

**IN THE COURT OF ASSISTANT SESSIONS JUDGE:**  
**GOALPARA**

**Sessions Case No. 231/2015**

**U/S 306/34 of IPC**

**The State of Assam**

**-Vs-**

**(1) Mahibur Rahman**

**(2) Ashikur Rahman**

**(3) Hasina Khatun**

*..... Accused persons*

**Present : Smt. C.R. Saikia, A.J.S.**  
**Assistant Sessions Judge, Goalpara**

**For the Prosecution: Mr. N.N. Islam, learned Addl. P. P.**

**For the accused: Mr. M. Hoque, learned Advocate.**

**Evidence for the prosecution recorded on : 23-11-16, 27-01-17, 12-05-17, 01-07-17, 16-08-18, 30-05-19, 01-08-19, 09-04-21.**

**Statement of the accused recorded on: 13/12/2021.**

**Argument heard on: 16-12-2021.**

**Judgment delivered on: 21-12-2021.**

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

1. The gist of the prosecution case as disclosed in the ejahar is that Sahabina Ahmed, sister of the informant Lokimuddin Ahmed got married to Mahibur Rahman on 15-01-10. After marriage Sahabina had been tortured

physically and mentally by her husband and her in-law by demanding money and motorcycle from her. Resultant to such torture Sahabina committed suicide on 20-03-10. It is disclosed in the ejahar that the husband of the deceased and her in-laws continued to inflict torture on the said deceased prior to her death. Lokimuddin Ahmed, brother of the deceased, lodged an ejahar with the O.C. of Goalpara P.S. disclosing the said facts.

2. On the basis of the said ejahar Goalpara P.S. Case No. 172/10 u/s 304 B/34 of IPC was registered against accused persons named in the ejahar. On completion of investigation police laid charge sheet against accused persons Mahibur Rahman, Ashikur Rahman and Hasina Khatun u/s 306/34 of IPC.

3. The then learned Chief Judicial Magistrate, Goalpara committed this case for trial before Hon'ble Court of Sessions vide its order dated 14-10-15 after complying with the provisions under section 207/209 Cr.P.C. On 02/08/2019 this court received the instant case for disposal from Hon'ble court of Sessions on transmission.

4. It is pertinent to mention that the then learned Sessions Judge, Goalpara, framed a formal charge u/s 306/34 of IPC against the accused persons Mahibur

Rahman, Ashikur Rahman and Hasina Khatun vide its order dated 03-03-16 after considering the relevant materials on record. The charge was read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

5. Prosecution side adduced evidence of nine witnesses in support of its case. Statement of the accused persons recorded u/s 313 Cr. P.C. is of total denial. Defence side declined to adduce any evidence in its defence. I have heard the argument of both sides, considered the contentions raised on behalf of both sides and perused the evidence on record.

**The point for determination in this case is as follows:**

6. Whether the wife of the accused Mahibur Rahman committed suicide on 20-03-10 by setting fire on her body and if so whether the accused persons abetted the commission of such suicide in furtherance of their common intention and thereby committed an offence punishable under section 306/34 IPC ?

**DISCUSSION OF EVIDENCE, DECISION AND REASONS THEREOF:**

7. It is the cardinal principle of criminal jurisprudence that the accused is presumed to be innocent until his guilt is proved beyond reasonable doubt. **As per**

**provisions of Sections 101 and 102 of Indian Evidence Act 1872** the burden of proving the guilt of the accused lies on the prosecution. In this instant case prosecution has adduced evidence of nine witnesses in order to discharge its burden.

8. **Section 306 of the Indian penal Code, 1806** (the code hereinafter) provides punishment for abetment of suicide.

9. Abetment of suicide is confined to the case of persons who aid and abet the commission of suicide by the hand of the person himself who commits the suicide.

10. To grasp the idea of the offence as enumerated under section 306 of the code well, it is necessary to know the ingredients of abetment. **As laid down in section 107 of the code** abetment is constituted by:

- (i) Instigating a person to commit an offence; or
- (ii) Engaging in a conspiracy to commit it; or
- (iii) Intentionally aiding a person to commit it.

11. It is very clear that in order to constitute an abetment of any offence there must be either instigation to commit it, or engagement in conspiracy to commit it or intentional aiding to a person to commit it.

12. In view of the said provisions of law I would like to analyse the evidence on record to discern the veracity of the prosecution case.

13. **P.W.1 Lokemuddin Ahmed** is the informant and brother of the victim of this case. It is in the evidence of PW 1 that his sister Sahabina was married to the accused Mahibur Rahman about three months ago from the date of the incident. Sahabina informed him over phone that accused Mahibur tortured her as she had not agreed to give her ornaments in mortgage to purchase motorcycle for her husband. It is in his evidence that Sahabina committed suicide in the bathroom of his house.

14. **P.W-2 Aijuddin Ahmed** is the uncle of the victim. He supports the evidence of P.W-1 regarding the fact that Sahabina was married to Mahibur Rahman about three months ago from the date of the incident and Sahabina committed suicide.

15. **PW.-3 Kasima Begum** is the aunt of the victim. She also lends support to the fact of Sahabina being married to Mahibur and she committing suicide.

16. **P.W-4 Jimi Ahmed** is the sister in law of the victim. She also supports the evidence of P.W-1, P.W-2 and P.W-3 regarding the fact of Sahamina marrying Mahibur and she committing suicide.

17. P.W-6 being the father of the victim testifies that his daughter Sahabina committed suicide after her marriage resultant to torture inflicted on her by her in-laws.

18. **P.W-7 Fojila Begum** is the neighbour of the parents of the victim. She testifies that one evening Sahabina caught fire in the bathroom of their house. **P.W-8 Nursalina Begum** also supports the fact of Sahabina committing suicide by setting herself in fire.

19. **P.W-9 Ratul Haloi** is the investigating officer who had arrested the accused and recorded the statement of one of the witnesses. He had submitted the charge sheet against the accused persons. The evidence of P.W-9 is mostly formal in nature.

20. From the aforesaid evidence the fact of Sahabina committing suicide is established. But the evidence is not convincing to show that the said suicide was the result of any abetment from the side of the accused persons.

21. The Supreme Court has reiterated in **Wazir Chand V. State of Haryana ( AIR 1989 SC 378)** that before section 306 of the code can be acted upon , there must be clear proof of the fact that the death in question was a suicidal death.

22. Again, it is also settled in a catena of decisions that in a case of any suicidal death of a married woman in

her nuptial home, the abetment can be done through dowry demand, maltreatment of wife, vicious habits like drinking and gambling and beating wife, maintaining illicit relationship with other woman.

23. Now it transpires from the evidence as discussed above that the married sister of the informant committed suicide by setting herself in fire. But there is nothing in the entire evidence tendered on behalf of the prosecution to show that the accused persons being the husband and in-laws of the deceased abetted Sahabina in any of the three ways as enumerated in section 107 ( as stated above in this judgment ) of the code to commit the suicide. The evidence tendered on behalf of the prosecution is very vague and general about the husband of the deceased demanding bike and money from her and inflicting torture on her. There is nothing in the evidence to show in what manner the husband of the deceased inflicted torture on her and there is no evidence to show that the deceased was abetted to commit suicide by any mal-treatment of the accused persons. There is no evidence to show any kind of vicious habits of the accused husband like drinking or gambling or beating his wife or maintaining any illicit relation with other woman in presence of his wife from which the abetment may be inferred.

24. The comprehensive effect of the evidence adduced by the prosecution is that the suicidal death of the wife of the accused Mohibur Rahman at her parental home is established. But the evidence fails to bring home any element of abetment against the accused persons. The evidence also fails to implicate the accused persons in inflicting any kind of torture on the deceased prior to her death.

25. Resultant to what is discussed above the point for determination needs to be answered in negative. Therefore, accused Asikur Rahman, Mahibur Rahman and Hasina Khatun are acquitted of the alleged offence under section 306/34 IPC. They are set at liberty forthwith. Their bail bonds are extended for a period of six months in view of provision under section 437A Cr.P.C.

26. Forward a copy of this judgment to the District Magistrate in compliance of section 365 of Cr. P.C.

**Given under my hand and the seal of this Court on this 21<sup>st</sup> day of December , 2021.**

Dictated and corrected by me:

**(C.R.Saikia, A.J.S.)  
Asstt.Sessions Judge, Goalpara**

**Asstt.Sessions Judge, Goalpara**

**APPENDIX**

(Sessions Case No. 231/2015).

**Prosecution witness :**

P.W.1 ..... Lekemuddin Ahmed (informant)

P.W.2 ..... Ajijuddin Ahmed @ Putu,

P.W.3 ..... Kashema Begum,

P.W.4 ..... Jimi Ahmed,

P.W.5 ..... Dr. Madhab Kr. Rahang (M.O.),

P.W.6 ..... Lutfa Begum,

P.W.7 ..... Fojila Begum

P.W.8 ..... Nur Sabina Begum,

P.W.9 ..... Ratul Haloi (I.O.).

**Defencewitness :**..... Nil.

**Prosecution Document :**

Exhibit-1 .... Ejahar.

Exhibit-2 .... Inquest Report.

Exhibit-3,4 & 5 .... Seizure Lists.

Exhibit-6 .... P.M. Report.

Exhibit-7 .... Charge Sheet.

**Defence Document :**..... Nil.

**Court's witness :**... .. Nil.

**Court's Document :**... .. Nil.

(C. R. Saikia, A.J.S.)  
Asstt. Sessions Judge,  
Goalpara, Assam.