

LAW AREA NAME : WOMAN
SECTION NAME : DOMESTIC VIOLENCE CRIMINAL REMEDIES
SUB SECTION NAME : ABETMENT OF SUICIDE

LAW IN BRIEF

Abetment of suicide is an offence under section 306 & 107 of the Indian penal code, 1860. A woman may be driven to commit suicide due to excessive demands for dowry. However, it may be difficult to prove that the death was a dowry death. In such cases, these provisions can be used to punish the offender.

LAW IN DETAIL

A person is guilty of abetment when

- a. He instigates someone to commit suicide (or)
- b. He is part of a conspiracy to make a person commit suicide.(or)
- c. He intentionally helps the victim to commit suicide by doing an act or by not doing something that he was bound to do.

The charge of abetment of suicide is usually accompanied by a charge under section 498A, IPC if the woman was treated cruelly by her husband or his relatives.

Where a woman has committed suicide within 7 years of her marriage because of violence by her husband or relatives and the prosecution proves the above, the court presumes that the husband or his relatives abetted the suicide.

Where the woman committed suicide after 7 years of her marriage, no presumption will be made. The prosecution has to prove beyond reasonable doubt that the cruelty was of such a nature that it drove the woman to commit suicide.

PROCESS FOR SOLUTION

Complaint Under which Section ?

Section 306 of Indian Penal Code - Abetment of Suicide,
Section 107 - General abetment; 498A - Cruelty; 113A, Indian Evidence Act; Presumption as to abetment of suicide by a married woman.

Whom to complain / where to complaint?

1. Complaint should be given to the SHO of the concerned police station for lodging an FIR.
2. Complaint in police station under sections 306, 498A and 107, IPC and sections 113A Indian Evidence Act.
3. If the police officer refuses to lodge an FIR on your complaint send a written complaint to the Superintendent of Police either by post or in person explaining the facts of your case. If the Superintendent thinks that your case relates to a cognizable offence, he / she will either investigate the case personally or direct some officer to investigate the matter.

4. If no action is taken in your case by the Superintendent, make a complaint to the Magistrate asking him / her to direct the police to register your FIR.
5. If still no action is taken in your case file a writ petition in the High Court asking for your FIR to be registered.

How to file the Case ?

1. When a police complaint is given, the police start investigation and file a case. This is called a police case or state case.
2. If the police has not taken any action we can directly give a complaint to the Magistrate. This is called a private complaint case.
3. At the end of the investigation, the investigating officer has to make a report to the Magistrate. We call this report as "Charge Sheet".
4. A case is filed under section 306 in Sessions Judge / Additional Sessions Judge Court at the district level.
5. The process of examination and cross-examination begins. This is called trial.
6. The Court gives the accused an opportunity to explain the circumstances in which the accident occurred.
7. After hearing the accused the Court gives its judgment.
8. If the accused is convicted, the punishment under the provisions of the Law is ten years imprisonment and fine or both.
9. If we proceed through police by giving a police complaint we need not pay any court fee. The state will take care of every thing.
10. If a private case is filed by giving a complaint directly to the Magistrate, a process fee has to be paid. This fee is usually a small amount only but if not paid, the complaint can be dismissed.

What Next ?

1. If either of the party is not satisfied by the judgment they can file an appeal in the High court.
2. No separate court fee to be paid in the High Court.
3. Appeal has to be filed within 60 days from the date of the order.
4. In the same way appeal can be filed in the supreme court by taking Special Leave.

ALTERNATE REMEDIES

1. There is no alternative remedy. It cannot be compounded.
2. There is no compromise in such cases.
3. Legal Services Authority can be approached if FIR is not registered by the police