

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 19.12.2015

CRA-D No.1321-DB of 2014

Nijesh

...Appellant

Versus

State of Haryana & others

...Respondents

Present: Ms. Divya, Advocate, for
Dr. Deipa Singh, Advocate, for the appellant.

Mr. Vivek Saini, AAG, Haryana, for respondent No.1.

Mr. Rajesh Lamba, Advocate, for respondent No.2.

Mr. A.S.Sullar, Advocate, for respondent No.3.

Mr. Rajat Mor, Advocate, for respondent No.4.

CRA-S No.1213-SB of 2014

Asha Rani

...Appellant

Versus

State of Haryana

...Respondent

Present: Mr. A.S.Sullar, Advocate, for the appellant.

Mr. Vivek Saini, AAG, Haryana, for the respondent.

CRA-S No.1695-SB of 2014

Arun

...Appellant

Versus

State of Haryana

...Respondent

Present: Mr. Rajat Mor, Advocate, for the appellant.

Mr. Vivek Saini, AAG, Haryana, for the respondent.

CRA-S No.2468-SB of 2014

Riyaj

...Appellant

Versus

State of Haryana

...Respondent

Present: Mr. Satish Garg, Advocate, for the appellant.

Mr. Vivek Saini, AAG, Haryana, for the respondent.

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

HEMANT GUPTA, J.

This order shall dispose of CRA No.1321-DB of 2014 preferred by the complainant namely Nijesh for modification of the judgment of conviction dated 28.02.2014 and for enhancement of sentence dated 06.03.2014 rendered by the learned Additional Sessions Judge, Bhiwani, whereby respondent Nos.2 to 4 namely Riyaj, Asha Rani and Arun have been convicted and sentenced to undergo rigorous imprisonment for a period of ten years for an offence punishable under Section 306/34 IPC to the extent that respondent Nos.2 to 4 be convicted for an offence punishable under Section 305 IPC and awarded maximum sentence.

This order shall also dispose of CRA-S No.1213-SB of 2014, CRA-S No.1695-SB of 2014 & CRA-S No.2468-SB of 2014 preferred by Asha Rani, Arun & Riyaj respectively aggrieved against the said judgment of conviction and order of sentence.

The prosecution case was set in motion on the basis of complaint made by Nijesh, brother of the deceased made to the ASI Karanvir Singh, P.S. Sadar, Bhiwani on 14.12.2011 at about 10.00 AM. In the complaint (Ex.P4), Nijesh stated that her younger sister Neetu, aged about 17 years, was studying in Women Polytechnic College, Faridabad. On 08.11.2011, they came to know that Neetu was not in the hostel. Thereafter, he alongwith his maternal uncle Ram Niwas went to Faridabad and tried to locate the whereabouts of Neetu. They came to know that Neetu was enticed away by Riyaj son of Mohd. Yasin, resident of Sector 6, Faridabad. They tried to locate Neetu, but she could not be located. A missing report in this regard was also lodged on 11.11.2011 by his maternal uncle Ram Niwas in Police Post, Sector – 8, Faridabad. On the same day i.e. 11.11.2011 at about 7.00/8.00 PM, they received telephonic call from Neetu that she was standing at bus-stand Bahadurgarh. Upon this, they brought Neetu at Gurgaon. Neetu had disclosed them that Asha, Warden of the Women Polytechnic College, Faridabad had sent her with Riyaj on 06.11.2011. Neetu further disclosed that though she was not interested in going for outing, but Asha, Warden had taken her alongwith others to her own house and kept there for two days. On 08.11.2011, Asha made Neetu to sit in the vehicle of Riyaj and told that she would be coming soon, but she did not come. Thereafter, Riyaj had taken her forcibly to Delhi, Gurgaon and Bhiwani. Nijesh further stated that on the next day, Neetu was taken to Faridabad, where Police recorded her statement. Her statement was also recorded in the Court. Neetu also refused to go to her college. He also stated that Neetu informed them that Asha, Riyaj and Arun had spoiled her life and that she did not want to live. He stated that they tried to make her understand, but she refused to go to her college. They brought her at home at Village Haluwas where she used to remain perturbed. He stated that today i.e. 14.12.2011, he came to know that at

about 5.00 AM, her sister Neetu committed suicide by hanging herself because of wrong done by Asha, Riyaj and Arun. On the basis of such complaint, ruqa (Ex.P5) was sent to the Police Station for registration of an FIR. On receipt of ruqa, FIR (Ex.P9) was registered for an offence under Section 306/34 IPC.

Thereafter, ASI Karanvir Singh reached at the place of occurrence. He also called Crime Scene Team and photographer. During inspection, Har Pal and Rajbir handed over him one cotton rope and one suicide note of deceased Neetu, which were taken into possession vide memo Ex.P2. Apart from preparing rough site plan Ex.P6, he recorded the statements of the witnesses under Section 161 Cr.P.C. After completing inquest proceedings Ex.P9, he sent the dead body of Neetu to General Hospital, Bhiwani for post-mortem examination vide application Ex.P10. The post-mortem examination on the dead body of Neetu was conducted by Dr. Arjun Chander Yadav, Senior Medical Officer, General Hospital, Bhiwani and Dr. Sandeep Kumar.

It may be noticed that pursuant to the missing report (Ex.P27) lodged on 11.11.2011 by Ram Niwas, maternal uncle of Neetu, in Police Post, Sector – 8, Faridabad, ASI Jagbir Singh went to the Government Polytechnic College Faridabad and taken into possession copies of gate pass (Ex.P28), register of security gate of college (Ex.P29), mark sheet of Neetu (Ex.P30) vide memo Ex.P31. On 12.11.2011, he recorded the statement of Neetu under Section 161 Cr.P.C. and supplementary statement of complainant Ram Niwas. Pursuant to an application Ex.P34, he got recorded the statement of the prosecutrix under Section 164 Cr.P.C. It was on 14.12.2011 accused Asha was arrested, whereas accused Riyaj was arrested on 06.01.2012 from Pune. Two receipts of Badhkhal Lake Motel bearing No.78396 and one receipt of Badhkhal lake were recovered from the accused Riyaj, which were taken into

possession vide recovery memo Ex.P37. During interrogation on 09.01.2012, Riyaj suffered disclosure statement Ex.P25. Pursuant to his disclosure statement, Riyaj led the police party to Badhkhal Lake Motel and demarcated the same. During verification, it was found that accused Riyaj was found being stayed with woman at Badhkhal Lake. He also took into possession mobile phone of Riyaj. Riyaj also demarcated the place B-12 Sidharth Nagar, Delhi.

It was on 18.01.2012, after obtaining permission from the Court of Additional Chief Judicial Magistrate, Bhiwani, accused Riyaj was arrested in the present case. During interrogation, he suffered disclosure statement Ex.P24 regarding his involvement. After completing necessary formalities, the accused was made to stand trial. However, pursuant to an application under Section 319 Cr.P.C., accused Asha and Arun were also summoned to face trial vide order dated 23.01.2013.

To prove its case, apart from examining PW-9 Dr.Arjun Chander Yadav, Senior Medical Officer, General Hospital, Bhiwani; PW-3 ASI Karanvir Singh – the Investigating Officer; PW-13 ASI Jagbir Singh, who investigated the case pertaining to the complaint moved by Ram Niwas on 11.11.2011 regarding missing/kidnapping of Neetu-deceased as well as other witnesses of formal nature, the prosecution examined PW-7 Nijesh, brother of Neetu-deceased, who reiterated his earlier version i.e. basis of FIR.

After conclusion of prosecution evidence, the statements of all the accused were recorded under Section 313 Cr.P.C. The incriminating circumstances appearing against them in the prosecution evidence were put to the accused. They denied the prosecution case and pleaded false implication.

After going through the evidence on record, the learned trial Court returned a finding that the prosecution has been able to prove the role played

by Riyaj, Asha and Arun beyond any reasonable doubt and accordingly convicted and sentenced them, as mentioned above.

We have heard learned counsel for the parties at length and with their assistance have gone through the record carefully. However, before proceeding further, the statement of the Neetu-deceased recorded under Section 164 Cr.P.C. (Ex.P39) on 16.11.2011 as well as the suicide note (Ex.P7) consisting of three pages i.e. two inter-connected pages and one separate page having just two lines, are required to be reproduced. The same are as under:

Relevant extract from the statement of Neetu-deceased recorded under Section 164 Cr.P.C.

“Q. What you want to say relating to this case?

Ans. I am residing in the hostel since 25th July, 2011 and attend the class. Around 2½ months ago, my hostel warden Asha aunt met me with Riyaj and told to me that he is Riyaj and his clinic is in Sector 8. If you feel any problem then you met him. After that that boy met me several times in the hostel as well as in the college. On 8th day aunt again met her with Riyaj and he brought us to Delhi in Indiga vehicle. Two other girls were present in the vehicle. Aunt went away by saying that she has some urgent work and Riyaj dropped to you in the hostel.

Q. What was done thereafter?

Ans. In Delhi, he dropped me at the house of someone, where two girls and a boy were present. From where Riyaj brought to me to Rohtak and then Bhiwani, where a boy in the name of Arun came and make the arrangement of their residence. After that on 10th, they roaming in the vehicle and in the night stopped Bahadurgarh and stayed at the house of someone. On 11th, the roaming me at Charkhi Dadri, Bhiwani, Jhajjar and Gurgaon and at the night they dropped me at bus-stand Bahadurgarh. During the conversation in the vehicle, she came to know that they want to raise the demand of Rs.5 lacs from our parents, when they came to know that my maternal uncle is in Delhi Police, they left me.

Q. Apart from this, do you want to say anything more?

Ans. No. I do not want to say anything more. I want to go with my maternal uncle Ram Niwas Chauhan, who is residing in Sector – 4, Gurgaon.”

Suicide note (Ex.P7):

“Today whole of the family is in stress due to me. No one is understanding what to do about me. The marriage is not the solution of every problem. I have told the complete truth to brother Bharat, but I presumed that no one is believed on my assertions, but I told the complete truth. I can disclose the truth on that day itself, when we are going to the court, but the truth of dated 8th November, when disclosed to you by mother then you told that one more story and on hearing the same, I cannot disclose the truth. I went on the outing at my own will, but not for roaming. I did not live with them at my own will from 8th November to 11th November. Kindly believe my version because the dying person cannot tell lie. Yet if you presume that I can tell lie then you think that no one girl in the name of Neetu was in your family. If you presume that I am telling truth, then you can get punished to Warden Asha, Arun and Riyaj. How can Pooja Rani obtain the number of Riyaj. Before arrival of Delhi, how she can know that I am in Delhi. I cannot understand how Pooja know everything. I cannot get conducted any ultrasound nor I can take any tablet. I cannot want to marry. Today I cannot in a position to look after herself and you want that I can look after a family. The problems are the parts of my life. I know that my past and future always with me and I cannot separate the same despite will. If possible, kindly pardon me.”

Another note written with Sparkling Glitter Yellow Pen

“I am responsible for my death. Nobody has instigated me to commit suicide.”

The first and the foremost question, which is required to be considered is, whether the two separate statements in the suicide note (Ex.P7) have to be read conjointly or independently and what is the effect of a short note written separately with Sparkling Glitter Pen?

As mentioned earlier, the suicide note (Ex.P7) is on three pages. Two pages are inter-connected having detailed facts, whereas third is separate page having two lines. Both the statements are un-dated and without

disclosing any time. Therefore, it is difficult to say that which of the statement is the last statement.

Firstly, learned counsel for the accused-appellants have sought to argue that the suicide note is not proved to be in the hand-writing of the deceased, as no hand-writing expert has been examined. However, we find that such argument is meaningless, as PW-7 Nijesh, brother of the deceased, while appearing in the witness-box has deposed that he identifies the hand-writing of his sister, whom he has seen signing and writing. Such part of the statement has not been rebutted in any meaningful manner. Therefore, once a person, who on account of proximity, has reason to see his sister writing and signing, is a competent witness to depose that the suicide note is in her hand. In fact, the statement of PW-7 Nijesh is direct evidence regarding suicide note being in the hand of the deceased. The hand-writing expert only gives opinion on the basis of comparison in hand-writing. But if a person deposes that he seen the person signing and writing, it is primary evidence, which is more relevant than the opinion of the hand-writing expert.

Referring to the suicide note (Ex.P7) to the effect that whole of the family is in stress due to her (Neetu-deceased) and that marriage is not the solution of every problem, the argument raised is that the family members were compelling Neetu to marry, therefore, she committed suicide. However, we do not find any merit in the argument raised. PW-7 Nijesh, brother of the deceased, has deposed that there was no proposal or attempt to marry his sister, but even if the assertion in the suicide note is taken into consideration, the same does not support the argument. As per suicide note (Ex.P7), marriage is not the solution of every problem is not any indication of insistence of her parents to marry her. In the suicide note, Neetu-deceased has clearly stated that she did not live with them (Accused) at her own will from 08th November

to 11th November, meaning thereby that she was forced or enticed by Riyaz to live with him. The contents of suicide note further reveals that she has not subjected her to ultrasound nor taken any tablet meaning thereby of her pregnancy or its termination. The said fact shows that it is obviously to find out whether she is pregnant or not and to abort a child. The said question would arise only if the accused has established sexual relations with her. Therefore, it is her relationship with the accused, which was prompted her to take her life and not the marriage proposal from her parental side.

Learned counsel for the appellant Riyaj vehemently argued that the suicide was committed after more than 32 days and when the accused Riyaj has no access to her, therefore, commission of suicide cannot be linked to the act of Neetu living with Riyaj for couple of days. We do not find any merit in the said argument as well.

In Parhlad Vs. State of Haryana (2015) 8 SCC 688, the Hon'ble Supreme Court has held that an offence of rape is an assault on the human rights of a victim. It is an attack on her individuality. It creates an incurable dent in her right and free will and personal sovereignty over the physical frame. It has been held as under:

“17. It has to be borne in mind that an offence of rape is basically an assault on the human rights of a victim. It is an attack on her individuality. It creates an incurable dent in her right and free will and personal sovereignty over the physical frame. Everyone in any civilised society has to show respect for the other individual and no individual has any right to invade on physical frame of another in any manner. It is not only an offence but such an act creates a scar in the marrows of the mind of the victim. Anyone who indulges in a crime of such nature not only does he violate the penal provision of the IPC but also right of equality, right of individual identity and in the ultimate eventuality an important aspect of rule of law which is a constitutional commitment. The Constitution of India, an organic document, confers rights. It does not condescend or

confer any allowance or grant. It recognises rights and the rights are strongly entrenched in the constitutional framework, its ethos and philosophy, subject to certain limitation. Dignity of every citizen flows from the fundamental precepts of the equality clause engrafted under Articles 14 and right to life under Article 21 of the Constitution, for they are the “fon juris” of our Constitution. The said rights are constitutionally secured.

18. Therefore, regard being had to the gravity of the offence, reduction of sentence indicating any imaginary special reason would be an anathema to the very concept of rule of law. The perpetrators of the crime must realize that when they indulge in such an offence, they really create a concavity in the dignity and bodily integrity of an individual which is recognized, assured and affirmed by the very essence of Article 21 of the Constitution.”

In State of M.P. Vs. Madanlal (2015) 7 SCC 681, the Hon’ble Supreme Court while quoting from three-Judges’ Bench judgment in *Shimbu Vs. State of Haryana (2014) 13 SCC 318*, observed as under:

“18. The aforesaid view was expressed while dealing with the imposition of sentence. We would like to clearly state that in a case of rape or attempt of rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the “purest treasure”, is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error.

19. We are compelled to say so as such an attitude reflects lack of sensibility towards the dignity, the *elan vital*, of a woman. Any kind of liberal approach or thought of mediation in this regard is thoroughly and completely sans legal permissibility.”

In the light of the grave and inhuman act of violating the prosecutrix, certain judgments relating to the abatement for an offence of suicide, need to be examined.

In State of W.B. Vs. Orilal Jaiswal (1994) 1 SCC 73, where a married woman was humiliated on account of the drinking habit of her husband who used to assault her. The bridal presents brought by her were branded as goods of inferior quality and she was asked to take the said articles back to her parental home. In these circumstances, the Hon’ble Supreme Court held to the following effect:

“17.We may add here that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty. But in the facts and circumstances of the case, there is no material worthy of credence to hold that Usha was hypersensitive and that for other reasons and not on account of cruelty she had lost normal frame of mind and being overcome by unusual psychic imbalance, decided to end her life by committing suicide. The evidence adduced in the case has clearly established that Usha was subjected to abuses, humiliation and mental torture from the very beginning of her married life.”

In S.S.Chheena Vs. Vijay Kumar Mahajan (2010) 12 SCC 190, the Hon'ble Supreme Court examined the dictionary meaning of words 'instigation' and 'goading' to hold that each person's suicidability pattern is different from the other. It was held that the abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. The Court held as under:

"24. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* (2009) 16 SCC 605 had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

26. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation."

In *Ramesh Kumar Vs. State of Chhattisgarh (2001) 9 SCC 618*, the scope of expression 'instigate' was examined by a three Judges' bench. The said interpretation was quoted in Chitresh Kumar Chopra Vs. State (NCT) of Delhi (2009) 16 SCC 605 to held as under:

“15. As per clause firstly in the said Section, a person can be said to have abetted in doing of a thing, who "instigates" any person to do that thing. The word "instigate" is not defined in the IPC. The meaning of the said word was considered by this Court in Ramesh Kumar Vs. State of Chhattisgarh case (supra). Speaking for the three-Judge Bench, R.C. Lahoti, J. (as His Lordship then was) said that instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of "instigation", though it is not necessary that actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

17. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage doing of an act by the other by "goad" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action: provoke to action or reaction" (See: Concise Oxford English Dictionary); "to keep irritating or annoying somebody until he reacts" (See: Oxford Advanced Learner's Dictionary - 7th Edition).

18. Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter.

19. As observed in Ramesh Kumar's case (supra), where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

- (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a

wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or willful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.”

Now coming to the facts of the present case, the facts proved on record are that the deceased was with the accused Riyaj from 06.11.2011 to 11.11.2011, as her custody being given to her uncle Ram Niwas on 12.11.2011. The deceased was less than 18 years of age at that time. After joining the family, the mental trauma, the assault on her sovereignty was weighing heavily with her, which led her to take her life. The impression ‘instigation’ is not a straight-jacket formula. The instigation depends upon bundle of facts, which in the present case started with the kidnapping of the prosecutrix on 06.11.2011 and continued till the time she committed suicide. The physical sufferance and mental trauma undergone by the prosecutrix prompted her to take her life. It is the act of enticing, kidnapping and assault on her person, which has created trauma in the life of Neetu-deceased and led her to write a detailed suicide note (Ex.P7).

We also find that though the detailed suicide note (Ex.P7) implicates Riyaj, Asha and Arun, but the corroborative evidence is available only against Riyaj, who was also convicted and sentenced for an offence punishable under Section 363 IPC vide separate judgment of conviction dated 08.04.2013 and order of sentence dated 11.04.2013 rendered by the Additional Sessions Judge, Faridabad. Thus, we find that the prosecution has succeeded in proving that role played by Riyaj in abetment of commission of suicide by Neetu-deceased.

We find that the prosecution has failed to prove charges against the appellants Asha and Arun. Apart from the suicide note (Ex.P7), there is no allegation of any covert or overt act played by Asha and Arun. The contents of the suicide note remained uncorroborated in any substantial manner. In the absence of any corroboration of conduct or otherwise, we find that the conviction of the aforesaid appellants for an offence punishable under Section 306 IPC is not made out. Thus, the appeals filed by both the appellants namely Asha and Arun i.e. CRA-S No.1213-SB of 2014 and CRA-S No.1695-SB of 2014 are allowed and they are acquitted of the charges levelled against them by granting benefit of doubt. They shall be set at liberty forthwith, if not required in any other case.

At this stage, we may notice an argument raised by Mr. Lamba that the punishment imposed upon appellant-Riyaj in two cases arising out of FIR No.550 dated 11.11.2011 and FIR No.528 dated 14.12.2011 be ordered to run concurrently. In terms of sub-section (1) of Section 427 Cr.P.C., we order that sentence imposed in the present case shall run concurrently with the sentence imposed in FIR No.550 dated 11.11.2011.

Now coming to the appeal filed by the brother of the deceased, we find that though the deceased was under 18 years of age and accused-Riyaj having been found abetting the commission of suicide, thus, it is an offence covered by Section 305 IPC. But once the trial Court has exercised its discretion in awarding sentence of ten years, we do not find any ground that such sentence warrants any enhancement, when such sentence is one of the option to be imposed on the accused. It is a fair and reasonable discretion exercised by the trial Court granting 10 years rigorous imprisonment and a fine of Rs.15,000/- for an offence punishable under Section 306 IPC, which is the punishment contemplated by Section 305 IPC as well.

In view of the above, CRA-D No.1321-DB of 2014 preferred by Nijesh-complainant as well as CRA-S No.2468-SB of 2014 preferred by accused-Riyaj are dismissed, whereas CRA-S No.1213-SB of 2014 and CRA-S No.1695-SB of 2014 preferred by Asha and Arun respectively are allowed.

(HEMANT GUPTA)
JUDGE

19.12.2015
Vimal

(RAJ RAHUL GARG)
JUDGE