

# Ayyub vs State Of Uttar Pradesh on 7 February, 2025

**Author: Sanjay Kumar**

**Bench: Sanjay Kumar**

REPORTABLE

2025 INSC 168

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 461 OF 2025  
(@ SPECIAL LEAVE PETITION (CRL.) NO. 7371 OF 2024)

AYYUB & ORS.

APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH & ANR.

RESPONDENT(S)

JUDGMENT

K.V. Viswanathan, J.

1. The present criminal appeal calls in question the correctness of the order dated 27.07.2023 passed by the High Court of Judicature at Allahabad in Application under Section 482 Cr.P.C. No. 25969 of 2023. By the said order, the High Court declined to quash the proceedings instituted against the appellants under Section 306 of the Indian Penal Code, 1860 (for short 'IPC').

2. The facts of the case are rather unfortunate. It has its origin in a suspected relationship between the son of the first appellant, one Ziaul Rahman (since deceased) and Tanu (since deceased), the cousin sister of respondent no. 2.

3. On 02.11.2022 at 19:15 hrs, the first appellant Ayyub lodged a first information report alleging that Bhuru @ Janeshwar (relative of deceased Tanu), Maneshwar Saini (father of deceased Tanu), Priyanshu, and Shivam (brother of Tanu) beat his son Ziaul Rahman with sticks and fists. According to the complaint, this was on suspicion about the relationship between Ziaul Rahman and Tanu. According to the FIR, the incident was witnessed by Saleem Ahmed and Abdul Rehman. It was also averred that while being taken for treatment, after being referred to a higher centre by Medigram Hospital, Saharanpur, Ziaul Rahman died. It was mentioned that the body was kept in the mortuary and the first appellant had come to the police station and lodged First Information Report No. 366 at PS Rampur Maniharan, District Saharanpur. According to the prosecution, Ziaul Rahman suffered 14 injuries on his body and the cause of death was shock and haemorrhage due to ante mortem injuries. Pursuant to the investigation, a charge-sheet has been filed and charges have been framed for commission of offence under Section 304 IPC. We are informed that proceedings at the behest of the family of Ziaul Rahman for enhancement of the charge to Section 302 IPC are pending.

4. On 03.11.2022 at around 17:07 hrs, the respondent no. 2-Vijay lodged a First Information Report No. 367 at PS Rampur Maniharan, District Saharanpur. In the FIR, the appellants herein were arrayed as accused on the accusation that they abetted the suicide of the deceased Tanu and committed offence under Section 306 IPC.

5. The gravamen of the allegation was that on 02.11.2022, at around 08:00 am, at the residence of the complainant's uncle Janeshwar, the appellants came there and told the complainant's cousin Tanu, "because of you our boy has died, why you do not die". According to the FIR, so saying, they humiliated Tanu and tortured her and said that they will file a case against her and also get her arrested and humiliate her in society so that she will not be able to face anyone in the society.

6. According to the complainant, scared of the insult and humiliation, his cousin sister Tanu, between 10:30 am to 11:00 am committed suicide being hurt by the statements. The complainant mentioned that the incident concerning the verbal utterances at 08:00 am was witnessed apart from R-2, by Sushil S/o Jal Singh and Anil S/o Rahtu.

7. It was further stated that the deceased was cremated and that complainant-R-2 came to lodge the report. The statement of respondent no. 2-Vijay Saini was recorded on 07.11.2022. The statements of Sushil Singh S/o Jal Singh and Mrs. Sunesh W/o Janeshwar were recorded on 08.11.2022 and 22.11.2022 respectively. The statements parroted the FIR virtually verbatim. The only addition being that while the FIR refers to Sushil and Anil as being present along with R-2 Vijay, whereas in the statements Mrs. Sunesh also claims to have been present.

8. It further transpires from the application for quash that based on the information given by the ward boy of the hospital on 02.11.2022, the same was registered at Police Station G.D. 37 at 01:14 pm and then panchayatnama of deceased Tanu was conducted at the hospital in the presence of her family members.

9. Thereafter, it is clear from the counter affidavit of R-2 filed in this Court that at 05:00 pm on 02.11.2022, post-mortem was conducted at SBD Hospital, Saharanpur and the following injuries were noticed on the deceased Tanu:-

"1. ligature mark (24 cm x 1.5 cm) oblique, non-continuous, placed high up in the neck, between the thin and larger in position 5 cm below chin, 3 cm below outer angle of right \_\_\_\_\_ of cm below from right ear, 4.5 cm below from outer angle of left \_\_\_\_\_ and 6 cm below left ear.

Subcutaneous tissues under the ligature mark are white, hard and glistering.

2. multiple linear abrasion (11 cm x 5.5 cm) on front of neck.

3. linear abrasion 5 cm long on front of neck lower part.

4. linear abrasion 5 cm long on front of left forearm just above left wrist joint.

The cause of death was opined as ‘Asphyxia as the result of ante-mortem hanging and viscera was preserved for chemical analysis.’ The FIR, however, came to be registered on 03.11.2022 at 17:07 hrs.

10. The appellants obtained anticipatory bail from the High Court till the filing of the police report. The police filed final report against the appellants under Section 306 IPC on 02.05.2023. The police report does nothing more than reiterating the contents of the FIR. The Judicial Magistrate, Saharanpur, after perusing the charge-sheet, took cognizance of the offence against the appellants in case No. 2843 of 2023 (arising out of Crime No. 367 of 2022, Police Station : Rampur Maniharan) and issued summons on 17.06.2023 returnable on 11.07.2023.

11. The appellants approached the High Court with an application under Section 482 Cr.P.C. in Criminal Miscellaneous Application No. 25969 of 2023 seeking for quashment of the charge-sheet dated 02.05.2023 and the criminal proceedings in criminal case No. 2843 of 2023. It was averred that none of the ingredients to make out an offence under Section 306 IPC are attracted. Post the filing of the police report, the appellant no. 1-Ayyub and appellant no. 3-Haroon obtained pre-arrest bail from this Court by order dated 05.12.2023.

12. The High Court of Judicature at Allahabad dismissed the Application under Section 482 Cr.P.C. by holding that, on facts, proximate link between the unfortunate incident of suicide by Tanu and the act of the accused existed. The High Court also recorded that Tanu was a hypersensitive girl and she was very much depressed and felt humiliated among her family members, friends and in the society. The judgments cited by the appellants were distinguished and that the High Court held that it did not feel it appropriate to quash the proceedings at that stage. So holding, the High Court dismissed the Application under Section 482 Cr.P.C. Aggrieved, the appellants are in appeal before us.

13. We have heard Mr. Bhuwan Raj, learned counsel for the appellants as well as Mr. Vishwa Pal Singh, learned counsel for the State and Mr. Divyesh Pratap Singh, learned counsel for the complainant, R-2. We have also carefully perused the records.

14. At the outset itself, we notice certain disturbing and peculiar features that obtain in this case. The first appellant who lost his son, lodged the first complaint on 02.11.2022 at 19:15 hrs. By the said time the body was in the mortuary. It transpires from the first information report lodged on 03.11.2022 at 17:07 hrs by the respondent no. 2 that Tanu had committed suicide at around 10:30 am to 11:00 am on 02.11.2022. Regarding the death of Tanu, it was mentioned in the application for quash that the G.D. entry at the behest of the ward boy of the hospital was registered on 02.11.2022 at 01:14 pm. It was also mentioned that an inquest was held in the hospital on the said day. Admittedly, the post-mortem of Tanu was also held at 05:00 pm on 02.11.2022. However, the FIR came to be registered only on 03.11.2022 at 17:07 hrs.

15. It is intriguing that the police authorities, merely by recording the statements of the complainant Vijay, Sunesh W/o Janeshwar and Sushil who have simply parroted the contents of the FIR, proceeded to file the charge- sheet against the appellants. On our repeated queries to the counsel for

the State as to whether any investigation to explore any other angle was pursued, we were met only with a stoic silence.

16. We are today left with the one sided version of the complainant R-2. Was there anything more sinister? Even if it was suicide what was the real cause? Was the deceased Tanu distraught with what happened to her friend Ziaul Rahman? Considering the under-currents and the disapproval of the relationship, was there any instigation for the suicide from any other quarter? Did the deceased Tanu resort to the extreme action of taking away her own life due to the ugly turn of the events and due to the fact that her family members were suspected to be involved? We have no answers today. Only an independent, thorough and comprehensive investigation will bring to light the true story. The charge-sheet, as it stands, appears to have proceeded in an unidimensional manner by accepting the version of the complainant (R-2) and his family members as the gospel truth.

17. We find that based on the charge-sheet filed by the police on 02.05.2023 and the cryptic order of cognizance dated 17.06.2023, the proceedings cannot be allowed to be carried on against the appellants. Even taking the allegation on a demurrer, on the facts of the case, an offence under Section 306 IPC cannot be said to be made out against the appellants. The law on Section 306 IPC is well settled.

18. 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 :-

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

19. By a long line of judgments, this Court has reiterated that in order to make 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 has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC [See *Madan Mohan Singh vs. State of Gujarat and Another*, (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See *Amalendu Pal alias Jhantu vs. State of West Bengal*, (2010) 1 SCC 707 and *M. Mohan vs. State*, (2011) 3 SCC 626 and *Ramesh Kumar vs. State of Chhattisgarh*, (2001) 9 SCC 618].

20. These principles have been reiterated recently by this Court in *Mahendra Awase vs. The State of Madhya Pradesh*, 2025 INSC 76.

21. We find none of the ingredients required in law to make out a case under Section 306 IPC to be even remotely mentioned in the charge-sheet or are being borne out from the material on record.

The utterance attributed to the appellants assuming it to be true cannot be said to be of such a nature as to leave the deceased Tanu with no other alternative but to put an end to her life. The surrounding circumstances, particularly the prior lodgment of the FIR by the first appellant against the family of Tanu for the death of his son Ziaul Rahman, does indicate an element of desperation on the part of the respondent no. 2 to somehow implicate the appellants. Reliance of the statements recorded under Section 161 Cr.P.C. belatedly on 07.11.2022, 08.11.2022 and 22.11.2022, only reinforces out suspicion viz. one-sided, partial and inimical investigation. Under these circumstances, proceeding with the trial against the appellants in the charge-sheet as filed will be a gross abuse of process.

22. As pointed out earlier, the case has several disturbing features which call for a reinvestigation, which we propose to order based on the observations made hereinabove. The Director General of Police, Law and Order, State of Uttar Pradesh is directed to constitute a Special Investigation Team headed by an officer of the level of Deputy Inspector General of Police to investigate the unnatural death of Tanu D/o Janeshwar R/o Rampur Maniharan, District Saharanpur. We authorize the Special Investigation Team to treat the first information report registered in crime no. 367 of 2022 at PS Rampur Maniharan, District Saharanpur as one of unnatural death. We further grant them liberty to re-register the FIR if they deem it appropriate. We direct that the reinvestigation report shall be placed before this Court in a sealed cover within a period of two months from today.

23. We make it clear that the observations in the present judgment are only for the purpose of quashing the proceedings against the appellants, and the reinvestigation on other aspects indicated above, will be carried out independently. We are not to be taken, to have expressed any view, one way or the other.

24. In view of the above, the appeal is allowed. The proceedings in Case No. 2843 of 2023 pending before the Court of Judicial Magistrate, Saharanpur (arising out of Crime No. 367 of 2022 Police Station Rampur Maniharan, District Saharanpur) are quashed. Let the matter be listed on 15.04.2025 for further directions and for consideration of the report of the Special Investigation Team.

.....CJI [SANJIV KHANNA] .....J. [SANJAY KUMAR]  
.....J. [K. V. VISWANATHAN] New Delhi;

7th February, 2025.