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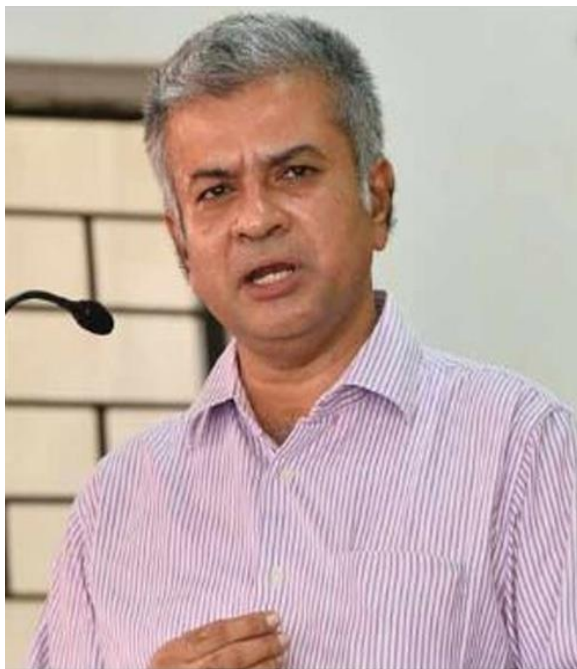
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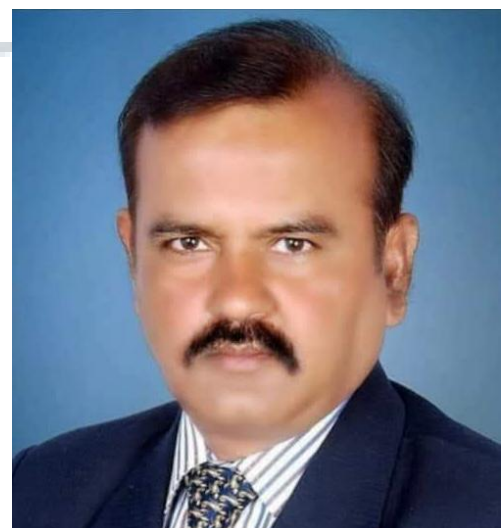


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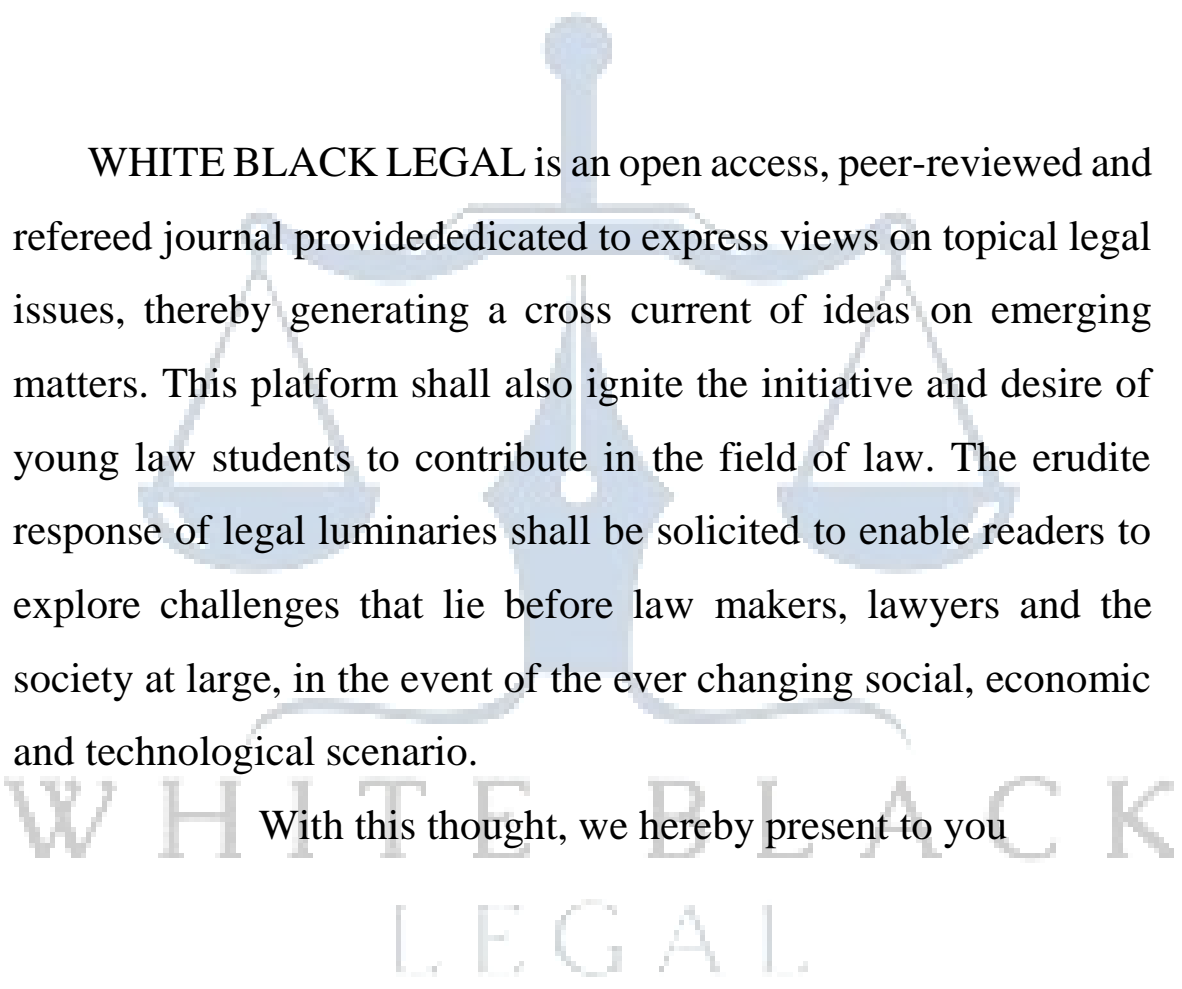


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

HYPERBOLES VS. INSTIGATION: ANALYZING THE FINE LINE IN ABETMENT OF SUICIDE UNDER SECTION 306 OF IPC (108 OF BNS)

AUTHORED BY - MS. G. SELVI

Abstract:-

The differentiation between hyperbolic expressions and instigation in the context of suicide abetment cases under Section 306 of the Indian Penal Code (IPC) and its counterpart, Section 108 of the Bharatiya Nyaya Sanhita (BNS), remains a significant point of debate within Indian criminal law. The evolving interpretations by the judiciary have highlighted the importance of demonstrating a clear intent (*mens rea*) and a direct cause-effect relationship between the actions of the accused and the victim's suicide. Nonetheless, numerous instances of casual comments, debt collection discussions, and heated confrontations are often misinterpreted as instigation, resulting in the inappropriate application of suicide abetment laws.

In conclusion, the paper calls for a more stringent judicial framework to differentiate between coercion and exaggerated speech, ensuring that Section 108 BNS is enforced in alignment with the constitutional principles of personal liberty, justice, and the right to a fair trial.

Keywords: - Abetment of Suicide, Hyperboles, Instigation, Section 306 IPC, Section 108 BNS and Judiciary.

1. Introduction:-

One of the fundamental principles of criminal law is the requirement of *mens rea*—a guilty mind—combined with an act that sufficiently contributes to the commission of the offense.¹ Suicide represents a heartbreaking reality that impacts numerous families and communities. The act of taking one's own life is profoundly tragic, and the legal ramifications associated with abetment of suicide as outlined in Section 306 of the Indian Penal Code introduce an additional layer of complexity to this delicate matter. In contemporary society, many unfortunate deaths of young brides within marriages are believed to stem from unmet dowry expectations and

¹ K.D. Gaur, Textbook on Indian Penal Code, 8th ed. (LexisNexis, 2020), p. 341.

parental dissatisfaction. Assisting an individual in their suicide attempt is classified as a criminal act solely under Section 309 in conjunction with Section 107 of the IPC; it does not fall under the scope of Section 306. Consequently, aiding and abetting in such instances constitutes a criminal offense, even when the consequences for attempting suicide are viewed as unfavorable. The legal framework surrounding the abetment of suicide in India has been the focus of considerable judicial examination over the years. Section 306 of the Indian Penal Code (IPC) and its contemporary equivalent, Section 108 of the Bharatiya Nyaya Sanhita (BNS), render the act of abetting suicide a criminal offense, underscoring the importance of a direct and intentional act of provocation. Nevertheless, courts have often faced challenges in differentiating between casual, exaggerated remarks and genuine incitement, resulting in significant discussions within legal circles. Judicial pronouncements have clarified that mere words, absent a clear and direct inducement to suicide, cannot be construed as abetment.²

A significant case that illuminates this matter is *Mahendra Awase v. State of Madhya Pradesh*,³ in which the Supreme Court reiterated that mere verbal disputes or hostile language, absent a clear causal connection to the act of suicide, do not meet the requirements for abetment as outlined in Section 306 IPC (now Section 108 BNS). This ruling is consistent with earlier decisions that emphasize the necessity of a concrete and direct cause-and-effect relationship in such instances.

The aim of this paper is to thoroughly examine the subtle distinction between exaggerated remarks and genuine instigation within the framework of suicide abetment cases. By analyzing recent judicial decisions, this research intends to highlight the need for a more precise and rigorous judicial methodology to avert the potential misuse of legal provisions under Section 108 BNS. Additionally, the paper calls for elevated evidentiary standards to ensure that fundamental constitutional principles, including personal liberty, justice, and the right to a fair trial, are preserved in all cases of alleged suicide abetment.

2. Background of the study:-

Section 306 of the Indian Penal Code, enacted in 1860, was introduced to combat the practice of sati⁴, which was prevalent in ancient India. Sati referred to the custom whereby a Hindu

² *State of Punjab v. Iqbal Singh*, (1991) 3 SCC 1

³ *Mahendra Awase v. State of Madhya Pradesh*, 2025 INSC 76.

⁴ Pitta Isaac Newton, *Abetment of Suicide* (Section. 306 of Indian Penal Code), 4 INT’L J.L. MGMT. & HUMAN.

widow would self-immolate on her husband's funeral pyre, viewed as the most honorable way for a woman to end her life. To eradicate this social injustice, the provision was incorporated into the legal framework.

Subsequently, it was determined that a wife had taken her own life due to the mistreatment she suffered at the hands of her mother-in-law, sister-in-law, and husband. These individuals were found liable for conviction under Section 306 for their role in abetting her suicide. The deceased faced ill-treatment from her husband due to her family's inability to provide a sufficient dowry. The evidence presented indicated a pattern of relentless harassment and cruelty, which ultimately drove her to consume a toxic substance to end her life. The husband was convicted under Sections 306 and 498-A.

To establish an offence under Section 306, the presence of mens rea is crucial, as it is a fundamental element. For a person to be found guilty of abetting suicide under this provision, there must be clear intent to incite another individual to take their own life. The individual must have acted with the objective of aggravating, inciting, or persuading the other person to commit the act. It is also essential that the suicide has indeed occurred, and a person may abet this act through words, conduct, or a combination of both.

A person is considered to have instigated another to commit suicide when their actions or omissions, or a sustained pattern of behavior, create circumstances that leave the other individual with no viable alternative but to take their own life. Statements made in a moment of anger or emotional distress, without the intention to compel someone to commit suicide, do not constitute abetment. To hold an individual accountable for abetting suicide, there must be evidence of an active role in the act itself, demonstrating that the accused took steps to instigate or assist in the suicide.

3. Legal Threshold for Abetment

Mens Rea is a crucial component in the abetment of any crime. The presence of mens rea is deemed essential for establishing liability in cases of abetment.

For example, if A informs B of his intention to kill C, and B responds with, "Do as you wish

and face the consequences," leading A to carry out the act of killing C, B cannot be considered to have incited A to commit the act. Consequently, B would not be held liable for abetment. According to the relevant legal provisions, abetment can occur through various means, including instigation, conspiracy, or assistance.⁵

There are three key elements for describing an act as abetment of Suicide which are as explained in detail follows,

Instigation

The provisions of Section 306 in conjunction with Section 107 of the Indian Penal Code (IPC) have been consistently interpreted, and their principles are firmly established. To substantiate the charge of abetment to suicide, it is essential to demonstrate evidence of either direct or indirect actions that instigate or incite the act of suicide by the accused, which must occur in close temporal relation to the suicide committed by the victim. Such instigation or incitement must clearly indicate a mens rea aimed at facilitating the act of suicide and must place the victim in a situation where they perceive no alternative but to take their own life.⁶

The legal principles surrounding abetment have been firmly established through numerous rulings by this Court. Abetment entails a cognitive process of inciting or deliberately assisting another individual in performing a specific act. In order to substantiate a charge under Section 306 of the IPC, it is essential that the act of abetment includes a clear intention to instigate or assist another person in committing suicide. If the requisite mens rea of the accused is not evident from the record, a charge under this Section cannot be upheld. Furthermore, abetment necessitates an active involvement, whether direct or indirect, from the accused, which ultimately left the deceased with no alternative but to take their own life.

Supreme Court OF India, in a case⁷, addressed the issue of instigation in abetment of suicide. The Court examined the definitions of the terms "instigation" and "goading" as found in the dictionary. It concluded that there must be an intention to provoke, incite, or encourage the commission of an act by another individual. The patterns of suicidality vary significantly among individuals, as each person possesses a unique perception of self-esteem and self-

⁵ Abetment to Suicide: A detailed Study <https://theamikusgriai.com/abetment-to-suicide-a-detailed-study/>

⁶ Prakash vs State of Maharashtra (2024) 2024 INSC 1020

⁷ Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367]

respect. Consequently, it is not feasible to establish a rigid formula for adjudicating such cases. Each matter must be evaluated based on its specific facts and circumstances.

The affirmative act of instigation constitutes a vital component of abetment. In addressing a related matter, Supreme Court of India in a case⁸ established the criteria for what qualifies as an act of instigation. The Court noted the following:

1. Instigation involves the act of goading, urging, provoking, inciting, or encouraging someone to perform 'an act.'
2. To fulfill the criteria for instigation, it is not essential that explicit words be employed, nor must the nature of instigation be overtly indicative of the resulting consequences. However, there must be a reasonable certainty that the incitement to the consequence can be clearly articulated.
3. A statement made in a moment of anger or emotion, without the intention of bringing about the actual consequences, cannot be classified as instigation.

Conspiracy

The second facet of abetment arises when several individuals work together in a conspiracy to perpetrate an offense. In these instances, abetment goes beyond mere direct encouragement and includes the collusion of two or more individuals to aid in the execution of a crime. Nevertheless, the law distinctly differentiates between abetment through conspiracy and the more extensive crime of criminal conspiracy as outlined in Sections 120A and 120B of the Indian Penal Code (IPC).

Intentional Assistance

An individual is considered to abet the commission of an offense if he intentionally provides assistance or support through either an affirmative action or a failure to act. Merely having the intention to assist someone is insufficient.

Intentional assistance comprises three essential elements:

1. The performance of an act that directly aids in the commission of the crime, or
2. The unlawful omission of an action that one is obligated to perform, or

⁸ Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618 : 2001 INSC 515

4. The execution of any act that may facilitate the commission of the crime by another party.

For example, if X incites Y to murder Z by shouting "Maro Maro," and W supplies a knife to X, both X and W are culpable for abetting the murder, with X being guilty of instigation and W of providing aid in the commission of the offense.

4. Mechanical Investigation

Section 306 of the Indian Penal Code seems to be invoked by law enforcement in a somewhat casual and overly eager manner. While it is essential that individuals involved in legitimate cases, where the necessary criteria are satisfied, are held accountable, this provision should not be misused against individuals merely to placate the immediate emotions of the grieving family of the deceased. The behavior of both the alleged perpetrator and the deceased, along with their interactions and discussions leading up to the tragic death, should be examined pragmatically, taking into account the everyday realities of life.

Hyperboles employed in exchanges should not, without anything more, be glorified as an instigation to commit suicide. It is time the investigating agencies are sensitised to the law laid down by the Supreme Court under Section 306 so that persons are not subjected to the abuse of process of a totally untenable prosecution. The trial courts also should exercise great caution and circumspection and should not adopt a play it safe syndrome by mechanically framing charges, even if the investigating agencies in a given case have shown utter disregard for the ingredients of Section 306.⁹

Before dealing with the contentions and the evidence on record which ultimately resulted in the confirmation of the conviction of the appellant under Section 306, IPC, certain relevant aspects of Section 306, IPC with reference to certain relevant decisions are to be looked into.¹⁰ There can be no doubt with respect to the position that to bring home a charge under Section 306,

IPC it is incumbent upon the prosecution to establish:

- a) That the victim of the offence committed suicide;
- b) That the accused abetted the commission of suicide;
- c) That the abetment attracts the ingredients under Section 107, IPC.

⁹ Mahendra Awase vs State Of Madhya Pradesh 2025 INSC 76

¹⁰ M. Vijayakumar vs The State Of Tamil Nadu (2024 INSC 177)

5. Mahendra Awase vs State Of Madhya Pradesh

The Supreme Court of India has consistently highlighted the importance of a rigorous application of Section 306 of the Indian Penal Code (IPC), which addresses the abetment of suicide. In a recent ruling, the Court expressed its concern regarding the mechanical and often unjustified use of this provision by prosecuting authorities, pointing out the risk of misuse and the consequent harassment of individuals lacking substantial evidence of deliberate instigation.

Justice K V Viswanathan, delivering the opinion of the bench, emphasized that despite the Court's numerous clarifications over the years regarding the stringent criteria necessary for the applicability of Section 306 IPC, there persists a tendency to invoke this section too readily. The Court acknowledged that while legitimate cases that fulfill the required criteria should advance, it is crucial that this legal provision is not utilized merely to appease the immediate emotions of the deceased's family.

The Court further specified the fundamental components that constitute the abetment of suicide, asserting that mere claims of harassment are inadequate. There must be compelling evidence of direct or indirect actions that incite the act of suicide. This includes establishing a close causal link between the accused's behavior and the victim's choice to take their own life. The intent to incite or coerce the individual into committing suicide must be clear and unequivocal.

In light of these insights, the Supreme Court has urged greater sensitivity and discernment among investigative bodies and trial courts. The aim is to avert unjust prosecutions that not only inflict unnecessary distress on the accused but also compromise the integrity of the legal system. By following these guidelines, the judiciary seeks to strike a balance between delivering justice in authentic cases and protecting individuals from unfounded accusations. This ruling serves as a vital reminder of the judiciary's responsibility to uphold individual rights while ensuring that legal provisions are applied judiciously.

6. Constitutional Validity of IPC 306

The constitutional validity of section 306 has been maintained in *Naresh Morotrao v. Union of India*.¹¹ It was observed that section 306 establishes altogether an entirely independent offence.

¹¹ 1995 Cri L J 96 (Bom)

It depends on the guideline of public approach that no one ought to include himself in or affect, or help, the commission of wrongdoing. It isn't violative of Articles 14 and 21 of the Constitution of India.¹²

The constitutional validity of Section 306 IPC, which criminalizes the abetment of suicide, has been upheld by the judiciary on multiple occasions. The Supreme Court has emphasized that abetment of suicide constitutes a distinct offense that can exist independently of Section 309 IPC, which penalizes attempted suicide. The rationale behind punishing abetment of suicide lies in the fundamental principle of the sanctity of life and the need to deter individuals from influencing or assisting another in taking their own life. Various legal precedents, including the Bombay High Court's decision in *Naresh Marotrao Sakbre v. Union of India*¹³ and the Supreme Court's rejection of the reasoning in *P. Rathinam v. Union of India*¹⁴, affirm that Section 306 IPC does not violate Articles 14 or 21 of the Constitution. Unlike the arguments made against penalizing attempted suicide, the judiciary has consistently held that abetment of suicide is a separate and necessary offense to prevent coercion, exploitation, and undue influence in cases where individuals may be vulnerable.

7. The Role of Hyperbole and Context in Determining Instigation

One of the most challenging aspects of adjudicating suicide abetment cases is distinguishing between harsh words or exaggerated statements made in the heat of the moment and genuine instigation that drives a person to take their own life. Hyperbole, an exaggerated statement or claim not meant to be taken literally, is a common feature of human communication, particularly during times of stress or conflict. To criminalize such expressions as abetment would be a dangerous overreach, potentially chilling free speech and leading to unjust outcomes. In 1970, the Supreme Court examined the relationship between rhetorical hyperbole and defamation in *Greenbelt Cooperative Publishing Ass'n v. Bresler*.¹⁵ Bresler, a real estate developer, sought several zoning variances from the Greenbelt City Council for high-density housing on his land.

The context in which words are spoken is crucial. What might appear to be a callous or insensitive remark when viewed in isolation could have an entirely different meaning when

¹² Abetment to Suicide: A detailed Study <https://theamikusqriae.com/abetment-to-suicide-a-detailed-study/>

¹³ 1995 Cri L J 96 (Bom)

¹⁴ 1994 AIR 1844, 1994 SCC (3) 394

¹⁵ 398 U.S. 6 (1970).

considered within the broader context of the relationship between the accused and the deceased, their past interactions, and the specific circumstances leading up to the suicide. Courts must carefully examine the totality of the evidence, taking into account the social, cultural, and emotional dynamics at play.

For example, a husband who repeatedly tells his wife, "I wish you were dead," during heated arguments might be expressing frustration and anger without genuinely intending to incite her to commit suicide. However, if those words are accompanied by a pattern of physical abuse, emotional manipulation, and isolation, they could be seen as part of a deliberate campaign to break the victim's spirit and drive her to despair.

Similarly, a creditor who aggressively demands repayment of a debt might use harsh language and threats, but unless there is evidence that the creditor intended to push the debtor to suicide, their actions should not be construed as abetment. The focus should be on whether the creditor's conduct created a situation of such unbearable pressure and hopelessness that the debtor had no other perceived option but to end their life.

The Supreme Court has emphasized the importance of considering the "proximity" between the accused's actions and the suicide. The closer in time the alleged instigation is to the suicide, the stronger the inference that the accused's conduct played a role in the victim's decision. However, even in cases where the temporal proximity is clear, the prosecution must still prove that the accused acted with the requisite *mens rea* and that their actions were a direct and proximate cause of the suicide.

In cases where family members express disapproval of a marriage, such disapproval does not amount to abetment unless it can be shown that it created an environment forcing the individual to take such a drastic step¹⁶. For instance, in one case, remarks suggesting that a woman should not be alive if she cannot marry were deemed too remote to constitute abetment.¹⁷

The Supreme Court has emphasized that mere allegations of harassment are insufficient to establish guilt for abetment of suicide. There must be clear evidence that the accused's actions

¹⁶<https://economictimes.indiatimes.com/news/india/disapproving-marriage-does-not-amount-to-abetment-of-suicide-sc/articleshow/117576250.cms>

¹⁷http://timesofindia.indiatimes.com/articleshow/117576060.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

were so compelling that the victim perceived no alternative but to take their own life.¹⁸ This principle was highlighted in a recent ruling where the court discharged a husband accused of abetting his wife's suicide, stating that harassment alone does not equate to instigation or incitement¹⁹

8. Safeguarding Constitutional Principles and Ensuring Fair Trials

The constitutional principles of personal liberty, justice, and the right to a fair trial are paramount in all criminal proceedings, including those involving allegations of suicide abetment. Article 21 of the Indian Constitution guarantees the right to life and personal liberty, and this right must be protected even in cases where the deceased has tragically taken their own life.

The presumption of innocence is a fundamental tenet of criminal justice, and the burden of proof rests squarely on the prosecution to establish the guilt of the accused beyond a reasonable doubt. In suicide abetment cases, this means that the prosecution must present compelling evidence that the accused intentionally instigated, conspired, or assisted in the suicide, and that their actions were a direct and proximate cause of the victim's death.

The right to a fair trial includes the right to legal representation, the right to confront witnesses, and the right to present evidence in one's defense. Accused individuals must be given every opportunity to challenge the prosecution's case and to present their own version of events. Courts must ensure that trials are conducted impartially and that all parties are treated fairly.

The increasing use of technology in modern life also presents new challenges for the administration of justice in suicide abetment cases. Evidence may include text messages, emails, social media posts, and other forms of digital communication. Courts must be equipped to evaluate this evidence critically and to ensure that it is authentic and reliable.

In cases where the evidence is ambiguous or circumstantial, courts must err on the side of caution and acquit the accused. It is better to let a guilty person go free than to wrongly convict

¹⁸ Mere Harassment Not Abetment Of Suicide : Supreme Court Discharges Husband In Wife's Suicide Case, Livelaw News Network <https://www.livelaw.in/top-stories/mere-harassment-not-sufficient-to-convict-for-abetting-suicide-supreme-court-discharges-husband-in-wifes-suicide-case-278182>

¹⁹ Adv Syed Yousuf, Suicide or Abetment? Supreme Court Analyzes Domestic Violence Allegations in Tragic Death <https://caseguru.in/post/suicide-or-abetment-supreme-court-analyzes-domestic-violence-allegations-in-tragic-death>

an innocent person and deprive them of their liberty and reputation.

9. Conclusion and Recommendations

The legal framework surrounding abetment of suicide in India is complex and requires careful interpretation and application. Section 306 of the IPC and its successor, Section 108 of the BNS, are intended to protect vulnerable individuals from being driven to suicide by the intentional actions of others. However, these provisions must not be misused to punish individuals for harsh words or exaggerated statements that do not amount to genuine instigation.

To ensure that justice is served and that constitutional principles are upheld, the following recommendations are made:

1. **Enhanced Training for Law Enforcement:** Investigating agencies should be provided with specialized training on the legal requirements for establishing abetment of suicide, with a particular emphasis on the need for *mens rea* and a direct causal link between the accused's actions and the victim's death. Training programs designed to educate police officers on mental disorders, encountering suicidal individuals, communication and de-escalation skills, and mental hygiene in policing. These programs often include specialized modules addressing risks, self-protection, trauma sensitivity, and interaction with children and victims. The TEMPO model, for example, covers societal dynamics, stigmatization, judicial perspectives on mental health, ethics, and attitude formation.²⁰
2. **Judicial Sensitization Programs:** Trial courts should participate in sensitization programs that focus on the nuances of suicide abetment cases and the importance of distinguishing between hyperbole and instigation.
3. **Higher Evidentiary Standards:** Courts should adopt higher evidentiary standards in suicide abetment cases, requiring the prosecution to present compelling evidence that the accused intentionally instigated, conspired, or assisted in the suicide.
4. **Contextual Analysis of Evidence:** Courts should carefully analyze the totality of the evidence, taking into account the social, cultural, and emotional context in which the alleged instigation occurred.

²⁰ Katharina Lorey, Jörg M Fegert Increasing Mental Health Literacy in Law Enforcement to Improve Best Practices in Policing—Introduction of an Empirically Derived, Modular, Differentiated, and End-User Driven Training Design <https://pmc.ncbi.nlm.nih.gov/articles/PMC8365022/>

5. Protection of Free Speech: Courts should be mindful of the need to protect free speech and should not criminalize harsh words or exaggerated statements that do not amount to genuine incitement.
6. Promotion of Mental Health Awareness: Increased awareness about mental health issues and suicide prevention strategies is crucial to address the root causes of suicide and to reduce the incidence of these tragic events.
7. Legislative Clarity: Consider amendments to Section 108 of the BNS to provide greater clarity on the definition of "instigation" and to incorporate safeguards against the misuse of the provision. There is a call for clearer, more workable tests to identify statements of opinion or rhetorical hyperbole, especially in workplace contexts. The absence of clear guidance can lead to inconsistent court decisions.²¹

By implementing these recommendations, India can create a more just and equitable legal system that protects the rights of both victims and accused individuals in suicide abetment cases. It is essential to strike a balance between holding individuals accountable for their actions and safeguarding fundamental constitutional principles. The pursuit of justice requires careful consideration, sensitivity, and a commitment to upholding the rule of law.

10. CONCLUSION

1. K.D. Gaur, Textbook on Indian Penal Code, 8th ed. (LexisNexis, 2020), p. 341.
2. State of Punjab v. Iqbal Singh, (1991) 3 SCC 1
3. Mahendra Awase v. State of Madhya Pradesh, 2025 INSC 76.
4. Pitta Isaac Newton, Abetment of Suicide (Section. 306 of Indian Penal Code), 4 INT'L J.L. MGMT. & HUMAN. 4520 (2021).
5. Abetment to Suicide: A detailed Study <https://theamikusgriai.com/abetment-to-suicide-a-detailed-study/>...
6. Prakash vs State of Maharashtra (2024) 2024 INSC 1020
7. Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367]
8. Ramesh Kumar v. State of Chhattisgarh (2001) 9 SCC 618 : 2001 INSC 515
9. Mahendra Awase vs State Of Madhya Pradesh 2025 INSC 76.
10. M. Vijayakumar vs The State Of Tamil Nadu (2024 INSC 177)

²¹ John Bruce Lewis, Gregory V. Mersol Opinion and Rhetorical Hyperbole in Workplace Defamation Actions: The Continuing Quest for Meaningful Standards <https://core.ac.uk/download/pdf/232966932.pdf>