

IN THE COURT OF THE SESSIONS JUDGE, :: :: TINSUKIA

Present: **Sri C. Das,**
Sessions Judge,
Tinsukia

Date of Judgment :- 13/05/2022

The case was committed on 15/05/2020 by learned Sub-Divisional Judicial Magistrate (S), Tinsukia in G.R. No.1808/2017)

Sessions Case No. 45 (T) of 2019

U/s. 306 IPC.

(FIR No. 1073 of Tinsukia P.S.)

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY	A.K. CHOUBEY, Ld. P.P., TINSUKIA
ACCUSED	SHRI JITEN NEOG, S/o. Sri Dulup Neog, R/o. Nakhrai Gaon, Borguri, P.S. Tinsukia, Dist. Tinsukia (Assam)
REPRESENTED BY	ADVOCATE SUMAN SHARMA

Date of Offence	02/09/2017
Date of FIR	06/09/2017

Date of Charge Sheet	31/08/2018
Date of Framing of Charges	02/07/2019
Date of commencement of evidence	30/07/2019, 03/09/2019 & 01/10/2019
Date on which judgment is reserved	NA
Date of Judgment	13/05/2022
Date of its Sentencing Order, if any	NA

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.PC
1	Shri Jiten Neog	On Pre-arrest bail	On Pre-arrest bail	306 of IPC	Acquitted	NA	NIL

J U D G M E N T

1. The case of the prosecution briefly is that on 03.09.2017, the complainant Sri Janmoni Baruah lodged an ejahar before the Officer-in-charge of Tinsukia police station, alleging *inter-alias* that on 02.09.2017, at about 11 pm., his elder sister Nijumoni Baruah was married to the accused Jiten Neog. He came to know from his said sister that after few days of marriage, the accused and his mother, started to torture his sister mentally and physically. At last, having unable to bear such torture of her husband and mother-in-law, his sister attempted to take her own life by consuming pesticide. But even after knowing such facts, the family of the accused did not provide any medical treatment to his sister. Thereafter, relative of the victim woman, having come to know about the same, took her to hospital at Dibrugarh. At present, she is in critical condition.

2. After receipt of the said ejahar, the police registered the Tinsukia PS. Case No.1073/17 **u/s 498A IPC** and started the process of investigation. During the investigation, IO visited the place of occurrence, recorded the statement of the complainant and other witnesses. The IO came to know that about 6 years back, the victim woman was married by the accused. In the meantime the victim woman died during the medical treatment on next

day and as such, postmortem examination was conducted. The inquest was performed on the dead body and viscera was preserved and sent for expert opinion from FSL. IO collected the FSL report and came to know that the victim died due to consuming pesticide, following which he obtained postmortem examination report. At the end of investigation, IO having found a *prima-facie* case well established **u/s 498A/306 IPC.**, filed the charge-sheet against the accused to face trial in the court.

3. The accused when entered appearance, learned Sub-Divisional Judicial Magistrate(Sadar) Tinsukia furnished copy to him as required **u/s 207 CrPC.** Since the offence **u/s 306 IPC** is exclusively triable by court of sessions, committed the case to this court for trial. Accordingly, a separate sessions case was registered and was taken up for its trial.

4. After hearing both the parties and on perusing the material on record, the charge **u/s 306 IPC** was framed against the accused. The charge was read over and explained to the accused who pleaded not guilty and claimed to be tried.

5. During the trial, the prosecution examined as many as, 4(four) to get support it. Learned Public Prosecutor declined to examine further witness for which the

prosecution was closed. The accused in his statement recorded **u/s 313 CrPC.**, took the plea of total denial to the all incriminating circumstances appeared in the evidence against him. He however, declined to adduce any defence evidence. The argument of the parties was heard at length and the evidence on record was perused.

POINT FOR DETERMINATION :

6. Whether the accused on 02/09/2017, at Nokhorai gaon under Tinsukia police station, abetted commission of suicide by Nijumoni Baruah?

DECISION AND REASON THEREFORE :

7. During the argument, learned Public Prosecutor submitted that the evidence on record is sufficient enough to implicate the accused who was he husband of the victim woman and as such, the accused may be dealt as per law.

8. Per contra, learned counsel for the accused submitted that there is no reliable evidence on record to implicate the accused **u/s 306 IPC.** He submitted further that the witnesses of the prosecution could not confirm that the accused abetted his wife to commit suicide and as such, the accused is entitled to get the benefit of doubt. He urged therefore, to acquit the accused.

9. After having heard the argument advanced by learned counsels for parties, it would be proper to go through the evidence on record. For convenience and brevity, the evidence of the prosecution witnesses is reproduced herein.

10. The prosecution examined the complainant; Sri Janmoni Baruah as PW1. He deposed inter-alia that his deceased sister was given in marriage to the accused. One day, his deceased sister called him over phone and told him that she had consumed poison. Two years prior to that occurrence, his deceased sister was married by the accused. He never had any quarrel between his deceased sister and her husband. He could not know why his deceased sister had consumed poison. Immediately, after knowing the said fact, he along with his father, his brother, his other sister, his mother and his paternal uncle visited the house of the accused. When he arrived at the house of the accused, he saw that his sister was brought back from the hospital. At that time, she was alive. He asked his deceased sister as to why she had consumed poison, but she did not give any answer. On that day, his sister was referred to AMCH, Dibrugarh. That day, he did not go to Dibrugarh but on the next day, he went there. After about 15 days, his sister died at AMCH, at Dibrugarh. On 05.09.2017, he had lodged an ejarah before the police, while his sister was still undergoing treatment at AMCH, at Dibrugarh vide Ext.1

with his signature.

11. In the cross-examination, PW1 stated further that the accused and his family members had taken his sister to Tinsukia civil hospital. They along with his mother had taken his sister to AMCH, at Dibrugarh. Apparently, the evidence of PW1 is corroborated contents of his FIR with some aberrations.

12. The evidence of PW2 Smti. Analata Moran is that she did not know the complainant. The accused resides near her house and she knew his wife, though she did not know the name of wife. The wife of the accused is no more. She did not know how the wife of accused died. Thus, the evidence of PW2 does not lend any support to the prosecution case.

13. PW3 Smti. Suno Neog deposed inter-alia that she did not know the complainant. She knew the deceased woman, but she did not have visiting relationship with her. She also knew the accused. She heard about death of the deceased woman. On one occasion, she had visited the house near the house of the accused and at that point of time, police came and asked her to put signature on some papers. After perusing the evidence of PW3, she does not have much knowledge of occurrence.

14. PW4 Smti. Renu Baruah is the mother of the complainant and the victim woman. She stated inter-alia that her victim daughter was given in marriage to the accused about four years back from the occurrence. The victim daughter left a son. One Sunday at about 5:30 pm., she was in her house and then her deceased daughter called her over phone and told her that on the previous day, her daughter consumed some medicine. She asked her daughter as to why she consumed that medicine and then, her daughter told her that her daughter had a quarrel with her husband and out of anger, she consumed the medicine. After hearing the news, she rushed to the matrimonial house of her daughter. He found that her daughter was vomiting and was also, having loose motion. She came to know that the accused and his family had taken her to the Tinsukia civil hospital, but the doctors there referred her to AMCH at Dibrugarh, but on that day, she was not taken to AMCH at Dibrugarh. After seeing that, she returned to home and on next morning, she again went to the matrimonial house of her daughter and at that time, she along with the accused, his mother and herself took her daughter to the AMCH at Dibrugarh in a vehicle. After 17 days, her daughter died at AMCH.

15. Thus, after going through the evidence of the prosecution witnesses, it appears that there is no dispute

that the deceased woman was the wife of the accused and the occurrence took place at the house of the accused. On scrutiny of the evidence of PW1, it appears that he alleged in Ext.1 that the accused and his family members did not any medical treatment to the victim woman. But in the evidence, PW1 stated that the accused took the victim woman to Tinsukia civil hospital for treatment. He also, alleged in Ext.1 that the accused and his mother used to torture the victim woman mentally and physically after few days of her marriage. But in the evidence, PW1 did not make any whisper such allegation. Thus, it seems that PW1 narrated some exaggerated facts in his FIR. Hence, the version of PW1 erodes substantially and lends no supports to the prosecution case. The evidence of PW2 and 3 could not support the prosecution case in any manner and thus, their evidence does not come to assist the prosecution. Apart from that the evidence of PW4 discloses about some quarrel between the victim and the accused. But such quarrel appears to be trivial in nature which cannot be termed as habitual torture to the victim woman by the accused and his family members. Further it appears from the evidence of PW4, that out of anger the victim woman consumed some medicine, leading to her death. The evidence of PW1 and 4 discloses that the victim woman herself reported over phone to them that she consumed poison but without blaming the accused or his family.

16. The offence **u/s 306 IPC** requires that;

i) There was suicide by a person; ii) It was committed in consequence of abetment by the accused.

17. In the instant case, the accused does not raise any dispute over the suicide committed by his wife/ deceased woman. It appears from the evidence of PW4 that a quarrel between the accused and the deceased/ wife took place prior to the incident of the case.

18. In **Prahlad Das vs. State 1995 Supp 3 SCC 438**; the decision was that *Following a remark by the husband (appellant) during a quarrel that the deceased (wife) should go and die, the deceased went back home and committed suicide. It was held that the suicide was not the direct result of the words uttered by the appellant.* In the instant case, there is no evidence to show that the accused uttered certain words which resulted in commission of suicide by his wife.

19. In the case of **Abani Goswami vs. State of Assam (2203) 2 GLR 477**, it was held that *No evidence to show that the deceased was a deranged woman to commit suicide at the spur of the moment. Accused convicted under section 306 on the basis of presumption under section 113A of the Evidence Act.*

20. From the evidence of PW1, it appears that the

occurrence took place after two years of marriage of the victim woman with the accused. Since the incident of suicide took place within 7 years of marriage of the victim woman, a presumption u/s 113A of Evidence Act can be drawn against the accused for the offence of abetment of commission of suicide by his wife. But from the evidence of PW4 who is the mother of the deceased woman, reveals that out of anger, the deceased wife of the accused consumed poison. There is no ground to disbelieve the version of PW4. It is also, not come to the notice that the deceased woman was not a deranged person. Even then from the evidence of PW4, it appears that the suicide was committed out of a spur of hot moment by the deceased wife of the accused. The deceased did not say anything of words uttered by the accused in the quarrel with the accused as appears from the version of PW4. Moreover, the evidence of PW1 shows that he never heard of a quarrel took place between the accused with his deceased wife. So the evidence of PW1 and 4 is not consistent with each other on the point of quarrel between the accused and the deceased wife. Hence, the quarrel so discloses by PW4 cannot be the ground for the deceased woman to take her own life to commit suicide at the instance of abetment of the accused is not proved beyond doubt. No presumption can be drawn against the accused u/s 113A of Evidence Act. In absence of proper evidence, there is doubt that if the

accused is involved in the offence of abetting to commit suicide by his wife.

21. Under the above facts and circumstances of the case, the prosecution has failed to prove its case against the accused beyond all reasonable doubt. Accordingly, the accused Jiten Neog is held not guilty u/s 306 IPC. The accused is therefore, acquitted and set at liberty. His bail bond shall however, remain in force u/s 437A CrPC. Forward a copy of judgment to the District Magistrate, Tinsukia u/s 365 CrPC. This court recommends for payment of compensation to the victim of crime u/s 357 CrPC r/w Assam Victims Compensation Scheme by DLSA, Tinsukia after due inquiry.

22. Given under the hand and seal of this court on this 13th day of May' 2022.

Dictated & corrected by:

Sessions Judge,
Tinsukia

(C. Das)
Sessions Judge,
Tinsukia

Transcribed by:-
H. Baruah,
Stenographer-II

A P P E N D I X

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW1	Sri Janmoni Baruah	Complainant
PW2	Smt. Analda Moran	
PW3	Smt. Suno Neog	Hear-say witness
PW4	Smt. Renu Baruah	Mother of Complainant and deceased

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NA	NA	NA

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NA	NA	NA

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	Exhibit 1	Ejahar

B. Defence:

Sr. No.	Exhibit Number	Description
NA	NA	NA

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
NA	NA	NA

D. Material Objects:

Sr. No.	Exhibit Number	Description
NA	NA	NA

Sessions Judge,
Tinsukia