

# Critical Analysis of Section 306 -Abetment to Suicide of Indian Penal Code 1860 in the Light of Judicial Pronouncement

**Amisha Nitin Tejale**

LLM 2nd Semester

School of Law, Sandip University, Nashik, India

amishatejale@gmail.com

**Abstract:** *The aim of study is to critically analyse the existing laws on abetment of suicide and the guidelines issued by Supreme Court of India with respect to different cases. There are sections for abetment of suicide in Indian penal code (IPC). Section 306 of the Indian Penal Code penalizes abetment of suicide. "S.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 not exceeding ten years, and shall also be liable to fine." Section 306 prescribes punishment for „abetment of suicide". Abetment of attempt to commit suicide is outside the purview of section 306 and it is punishable only under section 309 read with section 107, IPC. In certain other jurisdictions, even though attempt to commit suicide is not a penal offence yet the abettor is made punishable. The provision there provides for the punishment of abetment of suicide as well as abetment of attempt to commit suicide. Thus even where the punishment for attempt to commit suicide is not considered desirable, its abetment is made a penal offence. In other words 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.*

*Suicide (self annihilation) is a common incident affecting the people of all classes throughout the globe.. It is a peculiar crime where both the accused and victim is same person.*

*Abetment of suicide is punishable under Sec.306 of Indian Penal Code. Medicolegists should be very cautious regarding the opinion while dealing such cases because many times the exact cause and circumstance of the incident remains concealed. Thorough investigation, meticulous examination including visit to the scene of crime is utmost essential to take correct decision to avoid miscarriage of justice.*

**Keywords:** abetment, suicide, punishment, insane, intoxicated, offence, abettor

## I. INTRODUCTION

Abetment to suicide is self murder or self destruction and it is done in many ways due to which one can end up their own life. The person who encourage or assist someone to do such crime is known as 'abettor. Suicide means ending up own life i.e self murder. There are various reasons for happening of such crime like dowry demand, rape, ill treatment, acid attack, defamation, etc. In case of abetment to suicide by the married women during early of the married life the dowry demands and consequent taunts and cruelty may be one of the major reasons. But it is not only the reasons. Now-a-days in most of unfortunate deaths of young brides in the matrimonial homes, dowry demands and their non satisfaction by the parental side of the women is projected as the reason for the suicide. Provision relating to abetment to suicide is prescribed under section 306 of Indian Penal Code 1860. It reads as:

"S.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 not exceeding ten years, and shall also be liable to fine."

Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. But without a positive act on the part of the accused to instigate or aid in committing suicide conviction cannot be sustained. The provision of abetment to suicide correlates with the provision of abettor and attempt to suicide in section 107,306

& 309 Thus, even where the punishment for attempt to commit suicide is not considered desirable, its abetment is made a penal offence in the interest of society. Such a provision is considered desirable to prevent the danger inherent in the absence of such a penal provision.

The term “Abettor” is defined under chapter V section 108 of Indian Penal Code. The word “suicide” in itself is nowhere defined in the Penal Code, however, its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself. Chapter XVI of Indian Penal Code includes the provision relating to abetment to suicide. Abetment, in a real sense, implies the actuation of an individual to do (or not to do) an act with a particular goal in mind, or help given by some individual to another either on his own decision or conditions emerging out of joint and valuable risk. Abetment to suicide includes a psychological interaction of inducing an individual or purposefully helping an individual in ending his life on his own.

This part depends on a sensible public approach to forestall other individual’s contribution, incitement, and helping in ending one’s life. It deals with the circumstance and dangers forced by death baiters. Section 305 under Indian Penal Code, 1860 deals with the punishment of a person who abets the suicide of a kid, not being eighteen years old, insane or idiot individual being intoxicated which is the death penalty or life detainment, or detainment for a term not surpassing ten years, and will likewise be obligated to fine.

## **II. HISTORICAL BACKGROUND**

Section 306 of the Indian Penal Code, 1860 was added in order to prevent sati. In ancient days the tradition of sati was widespread in India. Sati was the tradition which was considered as the purest form of ending up women life. The act or custom of a hindu widow burning herself to death with her husband funeral pyre. In order to eliminate this iniquity, this provision was added consequently.

Further it was established that wife had committed suicide consequent to ill-treatment meted out to her by mother-in-law, sister-in-law and husband. It was held that these persons were liable to be convicted under sections 306 for abetting her to commit suicide. Due to not bringing sufficient dowry, the accused was ill-treating the deceased. The evidence on record made out case of persistent and unabated harassment and cruelty. This compelled the deceased to commit suicide by consuming a poisonous substance. The accused husband was held guilty under sections 306 and 498-A. Before the offence under section 306 can be proved, only if there is presence of mens rea as it is the utmost importance factor. To hold a person guilty of abetment to commit suicide under the said provision, there has to be a clear mens rea on his part to instigate another to commit suicide. There should be objective to aggravate, incite or persuade the doing of the act by the other individual. The suicide must necessarily have been committed, also, a person may abet suicide by words or conduct, or both.

A person is said to have instigated another to commit suicide when he, by his acts or omissions or a continued course of conduct, created such circumstances that the other was left with no other alternative but to commit suicide. Words that a person speaks in a fit of anger or emotion without any intention of making anyone commit suicide, does not amount to abetment. Some active role in the commission of suicide by the accused needs to be proved to hold him responsible for abetting it. Without action on the part of the accused person to instigate or aid the deceased person committing suicide, the conviction is not sustainable.

## **III. METHOD OF DATA COLLECTION**

Secondary data-collection methodology was considered in the present research-paper for gaining access to reliable data associated with different factors that are fueling growth of abetment to suicide and efficiency of existing regulations in preventing the same. The data is collected from various books, journals, websites, live court proceeding & landmark judgments.

Further use of this data-collection methodology has made it possible to consult various authentic sources of data that has aided in collecting exact numerical data regarding death cases caused by abetment to suicide in India. This helped in deriving proper conclusion from collected information in this study.

#### **IV. DISCUSSION**

Abetment is a procedure in which there is a mental progression of instigating an individual or intentionally aiding a person in doing a particular act. The purpose of the legislature and the proportion of the cases decided by the Supreme Court is obvious that in order to charge a person under section 306 Indian Penal Code, 1860 there has to be a lucid mens rea to commit the offence. It also requires a dynamic act or direct act, which led the deceased to commit suicide seeing no alternative and that act must have been intended to put the deceased into such a point that he had to commit suicide.

The Supreme Court reiterated that to convict the accused for committing an offence of abetment to suicide under Section 306 IPC, it must be proved by the prosecution that the accused, by his act or omission or by his continued course of conduct, created a situation that the deceased is left with no other option except to commit suicide. However, once the case has been filed in court, it cannot be simply withdrawn or dropped at the request of the accused or any other party.

Depending on the stage of the case, the accused can either apply for a regular bail after he has been arrested or can ideally apply for an anticipatory bail before the arrest is made. The court will consider various essentials such as antecedents of the accused, his status in the society, the motive for the offence, police charge sheet, etc. After considering all the essentials if the reasons favour accused bail will be granted.

Based on the provided data, it is evident that anticipatory bail applications have been filed in cases involving offenses under Section 306 IPC. The courts have granted anticipatory bail in some instances, considering the facts and circumstances of each case. The time limit for filing the challan for this offence is 60 days.

The suicide note is one of the most important evidence in abetment to suicide because in most cases the complaint is lodge on the basis of suicide note. The words mention in such note states about the reason of suicide

**Constitutional Validity of Section 306, IPC:** The constitutional validity of section 306 has been upheld in Naresh Morotrao v. UOI<sup>13</sup>. It was observed that section 306 constitutes an entirely independent offence. It is based on the principle of public policy that nobody should involve himself in, or instigate, or aid, the commission of a crime. It is not violative of Articles 14 and 21 of the Indian Constitution.

The alleged involvement of the accused in the form of abetment which led to the commission of suicide by the deceased (abetted person), should be direct in nature.

There should be a close link between the accused person's act of abetment and the deceased person's decision to commit suicide. In the absence of a link, it will be hard to establish that the accused person induced the deceased person to commit suicide. Therefore, abetment by a person happens when the accused provokes or creates such circumstances that the deceased had no other alternative but to commit suicide.

If the act was not of the above description, it is not a criminal act for the purpose of Section 306, IPC. Failing the fulfilment of the above-stated two conditions, a person could not be convicted of the offence of abetment of Suicide.

An accusation under Section 306, IPC is a very serious one. A charge for Abetment of Suicide is widely levied in cases for dowry demand related suicides or those due to cruelty or domestic violence.

#### **V. CONCLUSION**

With the changing time, pattern of the society is changing vastly, calling for new and amended laws and provisions, as already enacted laws and legislations are falling short of the purpose for which they were enacted. Over a period of time, the ways of commission of offences have changed in such a way that they have gone beyond the ambit of the enacted provisions. There arises need for such laws that does not restrict the judgments to mere pigeon hole patterns of the criminal laws. Each case should be decided on its own merits keeping in mind the facts and circumstances of such case so that the justice is administered in its true sense. In today's emerging society, people face many problems relating to their homes or workplaces, and few people, who are unable to deal with such pressures tends to end up there life and thus, suicides are becoming very common. Moreover, along with an increase in the number of suicidal cases, there has been a steady rise in cases of Abetment of suicide, be it a case of abetment by instigating or by aiding the victim in committing suicide. The accused can easily defeat the penal provisions dealing with such offence as the ambit of the provision is limited to three categories, only. Thus, there is a dire need to amend the provisions dealing with the offence of abetment, in such a way that the criminals are not able to bypass the legislations and amend the cases suiting their own desires and escape the punishments. Also, the laws are needed to be interpreted not strictly in a confined

manner. But according to the facts and circumstances of each case so that justice prevails. The current definition of abetment falls short. The section covers abetment by way of aid, instigation and conspiracy, but there are instances where the actions of the person do not strictly fall in these three categories but pressurize a person to commit suicide. Thus the abetment of suicide, child or insane person create a problem. Therefore null hypothesis is proved.

## VI. SUGGESTIONS

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.

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.

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 that act must have been intended to push the deceased into such a position that he committed suicide. By providing clearer guidelines, lawmakers can help prevent potential miscarriages of justice and enhance the overall effectiveness of the legal framework.

The recent Supreme Court judgment on Section 306 of the Indian Penal Code (IPC) has highlighted the need for a nuanced examination of the legal landscape surrounding abetment to suicide. One key suggestion involves revisiting the mens rea standards essential for establishing guilt under this section. The court's clarification on the mental state required for conviction is crucial in ensuring a fair and consistent application of the law. By providing clearer guidelines, lawmakers can help prevent potential miscarriages of justice and enhance the overall effectiveness of the legal framework.

Another imperative suggestion is to incorporate provisions in the law that specifically address cases involving mental health challenges. With an increasing awareness of mental health issues, it is essential to differentiate between intentional harm and situations where the accused may not fully comprehend the consequences of their actions. This tailored approach would align the legal system with contemporary societal values and foster a more empathetic understanding of individuals facing mental health struggles.

Public awareness campaigns emerge as a proactive measure to address the sensitivity of suicide cases. Educating society about the multifaceted factors contributing to suicide and the legal implications of abetment can dispel misconceptions and promote a more informed and compassionate approach. Such initiatives contribute to a broader societal understanding of the complexities involved, reducing stigma and fostering a supportive environment for those grappling with mental health issues.

Furthermore, specialized training for law enforcement agencies is essential in handling cases related to abetment to suicide. This training should encompass an understanding of the intricacies of mental health issues, ensuring thorough investigations and proper collection of evidence. By equipping law enforcement with the necessary skills and knowledge, the criminal justice system can operate more effectively and with greater sensitivity in cases involving allegations of abetment to suicide.

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