction in terms of [section 107 IPC, 1860](#) is not sustainable on mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide. A casual remark that is likely to cause harassment in ordinary course of things will not come within the purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for the victim to put an end to life.⁶²⁵

[s 306.25] Euthanasia.—

Assisted suicide and assisted attempt to commit suicide are made punishable for cogent reasons in the interest of society. Such a provision is considered desirable to also prevent the danger inherent in the absence of such a penal provision. The [Constitution](#) Bench in *Gian Kaur v State of Punjab*,⁶²⁶ held that both euthanasia and assisted suicide are not lawful in India which overruled the two Judge Bench decision of the Supreme Court in *P Rathinam v UOI*.⁶²⁷ The Court held that the right to life under [Article 21 of the Constitution](#) does not include the right to die. But in *Aruna Ramchandra Shanbaug v UOI*,⁶²⁸ the Supreme Court held that passive euthanasia can be allowed under exceptional circumstances under the strict monitoring of the Court.⁶²⁹

⁵⁷⁷. *Jagannath Mondal v State of WB*, 2013 Cr LJ 1994 (Cal).

⁵⁷⁸. *Ramesh Kumar v State of Chhattisgarh*, 2001 (9) SCC 618 [LNIND 2001 SC 2368] : 2001 Cr LJ 4724 .

⁵⁷⁹. *Jagannath Mondal v State of WB*, 2013 Cr LJ 1994 (Cal).

⁵⁸⁰. *M Mohan v State, Represented by the Deputy Superintendent of Police*, (2011) 3 SCC 626 [LNIND 2011 SC 246] : 2011 (3) Scale 78 [LNIND 2011 SC 246] : AIR 2011 SC 1238 [LNIND 2011 SC 246] : 2011 Cr LJ 1900 ; *Amalendu Pal v State of WB*, (2010) 1 SCC 707 [LNIND 2009 SC 1978] ; *Rakesh Kumar v State of Chhattisgarh*, (2001) 9 SCC 618 [LNIND 2001 SC 2368] ; *Gangula Mohan Reddy v State of AP*, (2010) 1 SCC 750 [LNIND 2010 SC 3] ; *Thanu Ram v State of MP*, 2010 (10) Scale 557 [LNIND 2010 SC 962] : (2010) 10 SCC 353 [LNIND 2010 SC 962] : (2010) 3 SCC (Cr) 1502; *SS Chheena v Vijay Kumar Mahajan*, (2010) 12 SCC 190 [LNIND 2010 SC 746] : 2010 AIR SCW 4938; *Sohan Raj Sharma v State of Haryana*, AIR 2008 SC 2108 [LNIND 2008 SC 845] : (2008) 11 SCC 215 [LNIND 2008 SC 845] .

⁵⁸¹. *S S Chheena v Vijay Kumar Mahajan*, 2010 (12) SCC 190 [LNIND 2010 SC 746] : 2010 AIR SCW 4938.

⁵⁸². *Gurcharan Singh v State of Punjab*, AIR 2017 SC 74 [LNIND 2016 SC 582] .

⁵⁸³. *M Mohan v State*, AIR 2011 SC 1238 [LNIND 2011 SC 246] : 2011 (3) SCC 626 [LNIND 2011 SC 246] .

584. *Vijay Kumar Rastogi v State of Rajasthan*, 2012 (2) Crimes 628 (Raj).
585. *Sonti Rama Krishna v Sonti Shanti Sree*, (2009) 1 SCC 554 [LNIND 2008 SC 2319] : AIR 2009 SC 923 [LNIND 2008 SC 2319] .
586. *Randhir Singh v State of Punjab*, AIR 2005 SC 5097 . *Darbar Singh v State of Chhattisgarh*, 2013 Cr LJ 1612 (Chh).
587. *Satvir Singh v State of Punjab*, AIR 2001 SC 2826 [LNIND 2001 SC 2200] : 2001 Cr LJ 4625 .
588. *Sanjay Jain v State of MP*, 2013 Cr LJ 668 (Chh).
589. *Sudarshan Kumar v State of Haryana*, AIR 2011 SC 3024 [LNIND 2011 SC 699] : 2011 Cr LJ 4364 .
590. *Jeevan Babu Desai v State of Maharashtra*, 1992 Cr LJ 2996 (Bom). *Surender v State of Haryana*, (2006) 12 SCC 375 [LNIND 2006 SC 1015] : 2007 Cr LJ 375 , the husband subjected her to cruelty, inference drawn from facts and circumstances of the case that there was intention to abet and to instigate her to suicide. Conviction under this section and not under section 302.
591. *Pachipala Laxmaiah v State of MP*, 2001 Cr LJ 4063 (AP). *State of Gujarat v Jivabhai*, 2001 Cr LJ 1343 (Guj) suicide by married woman by pouring kerosene and setting herself on fire. No evidence of abetment by the husband or anybody else.
592. *Bammidi Rajamallu v State of AP*, 2001 Cr LJ 1319 (AP).
593. *Pinakin Mahipatray Rawal v State of Gujarat*, 2013 (3) Mad LJ (Crl) 700 : 2013 (II) Ori LR 867 : 2013 (4) RCR (Criminal) 271 : 2013 (11) Scale 198 [LNIND 2013 SC 803] .
594. *Dammu Sreenu v State of AP*, 2003 Cr LJ 2185 (AP).
595. *Satish v State of Maharashtra*, 1997 Cr LJ 935 (Bom).
596. *Manish Kumar Sharma v State of Rajasthan*, 1995 Cr LJ 3066 (Raj).
597. *Didigam Bhikshapathi v State of AP*, AIR 2008 SC 527 [LNIND 2007 SC 1386] : (2008) 2 SCC 403 [LNIND 2007 SC 1386] : 2008 Cr LJ 724 : (2008) 106 Cut LT 313.
598. *K Prema S Rao v Yadla Srinivasa Rao*, AIR 2003 SC 11 [LNIND 2002 SC 662] , sentenced to five years imprisonment and fine of Rs. 20,000.
599. *JS Ghura v State of Rajasthan*, 1996 Cr LJ 2158 (Raj).
600. *Raghunath Dass v Emperor*, AIR 1920 Pat 502 : (1920) 21 Cr LJ 213 .
601. *Prahlad Das Chela v State of MP*, 1996 Cr LJ 3659 (MP).
602. *State of Gujarat v Pradyman*, 1999 Cr LJ 736 (Guj).
603. *Sudhakar v State of Maharashtra*, AIR 2000 SC 2602 [LNIND 2000 SC 920] : 2000 Cr LJ 3490 .
604. *Partha Dey v State of Tripura*, 2013 Cr LJ 2101 (Gau).
605. *Madan Mohan Singh v State of Gujarat*, (2010) 8 SCC 628 [LNIND 2010 SC 763] . See also *Praveen Pradhan v State of Uttaranchal*, (2012) 9 SCC 734 [LNIND 2012 SC 612] : 2012 (9) Scale 745 : 2012 Cr LJ 4925 .
606. *Vaijnath Kondiba Khandke v State of Maharashtra*, AIR 2018 SC 2659 .
607. *Aroma Philemon v State*, 2013 Cr LJ 1933 (Raj).
608. *Hasmukhbhai Gokaldas Shah v State of Gujarat*, 2009 Cr LJ 2919 (Guj).
609. *Mahesh v State of MP*, 2003 Cr LJ (NOC) 50 (MP).
610. *Narwinder Singh v State of Punjab*, 2011 (2) SCC 47 [LNIND 2011 SC 25] : AIR 2011 SC 686 [LNIND 2011 SC 25] .
611. *Samir Samanta v State of WB*, 1993 Cr LJ 134 (Cal).
612. *Amit Kapoor v Ramesh Chander*, JT 2012 (9) SC 312 [LNIND 2012 SC 564] : 2012 (9) Scale 58 [LNIND 2012 SC 564] : (2012) 9 SCC 460 [LNIND 2012 SC 564] .
613. *Chitresh Kumar Chopra v State (Govt of NCT of Delhi)*, 2009 (16) SCC 605 [LNIND 2009 SC 1663] : AIR 2010 SC 1446 [LNIND 2009 SC 1663] .

614. *Ramesh Kumar v State of Chhattisgarh*, AIR 2001 SC 3837 [LNIND 2001 SC 2368] : (2001 Cr LJ 4724 .
615. *State of MP v Shrideen Chhatri Prasad Suryawanshi*, 2012 Cr LJ 2106 (MP); *Jetha Ram v State of Rajasthan*, 2012 Cr LJ 2459 (Raj); *Kailash Baburao Pandit v State of Maharashtra*, 2011 Cr LJ 4044 (Bom).
616. *Gurbachan Singh v Satpal Singh*, (1990) 1 SCC 445 [LNIND 1989 SC 475] at p 458 : AIR 1990 SC 209 [LNIND 1989 SC 475] : 1990 Cr LJ 562 . See also *Wazir Chand v State of Haryana*, (1990) 1 SCC 445 [LNIND 1989 SC 475] : AIR 1990 SC 209 [LNIND 1989 SC 475] : 1990 Cr LJ 562 .
617. *Gurbachan Singh v Satpal Singh*, (1990) 1 SCC 445 [LNIND 1989 SC 475] at p 458 : AIR 1990 SC 209 [LNIND 1989 SC 475] : 1990 Cr LJ 562 .
618. *Wazir Chand v State of Haryana*, AIR 1989 SC 378 [LNIND 1988 SC 569] : 1989 Cr LJ 809 : (1989) 1 SCC 244 [LNIND 1988 SC 569] . Another case of acquittal on charge of abetment for suicide is *Chanchal Kumari v Union Territory of Chandigarh*, AIR 1986 SC 752 : 1986 Cr LJ 816 . *Dalip Singh v State of Punjab*, 1988 (1) Crimes 211 [LNIND 1953 SC 61] , wife died of hanging within one year, the prosecution case well established, conviction not to be struck out only because there were only two witnesses and those too the father and brother of deceased wife. *Shyama Devi v State of WB*, 1987 Cr LJ 1163 where also the evidence of relatives was considered to be sufficient without any corroboration from outside evidence. *PB Bikshdhapathi v State of AP*, 1989 Cr LJ 1186 , drinking and coming late of the husband coupled with beating and demanding dowry was taken to amount to cruelty as defined in section 498A, IPC, 1860. *Khemraj Hiralal Agarwal v State of Maharashtra*, 1995 Cr LJ 2271 (Bom), an attempt to abuse the section by proceeding against a husband who, far from demanding anything, was helping the family members of his wife, was frustrated by the court. *Gajanan Singh v Maharashtra*, 1996 Cr LJ 2921 (Bom), evidence not clear to show that the death of the married woman was immolation or murder, the section not attracted.
619. Section 113A of the Indian Evidence Act, 1872.
620. *Pinakin Mahipatray Rawal v State of Gujarat*, 2013 (3) Mad LJ (CrI) 700 : 2013 (II) Ori LR 867 : 2013 (4) RCR (Criminal) 271 : 2013 (11) Scale 198 [LNIND 2013 SC 803] .
621. *Satish Shetty v State of Karnataka*, 2016 Cr LJ 3147 : AIR 2016 SC 2689 [LNIND 2016 SC 245] .
622. *Krishan Lal v UOI*, 1994 Cr LJ 3472 (P&H); *Gian Kaur v State of Punjab*, 1996 Cr LJ 1660 : AIR 1996 SC 946 [LNIND 1996 SC 653] , provision for penalising attempt to commit suicide and abetment of suicide, held constitutional; **overruling** *P Rathinam v UOI*, 1994 AIR SCW 1764 : 1994 Cr LJ 1605 : AIR 1994 SC 1844 [LNIND 1994 SC 1533] : (1994) 3 SCC 394 [LNIND 1994 SC 1533] .
623. *Naresh Morotrao v UOI*, (1995) 1 Cr LJ 96 (Bom).
624. *Gian Kaur v State of Punjab*, AIR 1996 SC 946 [LNIND 1996 SC 653] : (1996) 2 SCC 648 [LNIND 1996 SC 653] .
625. *Pawan Kumar v State of HP*, AIR 2017 SC 2459 [LNIND 2017 SC 241] .
626. *Gian Kaur v State of Punjab*, 1996 (2) SCC 648 [LNIND 1996 SC 653] .
627. *P Rathinam v UOI*, AIR 1994 SC 1844 [LNIND 1994 SC 1533] : 1994 (3) SCC 394 [LNIND 1994 SC 1533] .
628. *Aruna Ramchandra Shanbaug v UOI*, (2011) 4 SCC 454 [LNIND 2011 SC 265] : AIR 2011 SC 1290 [LNIND 2011 SC 265] .
629. In March 2018, a five-judge Constitution Bench gave legal sanction to passive euthanasia, permitting 'living will' by patients on withdrawing medical support if they slip into irreversible

coma. The SC held that the right to die with dignity is a fundamental right; see *Common Cause (A Regd. Society) v UOI*, [LNIND 2018 SC 87](#) .

THE INDIAN PENAL CODE

CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE

[s 307] Attempt to murder.

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and if hurt is caused to any person by such act, the offender shall be liable either to ^{630.}[imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.

^{631.}[When any person offending under this section is under sentence of ^{632.}[imprisonment for life], he may, if hurt is caused, be punished with death.]

ILLUSTRATIONS

- (a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued. A would be guilty of murder. A is liable to punishment under this section.
- (b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.
- (c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of ^{633.}[the first paragraph of] this section.
- (d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servant to place it on Z's table. A has committed the offence defined in this section.

COMMENT.—

Attempt to murder.—This and the following section seem to apply to attempts to murder, in which there has been not merely a commencement of an execution of the purpose, but something little short of a complete execution, the consummation being hindered by circumstances independent of the will of the author. The act or omission, although it does not cause death, is carried to such a length as, at the time of carrying it to that length, the offender considers sufficient to cause death. ^{634.}

The essential ingredients required to be proved in the case of an offence under section 307 are: