

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE, SONITPUR  
AT TEZPUR

**PRESENT** : Sri P.C. Kalita, AJS,  
Assistant Sessions Judge,  
Sonitpur, Tezpur.

**SESSIONS CASE NO. 182 OF 2010**

**GR Case No. 1163 of 2004**

Under Section 306 of Indian Panel Code

State of Assam

**–Versus –**

**Sri Lasman Bin**

Son of Sri Hajari Bin

Vill - Singri Bongali

PS- Dhekiajuli

Dist – Sonitpur (Assam). .....

**Accused Person.**

ADVOCATES APPEARED:

For the State : Sri Mahendra Bora,  
Additional P.P.

For accused : Mr. R. R. Kalita,  
Advocate

Date of evidence : 19-03-2012, 08-06-2012,  
18-07-2012, 16-08-2012  
12-09-2012, 19-12-2012 &  
17-08-2013

Date of Argument : 14-05-2015

Date of Judgment : 18-05-2015

J U D G M E N T.

The prosecution case, inter-alia, in brief, is that the informant Hiralal Bin lodged an ejahar in the Singri OP, under Dhekiajuli PS, alleging that on 08-03-2000, the accused Lasman Bin got married his deceased daughter. On the occasion of her marriage, he gave her cash Rs.30,000/-, ornaments and other essential articles. After marriage, the accused person subjected torture on

his victim daughter, on demand of money and lastly, 08-08-2004, at about 4 p.m., the accused person subjected torture to her and then, she (victim) having no way out, committed suicide by poisoning.

2. After receiving the aforesaid ejahar, the I/C of Singri Out Post, made a GD Entry and on the basis of said GD Entry by forwarding the ejahar to O/C, Dhekiajuli Police Station for registering a case. Accordingly, the O/C of Dhekiajuli PS registered a case, bearing Dhekiajuli Police Station Case No. 258/04 u/s 304 B of IPC. During the period of investigation, the Investigating Officer caused post mortem examination of the deceased. After conclusion of investigation, the Investigating Officer submitted the Charge sheet against the accused u/s 306 of IPC.

3. After appearance of the accused Lasman Bin before the Court, the learned Judicial Magistrate, 1st class, Tezpur, committed the case to the Court of learned Sessions Judge, Sonitpur, Tezpur. Thereafter, the learned Sessions Judge, Sonitpur, Tezpur transferred the case to this court for trial. Considering the materials available on case record and relevant documents of case diary, the charge was framed against the accused person namely, Lasman Bin under Section 306 of IPC. Then the contents of charge was read over and explained to the accused person, to which, he pleaded not guilty and claimed to be tried.

4. To bring home the charges, the prosecution has examined as many as 11 (eleven) PWs. Statement of accused person u/s 313 Cr.P.C is recorded. The pleas of the accused person are of total denial and he has declined to adduce any defence witness.

5. **Point for determination:**

(i) Whether the accused person, on 08-08-2004, at about 4 p.m., at village Singri Bangali, under Dhekiajuli PS, one Lalita Bin being the wife of the accused committed suicide and that the accused abetted its commission and thereby committed an offence punishable u/s 306 of IPC?

**Discussions, Decision and reasons thereof:-**

6. I have carefully perused the evidence and the materials available on the case record. Heard arguments of both sides. Now, let us examine the evidence of PWs to decide the case at hand.

7. PW 1, Hiralal Bin, the informant –cum- father of the deceased, stated that his daughter Lalita Bin was given in marriage to the accused Lasman Bin and as dowry, gave Rs.30,000/-. After her marriage, the accused person - her husband, subjected torture to her demanding money. The deceased daughter told him about such demand made by the accused. One day, his deceased daughter coming to his house, showed him cutting her with blade. Subsequently, his victim daughter committed suicide. The son of maternal aunt of the accused, informed him about the death of his victim daughter and then, he went to the house of the accused person and saw the dead body of his victim daughter wrapping with clothes after bringing from hospital. Then, he lodged the ejahar, Ext.1 is ejahar and Ext.1(1) is his signature thereon.

8. PW 2, Asha Devi Bin, mother of the deceased Lalita Bin, stated that the accused is her son-in-law. After marriage, her deceased daughter staying for two months, at the house of the accused person, her deceased daughter used to stay at her home for two years. Thereafter, his victim daughter again went to the house of the accused person. Her deceased daughter again coming to her residence told her about demand of money by the accused person and cutting her hand with blade by the accused person. Thereafter, the mother of the accused person took back her deceased daughter with assurance not to assault her, but thereafter her deceased daughter and son-in-law again came to her residence and took Rs.5,000/- from her. After one month, she got information that her daughter died. They went to the house of the accused person, but did not find the daughter. She heard that her daughter died by consuming medicines.

9. PW 3, Suroj Devi, a neighbour, stated that the accused is the son-in-law of the informant Hiralal Bin. One day, about eight years ago, the incident took place. The accused person got married the victim Lalita, the daughter of the

informant. The accused person tortured the victim girl prior to the incident. One day, the accused person caused injury on Lalita with blade. He saw her injury. One day, Lalita came from the house of the accused person with her cloths and then he met her and saw her weeping and told her that the accused person cut her with blade. She also told her that the accused person assaulted her. She asked her to stay with her at her parent's home. A village mel was convened in regard to the incident, where the accused and the parents were present and the accused person took back her with assurance not to assault her again. After 10/20 days, a man coming to her village, informed that Lalita Bin had expired. On being made query, the villagers told that the accused person killed the victim Lalita. He saw the dead body of deceased Lalita. He suspected that the accused person killed Lalita on demand on money.

10. PW 4, Smt. Ania Bin, the mother of the accused, stated that his son got married deceased Lalita Bin. Deceased Lalita Bin died about 6/7 years ago. Her son and daughter-in-law Lalita Bin got quarrelled each other. Subsequently, his son went out and her daughter-in-law Lalita Bin committed suicide by consuming poison. Prior to the incident, there was quarrel between them. During the period of Rakhi Bandhan, her daughter-in-law wanted to go to her parents' house, but while her son protested, there was quarrel between them. The daughter-in-law died on the way to hospital. Thereafter, the parents of daughter-in-law was informed. They came to her house. The neighbours informed the parents of the daughter-in-law to kill her (daughter-in-law) by consuming poison. Police came to the place of place of occurrence and seized certain bangles, wherein she put her thumb impression.

11. PW-5 Smt. Anna Das, a neighbour of the accused, stated that prior to her marriage, the accused person got married a girl from Orang. About 5/6 years back, the wife of the accused died. She heard that deceased Lalita Bin died by consuming poison. She does not know as to why Lalita Bin consumed poison. She did not see the accused person assaulting his wife.

12. PW-6 Prafulla Das stated that he knows the accused person. The accused person got married a girl from Udalguri. The family members of the accused informed him that deceased Lalita Bin died by consuming poison. The

house of the accused is nearby his house and he sometimes saw and sometimes heard the accused person assaulting his wife. The mother of the accused calling him while the victim was uttering after having poison. Then, he came and offered her some sour. Thereafter, Lalita Bin was shifted to hospital with a vehicle. At the hospital, the doctor declared her as dead. He was present at the hospital. The police seized bangles in connection with the case, where he put his signature. Ext.2 is the seizure list and Ext.2(1) is his signature thereon.

13. PW-7 Krishna Das stated that she saw the accused at the time of lodging the ejahar. One Hiralal Bin came to her and asked her for writing an ejahar stating that his daughter died consuming poison. As per his instruction, she wrote the ejahar, read over to him where the informant put his signature. She put her signature on the ejahar as ejahar writer. Ext.1 is the ejahar and Ext.1(2) is her signature and Ext.1(1) is the signature of Hiralal Bin.

14. PW-8 Smt. Anna Das stated that she knows accused Lasman Bin, who got married Lalita Bin. She heard that Lalita Bin consumed poison at the time of occurrence. She also heard that there was quarrel sometimes between the accused and his wife, but she does not know the reason of their quarrel. She heard that Lalita Bin died consuming poison.

15. PW-9 Janardan Rajbhor, a co-villager of the deceased, stated that he knows accused Lashman Bin, who got married the daughter of Hiralal Bin of his village. After six months of her marriage, the accused person started to assault his wife (Lalita Bin) and sometimes kept her at her parents' house. Thereafter, they went to the house of the accused and by consoling him (accused) kept her at accused's home. After 2/3 months thereafter, Hiralal Bin, from the house of accused, telephoned him that his daughter had died. Then, he along with 10/12 people went to the house of the accused, but did not find the dead body of Lalita Bin. He heard that the accused person killed Lalita Bin.

16. PW-10, Dr. Kulendra Nath Deka, the MO, stated that on 09-08-2004, while he was working as Sr. Medical and Health Officer. He conducted the post mortem on the dead body of late Lalita Bin in reference to Singri Police Out Post, GD Entry No. 117, dated 09-08-2004.

During post mortem, he did not find any external and internal injury. Hence, viscera was preserved in normal saline. Stomach with contents, right kidney and a part of liver.

No definite conclusion was given as to the cause of death. But viscera was preserved for sending FSL.

Ext.3 is the post mortem report and Ext.3(1) is his signature.

17. PW-11, Rabindra Sarkar, SI of Police, (IO) stated that on 03-01-2007, he was serving as In-charge at Singri OP. On that day, the Officer-in-charge of Dhekiajuli PS entrusted upon him the investigation of this case. Jayanta Kr. Nath, SI of Police, earlier IO, completed the preliminary investigation and on his transfer, he took up the further investigation. Thereafter, he perusing the materials on the case diary, submitted charge-sheet u/s 306 IPC against the accused person. Ext.4 is the charge-sheet, where Ext.4(1) is his signature thereon.

Legal position :

**offence u/s 306 of IPC ( Abatement of suicide )**

18. Section 107 of IPC defines Abetment -

A person abets the doing of a thing, who –

First – Instigate any person to do that thing ; or

Secondly, Engages with one or more other persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing ; or

Thirdly, Intentionally aids, by any act or illegal omission, the doing of that thing.

In order to constitute an offence u/s 306 of IPC, the prosecution must prove :

- (i) That the victim of the offence committed suicide
- (ii) That the accused abetted the commission of the said offence.

19. There is no eye witness to see the occurrence.

Here, PW-1 Hiralal Bin, the informant-cum-father of the deceased Lalita Bin is a prime witness in the present case. His deposition is that the accused person, after got married his deceased daughter Lalita Bin, subjected torture to Lalita Bin on demand of money for purchasing motor cycle. One day, her deceased daughter came to his residence and showed him the injury inflicted upon her by the accused.

During cross-examination, this PW-1 stated that after the marriage of his deceased daughter Lalita Bin with accused, she stayed in the house of accused for 4/5 days and thereafter, they brought her to his residence and thus, stayed two years at his home. Thereafter, the accused person took his deceased daughter from his home. He does not know as to how his deceased daughter died.

The deposition of PW-2 Asha Devi Bin, mother of the deceased Lalita Bin, is that her daughter Lalita Bin informed her that accused –husband assaulted her (deceased ) on demand of money and also showed her blade cutting injury. PW-2 further stated that one day, prior to death of Lalita Bin, her daughter Lalita Bin and the accused came to her residence and took Rs.5,000/- from her. In cross-examination, PW-2 stated that her deceased daughter stayed at her residence more than three years after her marriage with the accused.

PW-1 ( father of deceased) and PW-2 (mother of deceased) are hearsay witnesses. They are reported by their daughter Lalita Bin that her accused-husband assaulted her (deceased) on demand of money and also showed them blade cutting injury inflicted upon her by her accused –husband.

But, these two witnesses in their respective depositions nowhere stated due to the torture meted out to Lalita Bin by the accused, their daughter Lalita Bin had to commit suicide by poisoning. Besides, they also could not give the details description as to how long the alleged torture continued and since when accused started to torture Lalita Bin. There is no evidence that willful conduct of the accused-husband was of such nature as was likely to drive his wife ( deceased Lalita Bin) to commit suicide. PW-1 does not know as to how his daughter died.

PW-2, mother of the deceased, stated that her daughter Lalita Bin and accused – son-in-law once came to her and took Rs.5,000/- from her (PW-2), whereas PW-1, father of Lalita Bin, in his deposition, nowhere made such statement. Thus, it appears that both the two vital witnesses have made contradictory statements on this material point of giving money to the accused.

That apart, the evidence of PW-10, (MO) does not support at all the prosecution case on the ground that the MO could not give any definite opinion as to the cause of death of Lalita Bin.

PW-3, PW-4, PW-5 and PW-9 are hearsay witnesses and they do not support at all the prosecution version.

PW-6, a neighbour ( independent witness) though stated that he saw and heard the accused assaulting his wife deceased Lalita but during cross-examination, this PW-6 stated that he was not present at home while the wife of the accused consumed poison. So, the testimony of PW-6 is not reliable.

PW-7 is the ejahar writer.

PW-11 is IO.

Learned advocate for the defence submits that to make out an offence u/s 306 IPC, there must be an active act or direct act on the part of the accused which led the deceased to commit suicide, which is lacking here in this case. In support of his contention, learned counsel has placed reliance upon a

decided case, reported in 2010 SAR (Criminal) 155, wherein at para 20, the Hon'ble the Supreme Court of India has held that " Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained". In the present case, the circumstances, available on the case record does not show that the accused instigated or aided his wife Lalita Bin (deceased) in committing suicide.

20. In view of the above discussions and considering all aspect, I hold that prosecution has failed to prove the case u/s 306 IPC against the accused, beyond all reasonable doubt. Hence, I acquit the accused person from the said offence, on benefit of doubt.

21. The accused person be set a liberty forthwith and his bail bond stands cancelled.

22. The case is disposed of accordingly.

Given under my hand and seal of this Court on this day, the 18th day of May, 2015.

**P.C. Kalita)**  
Assistant Sessions Judge,  
Sonitpur : Tezpur

Dictated and corrected by me.

**(P.C. Kalita)**  
Assistant Sessions Judge,  
Sonitpur : Tezpur

transcribed by me :

(J. K Muru), Steno.

**P P E N D I X****Prosecution witnesses :**

|       |   |                                |
|-------|---|--------------------------------|
| PW-1  | : | Sri Hiralal Bin, the informant |
| PW-2  | : | Smt. Asha Devi Bin             |
| PW-3  | : | Smt. Soroj Devi                |
| PW-4  | : | smt. Ania Bin                  |
| PW-5  | : | Smt. Anna Das                  |
| PW-6  | : | Sri Prafulla Das               |
| PW-7  | : | Smt. Krishna Das               |
| PW-8  | : | Smt. Anna Das                  |
| PW-9  | : | Sri Jonardan Rajbhar           |
| PW-10 | : | Dr. K. N Deka, MO              |
| PW-11 | : | Sri Rabindra Sarkar, IO        |

**Defence Witness** : Nil

**Court Witness** : Nil

**Prosecution Exhibits** :

|       |   |                    |
|-------|---|--------------------|
| Ext.1 | : | ejahar             |
| Ext.2 | : | Seizure list       |
| Ext.3 | : | Post mortem report |
| Ext.4 | : | Charge-sheet       |

**Material Exhibits** : Nil

**Defence Exhibit** : Nil

**Court Exhibit** : Nil

**Exhibit produced by witness** : Nil

**(P.C. Kalita)**  
Assistant Sessions Judge,  
Sonitpur : Tezpur.

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