
DECRIMINALIZING SUICIDE UNDER THE MENTAL HEALTHCARE ACT: PROGRESS, PITFALLS, AND PUBLIC AWARENESS

Sachit Chahal, LL.M. (Master of Laws), University Institute of Legal Studies, Chandigarh
University, Mohali, Punjab, India.

Dr. Harshita Thalwal, Associate Professor, University Institute of Legal Studies,
Chandigarh University, Mohali, Punjab, India

ABSTRACT

The study traces India's transition narrative of suicide from punitive to rights-based perspective. It connects the change with "Section 115 of the Mental Healthcare Act, 2017" and its presumption of indefinite stress along with the exemption from trial and punishment, and the resulting state care, treatment, and rehabilitation. The prosecution unfolds the present point in law moving away from "Section 309 of the Indian Penal Code" towards "Bharatiya Nyaya Sanhita, 2023" which removes the general criminalization of attempts but introducing a targeted offence at "Section 226 of the Bharatiya Nyaya Sanhita, 2023" to describe the attempts to coerce or restrain a public servant. This article utilizes a doctrinal method based on authoritative texts and landmark judgments to demonstrate that decriminalization exists in law but only to some extent in practice as the systems in operation still lean towards investigation and charging rather than care referral. It views "Section 120 of the Mental Healthcare Act, 2017" as the overriding hard legal provision that should resolve conflicts with penal provisions and then questions the persistent discord caused by administrative and policing processes that operate on legacy templates where "attempt to suicide" was once an offence first. The research uses national data trends and service uptake indicators to show that legal change alone is not enough without communication, triage protocols, and robust referral pathways. The tele mental health platform such as Tele MANAS is promising, with almost six million calls handled since October 2022, but the coverage and quality differ in various languages and locations, thereby affecting the timely use of crisis intervention at the police hospital junction. The paper, through the sequence of "*P Rathinam v. Union of India*", "*Gian Kaur v. State of Punjab*", "*Aruna Ramchandra Shanbaug v. Union of India*", and "*Common Cause v. Union of India*", creates a constitutional arc recognizing dignity and care without acknowledgment of a separate right to die. The major findings comprise the police station standard operating procedures implementation

gaps, the variable hospital liaison with district mental health teams, and the limited public awareness of the State's duty under "Section 115" which, collectively, undermine the decriminalization promise. Furthermore, the paper suggests law abiding, data conscious proposals on triage, referral, and public communication that conform to the existing statutory framework but, at the same time, argue for better care accountability.

Keywords: Decriminalization, Mental Healthcare Act 2017, Section 115, Bharatiya Nyaya Sanhita, Section 226, Abetment of suicide, Public awareness, Tele MANAS, NCRB data, India

1.1 INTRODUCTION

India's transition from treating suicide attempts as crimes to providing care is a significant change not only in health policy but also in legal doctrine. The changes made in the context of the repeal of "Section 309 of the Indian Penal Code" and the introduction of "Section 115 of the Mental Healthcare Act, 2017" reflect a more humane approach by the judiciary towards the suicide caused attempts as a manifestation of deep mental anguish, thus, these attempts deserve therapy rather than jail.¹ The Mental Healthcare Act's assumption and the State's obligation represent an effort of reconciling legal doctrine with mental health science as well as with constitutional rights under Article 21. It is not a direct way. Bharatiya Nyaya Sanhita, while doing away with the general criminalization of attempts, locates a small area in "Section 226 of the Bharatiya Nyaya Sanhita, 2023" where, if forcibly or restraining a public servant, the commission of such acts is punishable, including community service. This framework understands that self-harm used for coercive protest can affect different state interests as opposed to self-harm caused by personal distress, so it attempts to separate those cases without bringing back blanket criminalization. On the one hand, the paper override clause in "Section 120 of the Mental Healthcare Act, 2017" guarantees that if any leftover conflict arises, the care first approach will be dominant. On the other hand, policing and hospital admission avenues frequently start with information reports and medico legal categorization, rather than with the recognition of stress and referral to care.²

The difference is most pronounced at the very first point of interaction where police officers and emergency doctors have to make triage decisions quickly, with limited resources and

¹ National Suicide Prevention Strategy: A Framework, *available at*: <https://main.mohfw.gov.in/sites/default/files/National%20Suicide%20Prevention%20Strategy.pdf> (last visited on October 28, 2025).

² Richard M. Duffy, Brendan D. Kelly, *India's Mental Healthcare Act, 2017: Building Laws, Protecting Rights* 176 (Springer Nature, Singapore, 1st edn., 2020).

unclear protocols for referral to district mental health teams. National tele mental health system is a potential solution for this issue. Tele MANAS, a platform under the MoHFW and NIMHANS, reachable through 14416, that has dealt with over 2 million calls and is available in several languages, thus, it is capable of providing immediate support and guided referral on a large scale. However, the acute self-harm scenario is only a small portion of the total, and the provision of such services is dependent upon awareness in the local area, ambulance and police cooperation, and hospital linkages. The 2023 NCRB data indicate that suicides continue to be a major problem of India with the yearly increment of the cases although small and the most frequent reasons being family problems and illness. It shows a need for integrated prevention alongside post attempt care that is not only in line with the statutory presumption of severe stress but also is capable of healing the individuals and families affected.³

Law and policy should be able to accomplish the transformation from textual presumption and State duty into concrete effect at police stations, emergency rooms, and community follow ups.

1.1.1 Research Questions

The research questions for the study are as follows: -

- To identify how “Section 115 of the Mental Healthcare Act, 2017” and “Section 226 of the Bharatiya Nyaya Sanhita, 2023” interact in doctrine and in practice across police, hospitals, and courts.
- To assess whether legal presumptions and overrides translate into care-first outcomes, and what awareness or process changes would reduce charge-first responses and improve referral.

1.1.2 Problem Statement

The main issue is the gap between the formal decriminalization assumptions and the actual routes on the ground. Law enforcement and medical institutions continue to resort to medico legal processes that focus on identifying the offence rather give the help, whereas “Section 115” charges the State with the obligation to provide care, treatment, and rehabilitation that a

³ Varadaraja Harbisetar, "Making the Most of Mental Healthcare Act, 2017: Practitioners' Perspective", 61 *Indian Journal of Psychiatry* 309 (2019).

large number of people are not aware of. The scarcity of public knowledge and the disparity in the implementation of the standards weaken the legal commitment to decriminalization and maintain the continuation of the procedural friction.

1.1.3 Objectives of the Study

The objectives of the study are as follows: -

- To map the doctrinal shift from “Section 309 of the Indian Penal Code” to “Section 115 of the Mental Healthcare Act, 2017” and the targeted carve-out in “Section 226 of the Bharatiya Nyaya Sanhita, 2023.”
- To evaluate leading Supreme Court decisions and the communication architecture around Tele MANAS and district mental health services to identify awareness and process priorities.

1.1.4 Research Methodology

It is a doctrinal study that primarily concentrates on the analysis of the legislation, the parsing of the landmark judgments, and the scrutiny of the official reports. The study, for understanding, looks at the policy documents very selectively. The study uses government publications to understand “Section 115” and “Section 120” of the MHCA and “Sections 107, 108, and 226” of the BNS; it also reads Supreme Court judgments for the ratio and the effect. Data from the NCRB and updates from Tele MANAS are used to bring the study in line with the latest national-level trends.

1.2 STATUTORY FRAMEWORK IN INDIA

The present system revolves around two main ideas. The first is “Section 115 of the Mental Healthcare Act, 2017” which, based on the assumption of severe mental distress, prohibits the conducting of a trial and the infliction of punishment, and creates a care obligation. The second center is the Bharatiya Nyaya Sanhita, which removes the general criminalization of attempts but only assigns a narrow offence to attempts used to coerce public servants. The override clause in “Section 120 of the Mental Healthcare Act, 2017” is a kind of buffer care first logic against inconsistent laws. Abetment is still a crime, with an aggravated punishment where the deceased is a child or a person of unsound mind. Individually the three legislations attempt to

balance the concepts of dignity, care, and public order without reverting to the general penalization of self-harm.⁴

1.2.1 Section 115, Mental Healthcare Act 2017

Decriminalizing an act relies on the presumption and the resulting obligation. The presumption is that a person who attempts to commit suicide “shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished” under the penal code. The obligation is for the government that is responsible for providing the care, treatment, and rehabilitation necessary to the reduction of the risk of recurrence. When these provisions are read together, they change the legal response from arrest and charge to evaluation, treatment, and follow up. The provision is drafted as a non obstante clause that serves as an exception to the previously existing offense, which indicates that the presumption applies regardless of the older penal language. A consistent implementation means that the police treat the report of an attempt as a call for care, hospitals to carry out mental health assessment, and administration to facilitate the continuation of services after discharge. The provision does not prohibit the police from investigating other offenses if there is evidence of such, but it identifies the individual as a person who is in a state of stress, not as an offender.⁵

1.2.2 Section 120, Mental Healthcare Act 2017

The override clause is very brief and to the point. It states that the Act “shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law”, thus conflicts being resolved in favor of the care first framework. This is a determining factor when frontline workers are uncertain how to treat a situation of an attempt to commit a crime while at the same time there are general provisions for an attempt as well as special laws. The clause unmistakably indicates the legislature’s intention that the mental health standards should prevail in the case of an attempt while still allowing for the existence of independent offences that may result from the facts. The successful implementation of the clause thus needs the presence of standing orders and standard operating procedures which not only refer to the

⁴ K. Kannan, *Medicine and Law: Exploring Areas of Intersection* 212 (Thomson Reuters, New Delhi, 1st edn., 2014).

⁵ Reference Manual for Implementation of Mental Healthcare Act, 2017 for Caregivers, *available at*: https://mohfw.gov.in/sites/default/files/Reference%20Manual%20for%20Implementation%20of%20Mental%20Healthcare%20Act%2C2017%20for%20Care-givers%20%28CMHA%29_compressed.pdf (last visited on October 27, 2025).

override but also convert it into different steps for the police, hospitals, and local mental health authorities.

1.2.3 Repeal Context for IPC Section 309 and the BNS 2023

The Bharatiya Nyaya Sanhita does not have a general provision for the criminalization of suicide attempts, thus it is the end of the life of the former “Section 309” approach. Instead, the Sanhita separates the penal cases for a specific problem set and puts the majority of the attempt cases into the mental health sector. This is a confirmation that decriminalization is not an MHCA only achievement but a complete reorganization of the general penal code. The BNS organization retains the concept of attempt to murder and attempt to commit culpable homicide, while abetment of suicide is a criminal offense. The combined result is that if the act is an attempt at self-harm due to severe stress, then the response is care; if the act is instrumental and coercive, or if someone is abetting the suicide of another, then the response is penal.⁶

1.2.4 Section 226, BNS 2023

The main illegal act referred to in “Section 226 of the Bharatiya Nyaya Sanhita, 2023” is: “If anyone tries to commit suicide intending to force or stop a public servant from discharging his official duty, he shall be punished with simple imprisonment for a term which may extend to one year, or with a fine, or with both, or with community service.” The wording emphasizes the idea that the person intends to influence the exercise of lawful power by self-harm. It is not a step back from the decriminalization of distress driven attempts but rather a barrier against the use of self-harm as a means of pressure on the public authority. The sentencing scheme comprises community service, thus indicating that prison is not the only answer even in this confined criminal area. The use of the law should be kept to a minimum and be very specific to the facts, with a careful distinction from cases of distress leading to the assumption of “Section 115” and the giving of care.

1.2.5 Abetment Remains Criminal

Helping someone to commit suicide is still a crime. “Section 108 of the Bharatiya Nyaya Sanhita, 2023” states if a person commits suicide, the one who abets will be punished with a prison term of up to ten years and a fine. “Section 107 of the Bharatiya Nyaya Sanhita, 2023”

⁶ Elizabeth Wicks, *Suicide and the Law* 98 (Hart Publishing, Oxford, 1st edn., 2023).

increases the penalty if the deceased is a child or a person of unsound mind, allowing for a life imprisonment or death sentence in certain cases, thus showing the continued care for the most vulnerable. Ending abetment is in line with the MHCA assumption by placing blame on those who push or facilitate rather than on the person in distress. Courts still examine mens rea and closeness in abetment cases while the MHCA provides that survivors should be considered as patients in need of care.

Provision	Core rule	Practical effect
MHCA “Section 115”	Presumption of severe stress; no trial or punishment for attempt; State duty of care	Care-first pathway, referral to treatment and rehabilitation
MHCA “Section 120”	MHCA overrides inconsistent laws	Resolves collisions in Favor of MHCA duties
BNS Section 226⁷	Attempt to commit suicide to compel or restrain public servant is an offence; imprisonment, fine, or community service	Narrow penal carve-out for coercive intent
BNS “Section 108” and “Section 107”	Abetment of suicide punishable; aggravated where child or person of unsound mind	Penal accountability for abettors, protection for the vulnerable

Table 1: Core Statutory Provisions Today

⁷ Bharatiya Nyaya Sanhita: Section 226—Explained, *available at*: <https://www.livelaw.in/columns/bns-2023section-226-attempt-to-commit-suicide-illness-mental-healthcare-act-2027-254023> (last visited on October 25, 2025).

1.3 DOCTRINAL EVOLUTION AND CONSTITUTIONAL SETTING

The constitutional journey is marked by the initial recognition of a right to die, which gradually evolves into a right to die with dignity at the natural end of life, keeping the abetment punishable and the State's role as the protector of life intact. "*P Rathinam v. Union of India*⁸, struck down the penalization of attempt as unconstitutional, but "*Gian Kaur v. State of Punjab*⁹, restored the general position that Article 21 protects life, not a right to die. Subsequently, "*Aruna Ramchandra Shanbaug v. Union of India*¹⁰, allowed passive euthanasia under certain guidelines, and "*Common Cause v. Union of India*¹¹, gave constitutional status to advance directives and recognized a limited right to die with dignity. When read in conjunction with the MHCA, the trajectory of the court's decisions guides most attempts towards care, while allowing the penal law to deal with cases of coercion and abetment.

1.3.1 P Rathinam v. Union of India, 1994

In "*P Rathinam v. Union of India*¹², the Supreme Court considered writ petitions that challenged the constitutional validity of the then "Section 309 of the Indian Penal Code", which penalized an attempt to commit suicide. The petitioners argued that such penalization violated the right to life and personal liberty under Article 21 and claimed that the freedom not to live should be understood as a part of personal liberty, especially in the case when life becomes a burden due to suffering. The bench looked at legislative materials, comparative law, and policy arguments of stigma and deterrence and noted that the punitive response of criminal law to an attempt could aggravate the person's distress and also prevent the person from seeking treatment. The Court talked about the difficulty, from a conceptual point of view, of punishing a person who is in grave distress and, furthermore, it read the liberty guarantee in a wide sense to include the freedom to terminate one's life. With such an interpretation, "Section 309" failed to comply with constitutional norms because it invaded the domain of personal liberty and did not meet the standards of fairness and reasonableness. After looking at reasons given by law reforming bodies and human rights arguments, the bench found that the penal clause was arbitrary and irrational when it was applied to a survivor of an attempt, and thus, it invalidated the provision.

⁸ (1994) 3 SCC 394.

⁹ (1996) 2 SCC 648.

¹⁰ (2011) 4 SCC 454.

¹¹ (2018) 5 SCC 1.

¹² Supra note 8.

The judgment saw the criminal offense as inconsistent with a humane constitutional order and, therefore, it placed the emphasis on compassion and the uselessness of giving punishment in such situations. The ruling, though normatively influential for the subsequent policy shift towards decriminalization, was not the last word. Shortly after, a larger bench reexamined the conceptual bases of Article 21 and came to a conclusion that the Constitution is a protector of life and does not recognize a general right to die. Nevertheless, Rathinam continued to be reflected in legislative debates and facilitated the placing of decriminalization on the policy agenda by indicating that the criminal law is not the appropriate tool for addressing self-harm caused by distress and that a public health approach is more suitable for survivors.¹³

1.3.2 Gian Kaur v. State of Punjab, 1996

In “*Gian Kaur v. State of Punjab*”¹⁴, a Constitution Bench reconsidered the correctness of the Rathinam judgment while evaluating the constitutionality of the penal provisions related to the abetment of suicide. The Court, noting that the right to life in Article 21 is a right to live with human dignity, found that the right cannot be interpreted as including a general right to die. The bench differentiated the negative liberty of ending one’s life from the positive guarantee of living with dignity. It also pointed out that recognizing a general right to die would create doctrinal confusion and reduce the State’s role in the protection of life. The Court therefore held that the imposition of penal sanctions for abetment was in conformity with the law as it is a distinct wrong to the State to see the perpetrators encourage, facilitate or abet the suicide of a vulnerable person and thus the State can punish them to protect the vulnerable persons. In reaffirming the general acceptability of criminal law measures against abetment and repudiating the existence of a right to die, Gian Kaur clarified that the position taken in Rathinam was an over extension of Article 21. The judgment conceded that terminal situations could in some way trigger dignity but maintained that these issues belong to a different legal framework. While marking out the direction, the Court kept room for the later consideration of whether and how dignity, on a terminal illness basis, may be intersected with medical decisions. The decision reasserted that criminal law has the power to tackle the social evil of abetment, while at the same time leaving the option of policy open to the treatment of those who survived the attempts. Eventually, the legislative branch embraced the care first approach through “Section

¹³ Lakshmi Narasimha Vadlamani, "Practical Implications of the Mental Healthcare Act, 2017", 61 *Indian Journal of Psychiatry* 185 (2019).

¹⁴ Supra note 9.

115 of the Mental Healthcare Act, 2017”, that aligns perfectly with Gian Kaur’s principal holding that the Constitution does not confer a separate right to die but does allow for a humane policy to survivors.”¹⁵

1.3.3 Aruna Ramchandra Shanbaug v. Union of India, 2011

In the case of “*Aruna Ramchandra Shanbaug v. Union of India*”¹⁶, the Supreme Court considered a writ petition that requested permission for passive euthanasia for a patient in a persistent vegetative state. The Court did not invent a general right to die. Rather, it acknowledged that, after taking safeguards into account, the cessation of life support in certain situations could be allowed, and it drafted provisional guidelines to regulate such decisions until Parliament enacted a law. The judgment characterized the issue as different from criminalization of suicide or abetment and based its analysis on medical ethics, patient autonomy, and the need to protect the vulnerable. It demanded that decisions should be made through the judicial process involving a division of the High Court, committee inspections, and consideration of the patient’s interests. Although the case was about an attempt to decriminalize euthanasia, Aruna Shanbaug indicated that the Court was prepared to distinguish end of life decisions based on dignity from actions that the criminal law still forbids, such as abetment of suicide. The guidelines established a platform for subsequent constitutional elaboration in *Common Cause*. At the moment, the case is instrumental in creating a doctrinal environment that places compassion and dignity at the core and shows the Court’s readiness to set up structured interim processes in the absence of the Legislature’s clear statutory settlement, pending a clearer statutory settlement. The spirit of structured compassion is in harmony with the MHCA’s presumption and obligation, as it demonstrates how the legal system can incorporate medical realities while still preventing abuse.

1.3.4 Common Cause v. Union of India, 2018

In the event of “*Common Cause v. Union of India*”¹⁷, the Constitution Bench addressed the questions related to end of life that it had previously left open and held that the right to die with dignity forms an integral part of the right to life specifically in the case of a terminal illness and

¹⁵ Gian Kaur v. State of Punjab Case Summary, available at: https://en.wikipedia.org/wiki/Gian_Kaur_v._State_of_Punjab (last visited on October 24, 2025).

¹⁶ Supra note 10.

¹⁷ Supra note 11.

the situation of the withdrawal of life sustaining treatment subject to strict safeguards and the lawfulness of advance directives. The bench mapped out a system for living wills and surrogate decision making, thus stationing the process for ensuring voluntariness, capacity, and proportionality. The ruling did not confer a right to the commission of suicide. Also, the bench refrained from touching the criminal law of abetment and left the policy area for legislatures to decide how to respond to non-terminal, distress driven attempts. Common Cause is important for suicide decriminalization because it legitimizes a dignity-based approach in the legal system, which facilitates the acceptance of the MHCA's presumption of severe stress and care duty. The judgment highlights one main idea that goes through the Court's later decisions that individual autonomy and medical facts should be handled with safeguards instead of being punished in a uniform manner. According to this system, the MHCA acts as the triage and care route for survivors, while the BNS monitors coercive self-harm and abetment. The agreement's coherence relies on administrative loyalty: the police and hospitals should work based on the presumption and the override, and public communication should let people know that the State is obliged to provide treatment. Tele MANAS and the district mental health systems will be able to realize this pledge if they are strongly connected to the statutory triggers that "Section 115" creates.¹⁸

Case	Bench strength	Ratio	Impact
<i>P Rathinam v. Union of India</i> ¹⁹ ,	Two judges	Struck down penalization of attempt under then "Section 309" as unconstitutional	Catalysed policy debate on decriminalization
<i>Gian Kaur v. State of Punjab</i> ²⁰	Five judges	Rejected a general right to die; upheld penalization of abetment	Restored Article 21 reading; preserved space for policy to treat survivors humanely

¹⁸ Sushila Rao, "India and Euthanasia: The Poignant Case of Aruna Shanbaug", 19 Medical Law Review 646 (2011).

¹⁹ Supra note 8.

²⁰ Supra note 9.

<i>Aruna Ramchandra Shanbaug v. Union of India</i> ²¹ ,	Two judges	Permitted passive euthanasia under guidelines	Opened doctrinal door to end-of-life dignity with safeguards
<i>Common Cause v. Union of India</i> ²² ,	Five judges	Affirmed right to die with dignity via living wills and safeguards	Consolidated dignity framework without validating attempts; complements MHCA care path

Table 2: Landmark Supreme Court trajectory on suicide and dignity

1.4 READING MHCA SECTION 115 IN COURTS

The pattern of judicial use of “Section 115 of the Mental Healthcare Act, 2017” has evolved from protection limited to prosecution under “Section 309 of the Indian Penal Code” to a wider doctrinal framework basing on the presumption of severe stress and the State’s obligation of care. The Courts have interpreted the non obstante clause in “Section 115(1)” together with the overriding clause in “Section 120 of the Mental Healthcare Act, 2017” to establish a practical non punishment rule where the attempt is demonstrated, unless the prosecution challenges the stress presumption. This development in the line of argument has also made the courts inquire about the extent of the prohibition in a case where the attempted commission of a single factual transaction accompanies other alleged offences. The lettering of “Section 115(2)” has been instrumental in recalling to the authorities that the legal effect of decriminalization is the imposition of a duty to provide care, treatment, and rehabilitation instead of initiating a criminal process. As in the subsequent paragraphs, these themes now converge with the new penal code, the “Bharatiya Nyaya Sanhita, 2023”, and the operational routes established around Tele MANAS and other public services.²³

²¹ *Supra* note 10.

²² *Supra* note 11.

²³ Kerala High Court 2025: Application Of Section 115 MHCA, *available at*: <https://www.barandbench.com/news/litigation/kerala-high-court-mental-healthcare-act-section-115-attempt-to-suicide> (last visited on October 23, 2025).

1.4.1 Kerala High Court, 2025

In the case “*Sharanya v State of Kerala*”²⁴, the prosecution story was that a young mother, a victim of a troubled marriage, was alleged to have killed her child and tried to kill herself in the same transactional sequence, and the trial court convicted her under “Sections 302 and 309 of the Indian Penal Code”. The Division Bench on appeal closely examined the literal wording of “Section 115(1) of the Mental Healthcare Act, 2017” and its legislative decision to write “shall not be tried and punished under the said Code”, considering “said Code” as a reference to the whole Penal Code and not only “Section 309” and thus reversed the decision decisively. The court pointed out that the legislature deliberately did not use the expression “said section”, thus indicating a conscious sheltering of a person who has made an attempt on his/her life in the form of a protective umbrella unless the State proves that the person was not under severe stress. The court went on to state the principal point that the prohibition of trial and punishment is not limited to “Section 309 IPC” but also covers any other IPC offenses committed in the same transaction as the suicide attempt, except the prosecution discharging the burden of stress presumption. After no evidence on record was found to show that the appellant was not under severe stress, the Bench referred to “Section 120 of the Mental Healthcare Act, 2017” as well, which confers the overriding effect of the Act over the laws that are not in harmony with it, and decided that the trial court should have refrained from continuing the proceedings after the coming into force of the Act during the pendency of the trial. Using these interpretive measures, the Division Bench quashed the conviction and sentences on both counts and ordered the release of the appellant in this way giving effect to the statutory presumption and its penal consequences in a broad sense. The ruling defined a text, purpose, and government’s care duties-based embargo reason and it was the Parliament that put the burden in the place where it says.²⁵

1.4.2 Bombay High Court, 2024

In the case of “Bombay High Court decision, Aug 26, 2024, SCC Online Blog report”, the applicant moved to have quashed an FIR for “Section 309 IPC” relating to a self-injury incident, which the defense in its rejoinder attributed to stress arising out of a personal relationship. The Division Bench examined whether the mere commission of the act of

²⁴ 2025 KER 15011.

²⁵ *Sharanya v. State of Kerala*, available at: <https://www.legitquest.com/case/sharanya-v-state-of-kerala/7C4D6D> (last visited on October 28, 2025).

attempting suicide, when it could be alleged that the person was in stress, could still support a prosecution under “Section 115(1) of the Mental Healthcare Act, 2017” in the face of the latter. The Court held that the 2017 law refers to the case of a person under severe stress, and, by virtue of its non obstante clause and overriding effect, it protects the person attempting the act from arrest and punishment unless the State removes the presumption. On the reading of the complaint and the medical documents, the Court considered the act of self-harm to be an instance that attracted the statutory presumption. Finding that imposition of the criminal process would be at variance with the statutory scheme, the Court allowed the application and quashed the FIR. The report also refers to the holding that the presumption under the Mental Healthcare Act operates to exclude penalty consequences under “Section 309 IPC” unless the contrary is proved and that the Act’s scheme changes the police response from punishment to care. The wording of this case has impacted police and prosecutorial practice by indicating that the statutory presumption is decisive at the threshold if there is no clear rebuttal.²⁶

1.4.3 Retrospective Application Question

The case “Kerala High Court decision on retrospective application, Oct 25, 2024” dealt with the issue of whether the advantages of “Section 115 of the Mental Healthcare Act, 2017” could be extended retrospectively to an alleged suicide attempt in 2016. The petitioner, who was prosecuted in 2016, urged the court to consider the Act as a beneficent law that should be applied retrospectively, at least to those cases that were pending or live proceedings post commencement of the Act. The Kerala High Court described the Mental Healthcare Act as a measure designed to protect the rights of the people and considered it “Section 115” as a new legal presumption accompanied with a care obligation, both of which imply a process and results directed to treatment and rehabilitation. According to that outline and also taking into account that the Act was enacted in 2018, the court ruled that the petitioner should not be deprived of the right to be treated as a person under severe stress unless the State proves otherwise simply because the incident occurred before the Act. The court thus nullified the criminal proceeding based on “Section 309 IPC” and declared the principle that the statutory presumption is for the protection of persons whose cases are still in the system after the coming into force of the Act. Several outlets, in their coverage of the judgment, mention that the Court’s

²⁶ Simranjeet, “S.115(1) of Mental Healthcare Act Overrides S.309 IPC; Bombay HC Quashes FIR Under Section 309 IPC Against Woman Who Attempted to Commit Suicide Under Stress”, *available at*: <https://www.sconline.com/blog/post/2024/08/26/person-attempting-commit-suicide-in-stress-cannot-be-penalised-u-s309-ipc-in-view-of-s-115-mental-healthcare-act-bomhc/> (last visited on October 27, 2025).

decision was influenced by the statute's beneficial nature and that the State would not be prejudiced as the presumption can be challenged by evidence. This stance concerning the time limit for the application of the law is in line with the embargo reasoning mentioned above and thus it further helps in a smooth transition from punishment to care for the cases that are old.²⁷

1.5 INTERFACE WITH BNS 2023

The general offence of a failed attempt to commit suicide has been removed from the “Bharatiya Nyaya Sanhita, 2023” and this change at the structural level has several practical consequences for the police registration of crimes, emergency care, and medico legal services. The history of “Section 309 IPC” is kept only as a historical reference in “Section 115(1) of the Mental Healthcare Act, 2017”, which itself changes the legal perspective to stress, denial, and the State's obligations under “Section 115(2)”. BNS keeps the offences related to abetment and creates a small area where a suicide attempt is used to force or bind a public servant, showing that although punishment as a default has gone away, certain abuses of threats of selfharm are still at the disposal of the penal reach subject to proof. Hence, the interface is not just a story of the repeal of a law but a doctrinal settlement in which care norms established by the mental health law co-exist with limited penal responses.²⁸

1.5.1 Deletion of IPC Section 309 in Effect

The BNS does not have a direct general successor to “Section 309 IPC”. This practically implies that police stations should not be registering as BNS crimes the routine cases of attempts at suicide that they have tried in the past. Consequently, the first step should be of the emergency stabilization, psychosocial assessment, and clinical recording, which speak to the “Section 115(1)” presumption. Hospitals and emergency medical technicians, therefore, remain principal figures in initiating referral pathways to the psychiatry and social work teams, with the documentation being the later determinations made by the office whether separate offences are alleged outside the attempt and whether the State can meet the evidentiary burden to disprove severe stress. Hence, decriminalization changes the default position of the system from investigation to intervention and harmonizes the entries in the station diaries and medico

²⁷ Tellmy Jolly, “Mental Health Act 2017 Is a Beneficial Legislation, Can Be Applied Retrospectively to Extend Benefits to All: Kerala High Court”, *available at*: <https://www.livelaw.in/high-court/kerala-high-court/keralahigh-court-mental-health-act-2017-beneficial-legislation-applied-retrospectively-extend-benefits-all-273185> (last visited on October 26, 2025).

²⁸ Nandita Adhikari, *Law & Medicine* 156 (Central Law Publications, Allahabad, 1st edn., 2015).

legal registers with the Mental Healthcare Act's care first design.

1.5.2 Narrow Offence under Section 226 BNS

"Section 226 of the Bharatiya Nyaya Sanhita, 2023" deals with the offense of an attempt to commit suicide with the intention of forcing or restraining a public servant from performing his/her lawful duty, and among the punishments that can be awarded is community service. The provision is very limited in scope and only refers to cases in which a law enforcement or custody situation is used coercively by threatening self-harm. The fact that this provision exists indicates that the criminal law still reacts to instrumentally coercive conduct directed at the State by criminal law, although the general moralized response of punishment has been withdrawn. The main doctrinal issue is that when "Section 226 BNS" is referred to, agencies are still obliged to follow "Section 115(2) of the Mental Healthcare Act, 2017", i.e. they should provide medical care and psychosocial evaluation even if a targeted penal inquiry is conducted on the specific intent to compel or restrain.

1.5.3 Abetment Provisions Continue

The BNS keeps abetment of suicide as offences under Chapter V, among which "Section 107 BNS" deals with abetment of suicide of a child or a person of unsound mind and "Section 108 BNS" with abetment of suicide generally. These are different from the abolished attempt to commit offence and still revolve around the idea of provoking, providing help to, or being involved in a conspiracy leading to suicide. In the case of abetment, the evidentiary burden is still on the prosecution to prove that the abettor intentionally abetted the victim and that there is a causal link between the abetment and the death. The "Bharatiya Sakshya Adhiniyam, 2023" sets the rules for admissibility and proof; the mental health presumption in "Section 115(1) of the Mental Healthcare Act, 2017" is not there to protect the abettors. The connection here is workable: if there is a charge of abetment, the investigation is carried out under BNS with full proof standards, whereas the person who tried to take his own life is still given the care and the presumption of severe distress.²⁹

²⁹ Ratanlal, Dhirajlal, *The Indian Penal Code* 204 (LexisNexis, Gurgaon, 1st edn., 2020).

Framework	Provision	Core legal effect	Who is covered	Burden/standard	Care duty
Historical Penal Code	“Section 309 IPC”	Attempt to commit suicide punishable	Attempter	Prosecution to prove act and intent	None in statute
Mental Healthcare Act, 2017	“Section 115(1) MHCA”	Presumed severe stress; shall not be tried and punished under the said Code unless proved otherwise	Attempter	State may rebut presumption of stress	“Section 115(2) MHCA” mandates care, treatment, rehabilitation
Bharatiya Nyaya Sanhita, 2023	“Section 226 BNS”	Punishes attempt used to compel or restrain a public servant; can include community service	Attempter using coercion	Prosecution to prove specific intent to compel/restrain	MHCA duty continues to apply
Bharatiya Nyaya Sanhita, 2023	“Section 108 BNS” (read with “Section 107 BNS”)	Abetment of suicide offences retained	Abettor	Prosecution to prove intentional instigation/aid and nexus	Not applicable to abettor

Table 3: From IPC 309 to MHCA 115 to BNS 226 and 108

1.6 IMPLEMENTATION GAPS AND PITFALLS

The shift from a punitive default to a care first model has revealed discrepancies between the legislative text and the realities of frontline work. Different police and hospital procedures have been maintained in certain areas, with old forms and medico legal customs still being directed towards the now abolished “Section 309 IPC”. In emergency departments, healthcare workers

say they are unsure of the documentation standards and the order of referrals, especially in cases where there are collateral allegations. Sometimes, police desks switch between recording non cognizable entries and starting FIRs under different provisions while the clinical picture remains unclear. The main provision in “Section 120 of the Mental Healthcare Act, 2017” along with the duty provision in “Section 115(2)” offer a definite support for uniform practice. Nevertheless, regulated protocols, training resources, and instant connections with Tele MANAS, district programmes, and social care are at different levels, especially in areas far from the capital city. These disagreements influence the way decriminalization is implemented and the resulting effects that can be seen by families and caregivers.³⁰

1.6.1 Duty to Provide Care under Section 115(2)

Section 115(2) of the Mental Healthcare Act, 2017, sets out a formal requirement for the proper government to furnish care, treatment, and rehabilitation to a person who, as a result of being severely stressed, has made an attempt to commit suicide. In essence, clinical practice guidelines, duly peer reviewed and published in recognized journals, corroborate this obligation by listing emergency stabilization, risk assessment, safety planning, and referral to the respective mental health services as their recommendations. The doctrinal implication conveyed here is that the provision of care cannot be considered a discretionary welfare gesture, but it is rather a legal consequence of decriminalization. This alters the manner in which resource allocation is communicated in public systems and thus provides a rights-based source for measurable protocols in the local emergency rooms. The literature that is engaged with the issue of decriminalization, among other things, draws attention to the fact that the care obligation ought to be construed together with Section 120 to be the first matter that has to be dealt with, thus ensuring that this provision is not overridden by inconsistent procedures that, ultimately, lead to punitive defaults.

1.6.2 Police and Hospital Sops

Operational protocols in police and hospital settings need to be consistently in line with “Section 115” so that the front door of the system can match the statute’s design. The Indian Psychiatric Society’s compiled guidelines and academic reviews that have been published, reaffirm the binding nature of “Section 115” and suggest clinical pathways that are in line with

³⁰ Ishita Chatterjee, *Health Law* 190 (Central Law Publications, Allahabad, 1st edn., 2019).

rights-based care. Although comprehensive national SOPs explicitly linked to “Section 115” are still in the process of maturing, institutional guidance and CME modules are already organizing the aspects of triage, consent, confidentiality, and handovers in psychiatry. Embedding these protocols with district police training is still an urgent need, in order to mediate the medico legal documentation with the presumption of severe stress and be sure that referral to Tele MANAS and the district programmes is the norm and not the exception. These measures are decriminalization legal translation from a legal statement to a dependable practice pattern.³¹

1.6.3 Data and Surveillance

Benchmarking cannot be done without the proper use of the NCRB’s Accidental Deaths and Suicides in India (ADSI) series. A peer reviewed synthesis of ADSI 2022 indicates that suicide rates have increased from 2017 to 2022, and the ADSI 2023 report is now available for a fresh look at the national and sub national patterns. Programme planners may use like a telephone game the ADSI data with ministry releases and parliamentary responses in order to grasp both trendlines and the timing of data availability. The presence of the ADSI 2023 report is the reason why outreach at the city and state levels can be planned to be in line with the latest patterns instead of lagged assumptions. This strengthens the argument for data informed gatekeeping and referral strategies being used together with legal reform. These sources are the litmus test to see whether decriminalization, care pathways, and public awareness are happening together on the ground.³²

1.6.4 Risk of Misuse of Section 226 BNS

The limited offense in “Section 226 BNS” creates a risk that it could be wrongly applied in situations of protest or custody where self-harm threats might be used as a result of a confrontation. The legal language of the statute is aimed at those who use such means with the intention of forcing or restraining a public servant from discharging his/her duty in a lawful manner. A provision of the law should be read in conjunction with “Section 115(2) of the

³¹ Sujit Sarkhel, Vinayak Vijayakumar, “Clinical Practice Guidelines for Management of Suicidal Behaviour”, *available at*: <https://indianpsychiatricsociety.org/wp-content/uploads/2022/10/Compiled-File-CPGs-2022.pdf> (last visited on October 25, 2025).

³² Bandita Abhijita, Jilisha Gnanadhas, “The NCRB Suicide in India 2022 Report: Key Time Trends and Implications”, *available at*: <https://pmc.ncbi.nlm.nih.gov/articles/PMC11558707/> (last visited on October 24, 2025).

Mental Healthcare Act, 2017” in order to give precedence to the principle of care. It is, therefore, the responsibility of agencies to separate the clinical response from the penal inquiry, thereby ensuring that immediate stabilization and a full psychosocial assessment take place while any investigation is conducted with a focus solely on the intent and the circumstances. By doing so, decriminalization will not be reversed through an excessive and inappropriate use of the offense of coercion intent and that the duty of care will continue to be the system’s first response to crisis behaviors.

Stage	Lead actor	Core action	Legal hook
Scene and transport	Police and EMTs	Secure scene, prevent further harm, ensure safe transport to casualty	“Section 115(2) MHCA” care duty; clinical guidelines on suicidal behaviour
Casualty triage	Hospital casualty unit	Stabilize, document self-harm details, record mental state, initiate risk assessment	“Section 115(2) MHCA”; clinical practice guidance
Psychiatric evaluation	Psychiatry team	Assess stress, diagnosis, safety planning, consent, family engagement	“Section 115(2) MHCA” and overriding clause “Section 120 MHCA”
Legal screening	Police with legal aid	Avoid routine attempt-to-suicide FIRs; examine only specific BNS triggers like “Section 226” or separate offences	BNS framework; “Section 115(1) MHCA” presumption
Referral and follow-up	Hospital social work, Tele MANAS, district MH units	Link to Tele MANAS, DMHP, community services; schedule follow-up	“Section 115(2) MHCA” continuing duty

Table 4: Operational checkpoints after a suicide attempt

1.7 PUBLIC AWARENESS AND SERVICES

A change in the law without the knowledge of the people may lead to symbolic progress but practically the situation will remain the same. The merger of KIRAN with Tele MANAS, the scaling up of Tele MANAS cells, and the increase in the number of toll-free helplines have together created a service backbone to give “Section 115” a meaning outside courtrooms. Public communication should make it clear that a person who has tried to commit suicide is assumed to be under severe stress and is in need of care, while service routes should direct the families to helplines, district clinics, and social protection schemes. Both Union and State government projects have also initiated app-based access and multi lingual support, thereby increasing reach beyond urban centers. The awareness governance lens should be grounded in law, care rights, and realistic referral capacity, rather than in generic messaging, so that decriminalization is felt as access rather than an abstraction.³³

1.7.1 Helplines and Platforms

The 2020 KIRAN helpline has been merged with Tele MANAS following the government communication that charted a three-month diversion and a phased transition. Tele MANAS is available through a national toll-free network and an app based front end, enabling callers to connect with counsellors and psychiatrists in several languages. Official releases record lakhs of teleconsultations and helpline calls made since the launch, while cells have been informed in States and Union Territories. These common goods provide the local level with the operational content of “Section 115(2) of the Mental Healthcare Act, 2017”, thus changing the care obligation into easily available, 24/7 support. The union cuts down on the fragments and thus integration clarifies the single-entry point message which is vital for families in a crisis of the acute kind.³⁴

1.7.2 Budgetary and Program Context

Budget documents and official responses reflect that there have been earmarked allocations for the National Tele Mental Health Programme over the last several fiscal years. The reports

³³ Dr V K Paul, Member NITI Aayog Inaugurates National Workshop on Mental Health, Learnings From States/ UTs, *available at*: <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=2006265> (last visited on October 23, 2025).

³⁴ 24x7 Toll-Free Mental Health Rehabilitation Helpline Kiran (1800-599-0019) Launched in 13 Languages, *available at*: <https://www.pib.gov.in/pressreleaseshare.aspx?prid=1652240> (last visited on October 22, 2025).

released by the Union provide details about the number of Tele MANAS cells, the languages covered, and the volume of calls. At the same time, reviews indicate that from FY 2023 24 onwards, the published statements show less direct visibility of NMHP heads, with some departments being merged under broader categories, thus, civil society trackers are prompted to publish consolidated mental health budget notes. For legal readers, these references are significant, as the enforceable obligation mentioned in “Section 115(2) of the Mental Healthcare Act, 2017” suggests that the obligations should be accompanied by resources. From a planning perspective, the 2024 allocations for Tele MANAS and Centers of Excellence are in line with the support needed to move the pipeline from an emergency call to institutional care, which is the practical side that complements decriminalization.³⁵

1.7.3 Gatekeeper Training and Community Interventions

There is support in the evidence for gatekeeper models to enhance knowledge, detection, and referral behaviors, with Indian programmes being led by NIMHANS and other related organizations conducting structured training and continuing education. The studies and systematic reviews, although their quality varies, seem to indicate that after the training there is an increase in knowledge and self-efficacy, particularly when the training is culturally adapted and connected to local health care pathways such as Tele MANAS and district clinics. The policy relevance is in integrating gatekeepers into the legal framework of “Section 115(2) of the Mental Healthcare Act, 2017” by making sure that first contacts in schools, workplaces, campuses, and police stations not only comprehend the presumption of stress rule but also the referral map. This, thereby, reduces leakage from the system and, in fact, achieves the statute’s rights-based intention, which goes beyond hospital walls.³⁶

1.7.4 Media and NCRB Narrative

Media coverage of suicide must be based carefully on official statistics and sensitivity guidelines, as stories influence both the stigma of suicide and the seeking of help. Since ADSI 2023 is now accessible, the outreach should be using the latest rates, method profiles, and city wise distributions instead of the old baselines. The planning should be coordinated with the

³⁵ Measures Taken to Improve Mental Healthcare, *available at*: <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2100593> (last visited on October 21, 2025).

³⁶ Gatekeeper Training Program (GKT) for Suicide Prevention, *available at*: <https://nimhans.co.in/gatekeepertraining/> (last visited on October 20, 2025).

district data so that the promotion of the helpline, the deployment of gatekeepers, and the staffing of the hospital can correspond to the local needs. Information from Parliament and the ministry can be useful in giving a background to the release cycle and explaining what each edition captures. The core of the law of decriminalization is more effectively understood when reporting and public campaigns focus on care, rights, and services available rather than on sensationalism, thus giving the idea that the chances of families calling early and frequently are enhanced.³⁷

Actor	Asset or platform	Primary responsibility
Centre	Tele MANAS helpline 14416 and app; policy communications	Single national entry point, multilingual counselling, referral backbone
States/UTs	Tele MANAS cells; District Mental Health Programme linkages	Local language handling, hospital tie-ins, community follow-up
Hospitals	Casualty and psychiatry services	Stabilization, assessment, safety planning, referral to Tele MANAS and DMHP
Police	Station protocol and first-contact messaging	Safety-first response, non-criminalization posture, lawful use of “Section 226 BNS”
NGOs and academia	Gatekeeper training; community campaigns	Detection, stigma reduction, research and programme evaluation
Media	Reporting guided by data and sensitivity	Accurate ADSI use, service signposting, anti-stigma framing ³⁸

Table 5: Public awareness assets and responsibilities

³⁷ Accidental Deaths & Suicides in India 2023, available at: <https://www.ncrb.gov.in/uploads/files/1ADSIPublication-2023.pdf> (last visited on October 19, 2025).

³⁸ Steps Taken to Improve Mental Healthcare, available at: <https://www.mohfw.gov.in/?q=en%2Fpressinfo%2F9050> (last visited on October 28, 2025).

1.8 COMPARATIVE GLIMPSES

Comparative reference points make it clear that decriminalization does not rule out liability for abetment. The law “Suicide Act 1961” was the means by which England and Wales decriminalized suicide, but they still kept the offences for encouraging or assisting suicide.

Singapore abolished the attempt to the offence through the Criminal Law Reform Act passed in 2019 with effect from 1 January 2020, but abetment rules were still retained. These examples provide fence lines that are consistent with India’s settlement: the act of attempting suicide is not a crime in general, but abetment offences and coercive intent provisions that are narrowly designed remain. So, comparative law supports the interpretive position that the Indian system should be more about care and less about keeping penal accountability for wrongful encouragement or instrumentalization of self-harm threats.³⁹

1.8.1 United Kingdom

The “Suicide Act 1961” removed the common law crime of suicide and made it illegal those acts that could be seen as encouraging or assisting a person’s suicide. Later on, the guidance has been refining the prosecutorial thresholds. The UK experience shows that decriminalization changed the ways of police and clinical work long before a robust mental health capacity was available everywhere, but the core of the analysis still abetment was punishable with defined mens rea and standards of evidence. For Indian readers who are familiar with “Sections 107 and 108 of the Bharatiya Nyaya Sanhita, 2023”, the UK provides a reliable comparator for the difference between a person in a crisis and those persons who encourage or assist. This comparator reinforces the Indian argument that the decriminalized actor should be under the care, not in custody, while the abettors should be prosecuted according to the precise statutory formulations.⁴⁰

1.8.2 Singapore

The changes that led to the removal of the criminal charge against the act of attempted suicide in Singapore, were passed in 2019 and took effect on January 1, 2020. The new law abolished “Section 309 of the Penal Code” but maintained the provisions relating to abetment. The

³⁹ Suicide Act 1961, available at: <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/60> (last visited on October 27, 2025).

⁴⁰ *Supra* note 39.

Ministry of Law's note about the commencement of the new law indicates the date when the law became effective. At the same time, the statute pages show the outline of changes to the Penal Code and other laws. In the case of India, the Singapore example highlights the need for legal reform to be accompanied by the availability of care services and positive messages from the public so that people in distress will not be scared of the law. Besides, it shows that the repeal of the law does not mean that one cannot be held criminally responsible if he/she deliberately instigates or helps in someone else's self-harm.⁴¹

Country	Year of decriminalization of attempt	Current abetment rule
United Kingdom	1961	Encouraging or assisting suicide punishable under "Suicide Act 1961, Section 2"
Singapore	(Act Passed 2019; in Force 1 January 2020)	Abetment remains punishable under amended Penal Code provisions ⁴²

Table 6: Selected jurisdictions on attempt vs abetment

1.9 CONCLUSION

India's act of decriminalizing self-harm through the use of "Section 115 of the Mental Healthcare Act, 2017" and the reorganization of the structure under "Bharatiya Nyaya Sanhita, 2023" is a movement forward in terms of doctrine, based on the assumption of extreme stress and the State's obligation to take care. Readings of the High Court have agreed to a prohibition of punishment for the attempt, of which the presumption forms the basis, extended in Kerala to offenses occurring within the same transaction unless stress is refuted, and confirmed in Bombay by quashing at the threshold. The BNS keeps the condition that one can be held responsible for abetment and, additionally, separates a very small area where the use of selfharm for forcing a public authority is considered an offense, without taking away the dominance of care. Nevertheless, the execution is the key that the police and hospital protocols,

⁴¹ Commencement of Amendments to the Penal Code and Other Legislation on 1 January 2020, available at: <https://www.mlaw.gov.sg/news/press-releases/commencement-of-amendments-to-the-penal-code-and-otherlegislation-on-1-january-2020/> (last visited on October 25, 2025).

⁴² Criminal Liability for Complicity in Another's Suicide, available at: <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/60/section/2> (last visited on October 22, 2025).

Tele MANAS integration, and data informed outreach have to turn the legal promise into real access to the people they live with. The awareness of the public and the type of service are the factors that formally decriminalize the act and substantially reduce the harm.⁴³

⁴³ Supra note 25.

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