

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

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

Date of Judgment :- 09/05/2022

The case was committed on 29/02/2020 by learned Chief Judicial Magistrate, Tinsukia in G.R. Case No.2454/2018)

**Sessions Case No. 25 (T) of 2020**

U/s. 306 I.P.C.

(FIR No. 339 of Doomdooma P.S.)

COMPLAINANT:	STATE OF ASSAM
REPRESENTED BY	A.K. CHOUBEY, Ld. P.P., TINSUKIA
ACCUSED	SRI TOMSOM BEZBARUAH, S/o Sri Purnanda Bezbaruah R/o Beesakopee Rupbon Gaon, P.S. Doomdooma, Dist. Tinsukia (Assam)
REPRESENTED BY	ADVOCATE, SRI SAMIRAN BORAH

Date of Offence	05/11/2018
Date of FIR	06/11/2018
Date of Charge Sheet	29/11/2018

Date of Framing of Charges	01/02/2021
Date of commencement of evidence	08/04/2021, 09/11/21, 09/12/21, 28/01/2022
Date on which judgment is reserved	NA
Date of Judgment	09/05/2022
Date of its Sentencing Order, if any	NA

**Accused Details:**

Rank of the Accused	Name of Accused	Date of Arrest	Date of 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	Sri Tomsom Bezbaruah	06/11/2018	27/11/2018	306 of IPC	—		21 days

**J U D G M E N T**

1. The case of the prosecution briefly, is that on 06/11/2018, the complainant Sri Arup Gohain lodged an ejahar before Doomdooma P.S., alleging *inter- alias* that his younger sister; Puspanjali Gohain, out of love affair, was married by the accused Tomsom Bezbaruah and on the day of occurrence at night, his younger sister committed suicide in her matrimonial house and the accused informed him about the incident over phone at about 8.45 a.m.

2. On the basis of filing of the above ejahar, the police registered the Doomdooma P.S. Case No.339/2018 u/s. 306 IPC and started the investigation. During the investigation, I.O. visited the place of occurrence, examined the witnesses u/s. 161 CrPC and u/s. 164 CrPC, collected the SCDs along with post-mortem report, inquest report of the deceased and then, arrested the accused. Thereafter, I.O. on completion of the investigation, filed the charge-sheet against the accused to face trial in the court.

3. The accused when appeared in the Court, learned Chief Judicial Magistrate, Tinsukia furnished the copy of the case as required u/s. 207 CrPC. The offence u/s 306 IPC since triable exclusively by Court of Sessions, learned court below committed the case to this court for trial. Accordingly,

a separate Sessions case was registered and was taken up for trial.

4. After hearing both the parties and on perusing the materials on record, the charge u/s 306 IPC was framed against the accused. The charge so framed, 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, 7 (seven) witnesses including the M.O. and I.O. to get support of its case. Learned Public Prosecutor declined to examine further witnesses of the case, for which the prosecution was closed. In the statement recorded u/s 313 CrPC, the plea of the accused was total denial to the circumstances appeared against him in the evidence on record. But the accused did not adduce any defence witness for his favour. The argument of the parties was heard at length and the evidence on record perused.

**POINT FOR DETERMINATION:**

6. Whether on 05/11/2018 at Rupbon village under Doomdooma police station, the accused abetted the commission of suicide of Puspanjali Gohain and thereby committed an offence u/s. 306 of IPC?

**DECISION AND REASONS THEREOF :**

7. This is a case where the allegation of the prosecution is that the accused had abetted his wife victim to commit suicide at his own house. Learned Public Prosecutor during the argument, pointed out that the witnesses of the prosecution clearly disclose that it was the accused, who abetted the victim woman to take her own life. There is no evidence to show that the injury detected on the dead body of the victim woman, was caused by third person but it confirmed that such injury only can be caused self-inflicting. Thus, he urged to convict the accused under the law.

8. Learned counsel appearing for the accused on the same time, submitted that the evidence of the prosecution as per record cannot be reliable and believable since all of them tendered evidence which inconsistent and contradictory to each other. The evidence of the prosecution witnesses is not sufficient to implicate the accused in the offence of abetment of commission of suicide by the victim wife of the accused. Hence, he submitted that the accused may be acquitted from the charge of the case.

9. Having heard the argument advanced by learned counsel for both sides, it is necessary to go through the evidence on record to arrive at a definite and proper conclusion in the case.

10. The prosecution examined Sri Bibek Bezbaruah as PW1. He stated in his evidence that he knows the complainant. The victim deceased was the sister of the complainant. The accused Tomsom Bezbaruah is his brother. He stated that the occurrence took place in the month of November, 2018. The victim Puspanjali committed suicide in the house of the accused, at night. At that time, he was at Digboi. He was informed about the incident by a neighbour. Hence, he came to his house and saw the dead body of the deceased in his home with presence of Police. He further stated that the victim woman was married by the accused about three years back from the incident. The parental home of the deceased is at a distance of about 15 to 20 kilometers from his house at Jutlibari Gaon. The police inquired about the incident from the witnesses and took away the dead body. The father and the brother of the deceased were present in his house.

11. During cross-examination, PW1 stated that the relationship between the accused and the deceased was cordial and also, that the accused has no habit of consuming liquor.

12. PW2 Smt. Himanjali Bezbaruah stated in her evidence that she knows the complainant; Sri Arup Gohain, who is the elder brother of the deceased Puspanjali Gohain. The

accused is her son and the deceased woman was her daughter-in-law. She stated that the occurrence took place on 06/11/2018. On the fateful day, she was in Tinsukia with her husband, who was working in a tea factory at Tinsukia. On the fateful day, in the morning, the accused informed her over phone that the deceased Puspapanjali committed suicide. Hence, she along with her husband came to the house of the accused and she found gathering of public with police present at the house of the accused. The Police brought out the dead body from the house. She saw the dead body of the deceased, but she did not notice any injury on her body. The Police conducted inquest on the dead body of the deceased in her presence vide Ext.1 and Ext.1(1) is her signature. Thereafter, the Police sent the dead body for postmortem examination. She lastly, stated that she does not know the reason of committing suicide by the deceased woman.

13. In the cross-examination, PW2 stated that the relationship between her son/accused with the deceased was cordial.

14. PW3 Sri Numal Saikia stated in his evidence that he knows the complainant and also, knows the accused, who resides near his house. He knew the deceased Puspanjali Gohain, who was the wife of the accused. He stated that the occurrence took place on 06/11/2018 at night. On the fateful day, he was in his house and that the distance

between his house and that of the accused would be about 50 meters. On the next day morning, he heard that the deceased woman committed suicide. The father of the accused informed him over phone and asked him to inquire about the incident. Then, he informed the Gaonbura of their village and neighbouring public. After that, the police was also informed, who came immediately. The Police brought out the dead body from the house of the accused. At the relevant time, the accused and his wife were residing in their house. The Police sent the dead body for postmortem examination and took away the accused to the police station. He stated that he cannot say why the deceased committed suicide.

15. During cross-examination, PW3 stated that the relationship between the accused and the deceased was cordial.

16. Now, I shall take up the evidence of PW4 Sri Arup Gohain, who is the complainant of this case. He stated that the deceased was his younger sister and the deceased was married to the accused in the month of April, 2016. He knew that after marriage, both of them lived together happily. On the next day of the fateful day, in the morning, the accused informed him over phone that his sister committed suicide by hanging. Accordingly, he went to the house of the accused, but he found that his sister was lying on the bed. The Police already arrived at the spot. He saw

one cable wire under the bed and three of four mosquito net stands of the bed, were broken. At the time of occurrence, his deceased sister was pregnant for seven months and his sister during her lifetime, informed his parents that the accused used to come home under the influence of liquor. He further stated that from the local public, he came to know that on the night of the occurrence, the accused consumed liquor till 11 p.m. and therefore, he believed that the accused might have entered into quarrel with his pregnant sister under the influence of liquor. The accused normally used to go to his school duty at about 8 a.m., but on the fateful day, after going to school, the accused did not return to home in the evening and spent time by consuming liquor till 11 p.m. After assessing the above situation, he doubted that the accused had compelled his sister to commit suicide or the accused planned to murder his deceased sister. Hence, he filed the ejahar vide Ext.2 and Ext.2(1) is his signature. He lastly, stated that the police conducted inquest on the dead body of his deceased sister and sent the dead body for postmortem examination.

17. The complainant PW4 was extensively cross-examined by the defence side. He stated during cross-examination that his father married two ladies/women and both the ladies reside together with his father. He denied the suggestion that his father married thrice, and out of them,

one was returned to her own home. He stated that he had two brothers and three sisters. Sri Khirod Gohain is his youngest brother and that Mithali Gohain, Priyanka Gohain and Puspanjali Gohain, since deceased, are his sisters. About four years back, his younger brother Khirod Gohain had consumed poison to commit suicide, for which his brother was admitted in D.C. Bora Nursing Home, at Rupai. At that time, the accused was with deceased, resided at Rupai. Hence, both of them took care of his brother Khirod Gohain. He denied the suggestion that since his father married twice and as such, regular quarrel took place in their house. He stated that the deceased married to the accused out of love affairs. The accused was his classmate at Higher Secondary level. Without their knowledge, the accused had eloped the deceased to marry her. He denied the suggestion that since they have no consent to the marriage of the accused, his deceased sister had suffered mental agony. He denied the suggestion that the relationship between the deceased and the accused was cordial. He further stated that during student life, the accused often consumed liquor, but subsequently, he became drunkard. He does not remember, if he stated before the Police earlier that the accused became drunkard after marriage. He denied the suggestion that he did not state before the Police earlier that the accused became drunkard after marriage. He denied the suggestion that he

did not state before the police earlier that he saw one cable wire under the bed, where his sister was lying dead and three out of four mosquito net stands of the bed were broken. He also, denied the suggestion that he did not state before the Police earlier that at the relevant time of occurrence, his deceased sister was seven months pregnant. He denied the suggestion that he did not state to the Police that from the local public, he came to know that on the day of occurrence, the accused consumed liquor till 11 p.m. He denied the suggestion that he did not state before the Police that on the fateful night, out of influence of liquor, the accused came to his home and entered into quarrel with his deceased sister. He denied the suggestion that he did not state to the police earlier that the accused used to go to school at about 8 a.m. regularly and on the fateful day, he did not return home in the evening. He also denied the suggestion that he did not state to the police earlier that after assessing the situation, he suspected that his deceased sister was murdered by the accused with his well-planned strategy. He lastly, stated that he has not seen the seized articles in the Court.

18. The evidence of PW5 Sri Dhiren Gohain is that the complainant is his son and the deceased Puspanjali was his daughter. The accused is his son-in-law. The occurrence took place on 06/11/2018. The deceased was married to the accused in the month of April, 2017. On the next day of

the occurrence, at about 8.30 a.m., the complainant informed him that his daughter; Puspanjali committed suicide. Accordingly, he went to the house of the accused with his family members and other villagers and he saw presence of Police in the house of the accused and also he saw the dead body of his daughter, lying on a bed, having one cloth surrounded her neck. He stated that the three stands of the bed, was broken and he found one cable wire under the bed of the deceased. He stated further that the local public informed him that on the night of the occurrence, the accused came under influence of liquor. He further stated that he saw injury mark on the neck of the deceased. The Police conducted inquest on the dead body of the deceased vide Ext.1 and Ext.1(2) is his signature thereon. The Police sent the dead body for postmortem examination.

19. PW5 was also extensively cross-examined by the defence side. During his cross-examination, PW5 stated that he has two wives and another wife left him earlier. Her name was Alati Praja. At present, he is residing with his two wives namely; Ranju and Runumi. Said Smti. Runumi is his first wife. He read up to L.P. standard. He cannot read or write English language. Without divorcing his first wife Runumi, he married his second wife Ranju. He stated that his deceased daughter fled away with the accused to marry him. Initially, the relationship between the accused and the

deceased was cordial. He has stated that he has not stated to the Police earlier that he saw some cloth surrounded the neck of the deceased, with broken mosquito stands of the bed and one cable wire lying under the bed of the deceased. He did not state to the Police earlier that the local public reported him that the accused came under influence of liquor on the fateful night and also that he did not state to the Police earlier that he noticed one injury on the neck of the deceased. He stated that he cannot say the contents written in Ext.1 and that he put his signature in Ext.1, at the police station. He lastly, stated that he does not know what was happened between the accused and the deceased on the fateful night.

20. Now, I shall take up the evidence of PW6, M.O. Dr. Avinash Kumar. He stated that on 06/11/2018, while he was working as M&HO at Tinsukia Civil Hospital, on that day, he conducted postmortem examination upon the dead body of Pushpanjali Gohain Bezboruah, in connection with Doomdooma P.S. G.D. entry No.160, dated 06/11/2018 at about 3.30 pm, who was brought and identified by UBC 672 Gobin Chetry and Bipul Gohain, brother of the deceased and on examination, he found the following:-

“A female dead body, aged about 22 years, she was pregnant with uterine height about umbilical level, rigor-mortis present all over the body.

Only injury mark seen over neck, which is ligature mark/non-continuous from angle of right mandible to the mastoid area, left side and further dissection of skin – ligature mark, tissue are dried, glistening and parchmentised, knot on right side, other organs healthy. On dissection of uterus- one male fetus died and aged around 7 months found, length of the fetus is found 35 cm, and weight is around 1 kg, scalp hair 1cm, eye-brows present, testicles are near external inguinal.”

21. In the opinion of the M.O., the death was due to asphyxia as a result of ante-mortem hanging, likely suicidal in nature. Time since death 12 to 18 hours. Ext.3 is the postmortem report and Ext.3(1) is his signature. The M.O. also stated that he received the dead body challan vide Ext.4 and Ext.4(1) is his signature and that he received the Ext.1, which is the inquest form and Ext.1(3, 4, 5 & 6) are his signatures.

22. During cross-examination, the M.O. stated that in Ext.3, he has not mentioned the word *likely* in his opinion.

23. The last witness was examined by the prosecution is the I.O. Sri Bijay Narayan Dubey, as PW7. He stated that on 06/11/2018, while he was working as S.I. at Doomdooma police station, on that day, Officer-in-Charge of Doomdooma police station, received one ejahar from Arup Gohain (PW4) and registered the case being Doomdooma

P.S. case No.339/2018 u/s. 306 IPC and entrusted him with the investigation of the case. Ext.2 is the FIR and Ext.2(2) is the signature of Inspector/ Officer-in-Charge of Doomdooma police station, namely; Sri Moni Mohan Koch with endorsement and he knows his signature. The I.O. stated that after taking the charge of investigation, he went to the place of occurrence with his staff, which was the house of the accused Tomsom Bezboruah at Rupbon Gaon. He stated that earlier, the O.C. Doomdooma police station lodged the G.D. entry No.160, dated 06/11/2018, the preliminary investigation was given to S.I. Probin Pawe, who accordingly, visited the place of occurrence and brought out the dead body of the deceased Puspanjali Bezboruah in the presence of local public, Revenue Circle of Doomdooma, Shri Pankaj Kr. Nagbongsi, and conducted the inquest upon the dead body of the deceased. Thereafter, the dead body was sent for postmortem examination. PW7 further stated that on his visit to the place of occurrence, he found the accused and his father present. He examined both of them and he drew the sketch map of the Place of occurrence vide Ext.5 and Ext.5(1) is his signature. Thereafter, he found the relatives of the deceased present on the place of occurrence namely; Arup Gohain, Bibek Bezboruah, Hemonjali Bezboruah, Numal Saikia, Nitul Saikia and Dhiren Gohain, father of the deceased with Prafulla Gohain and he examined the above witnesses. He brought the accused to

the police station and arrested him. On the next date, he forwarded the accused to the Court. He received the postmortem report of the deceased on 27/11/2018. Thereafter, at the end of the investigation, he filed the charge sheet against the accused **u/s. 306 IPC** vide Ext.6 and Ext.6(1) is his signature.

24. During cross-examination, the I.O. stated that he recorded the statements of the witnesses on 06/11/2018. He stated that PW4 Arup Gohain did not state before him earlier that he saw one cable wire under the bed, where his sister was lying dead and 3 out of 4 mosquito stands of the bed were seen broken and that his deceased sister was 7 months pregnant and that the accused came home at about 11 p.m. on the previous night under the influence of liquor but PW4 stated that the accused used to consume liquor regularly but did state that the accused entered into quarrel with the deceased on the fateful night under the influence of liquor and that on the fateful day at about 8 a.m., the accused went out to school and did not return till evening and that he after assessing the situation suspected that his sister was murdered by the accused with pre-planned strategy. The I.O. stated that the PW5 Dhiren Gohain did not state to him earlier that PW5 saw some clothes circled on the neck of the deceased and that a broken mosquito net stand of bed and one cable wire was lying under the bed of the deceased and that local public informed him that

the accused was under the influence of liquor on the fateful night and that PW5 noticed one injury mark on the neck of the deceased.

25. The I.O. further stated that he did not visit the parental home of the deceased to know about any strained relationship within the family and that he did not investigate regarding marriage of Dhiren Gohain for two times.

26. After going through the evidence of the prosecution witnesses on record, it appears that there is no dispute that the deceased was wife of the accused and her death was occurred at the house of the accused. Nothing in the evidence on record appears that the deceased was under stress due to marriage of PW5 more than once as emphasised by the defence. The accused in his statement recorded **u/s 313 CrPC**, did not give any explanation as to the cause of death of his young wife, who was as per medical evidence, pregnant. Admittedly, the evidence of prosecution witnesses could not implicate the accused for causing death of his wife neither any circumstances produced by them to believe that the accused abetted his wife to commit suicide during her pregnancy.

27. Moreover, the evidence of PW1, 2 and 3 discloses that relationship between the accused and the deceased woman was cordial. On the other hand, the evidence of PW4 and 5 reveals that due to habitual consumer of liquor,

the accused used to have quarrel with his deceased wife which lead them to suspect the accused for causing death of the woman. Their such suspicion further intensified when they saw a cable wire under the bed of the dead body with broken mosquito net stands of the bed. But in any case, such circumstances lead PW4 to suspect the accused for abetting his victim wife to commit suicide. In **Sujit Biswas vs. State of Assam AIR 2013 SC 3817**, it was held that *Suspicion however, strong cannot take the place of proof*. Hence, the suspicion of PW4 without any proper evidence tendered cannot be placed as reliable piece of evidence to prove the facts of the case.

28. Further, the evidence of PW4 and 5 is not corroborated by PW1, 2 and 3. Their evidence is contradictory to the evidence of PW1, 2 and 3. Thus, two view is possible from the evidence on record. In criminal jurisprudence, if there are two views appear on record, the view goes in favour of the accused should be adopted. In the instant case the evidence of PW1, 2 and 3 discloses cordial/good relationship exists between the accused with his deceased wife during her lifetime, which goes in favour of the accused. Accordingly, such view comes out from the evidence of PW1, 2 and 3 is adopted. Such view does not implicate the accused for abetting his wife to commit suicide since relationship between them was cordial. The evidence of PW4 and 5 cannot be accepted in this case.

Therefore, it creates doubt if the accused was involved in the offence **u/s 306 IPC**. No presumption can be drawn **u/s 113A Evidence Act** is possible from the evidence on record. Hence, it appears that the accused is entitled to get the benefit of doubt. Accordingly, the accused is given the benefit of doubt.

29. Under the above facts and circumstances of the case, it appears that the prosecution has not able to prove its case against the accused beyond all reasonable doubt. Accordingly, the accused 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 payment of compensation to the victim of the offence by DLSA, Tinsukia **u/s 357 CrPC** r/w Assam Victim Compensation Scheme after due inquiry.

30. Given under the hand and seal of this court on this the 9<sup>th</sup> day of May, 2022.

Dictated & corrected by:

Sessions Judge  
Tinsukia

**(C. Das)**  
Sessions Judge  
Tinsukia

**A P P E N D I X**

## LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

**A. Prosecution:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
PW1	Sri Bibek Bezbaruah	Bother of the accused - indirect
PW2	Smt. Himanjali Bezbaruah	Mother of the accused - indirect
PW3	Sri Numal Saikia	Independent
PW4	Sri Arup Gohain	Complainant- indirect
PW5	Sri Dhiren Gohain	Father of the complainant- indirect
PW6	Dr. Avinash Kumar	M.O. - official
PW7	Sri Bijay Narayan Dubey	I.O. - official

**B. Defence Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
NA	NA	NA

**C. Court Witnesses, if any:**

<b>RANK</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b>
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NA	NA	NA
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**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>1</b>	Exhibit 1	Inquest report
<b>2</b>	Exhibit 2	Ejahaar
<b>3</b>	Exhibit 3	Postmortem report
<b>4</b>	Exhibit 4	Dead body challan
<b>5</b>	Exhibit 5	Sketch map
<b>6</b>	Exhibit 6	Charge sheet

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>NA</b>	NA	NA

**C. Court Exhibits:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
<b>NA</b>	NA	NA

**D. Material Objects:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
NA	NA	NA

Sessions Judge  
Tinsukia