

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRA-S-3903-SB-2013 (O&M)
Date of Decision: 04.08.2015**

Dilbagh Singh

...Appellant(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. B.S. Jaswal, Advocate
for the appellant.

ANITA CHAUDHRY, J.

1. This appeal has been filed by the complainant against judgment dated 17.07.2013, passed by the Additional Sessions Judge, Amritsar, recording acquittal of the accused for the alleged offence under Section 306 IPC.

2. The facts of the case may be summarized as follows.

Reena d/o Dilbag Singh consumed aluminium phosphide, which resulted in her death on 28.04.2012. A complaint was given by Dilbag Singh and he had levelled allegations against his sister-in-law Manjit Kaur (accused).

The allegations were that Manjit Kaur used to doubt the character of his daughter and used to level allegations and this disturbed Reena and she used to remain perturbed. On 26.04.2012, a verbal altercation took place between Reena and Manjit Kaur which left Reena disturbed and she consumed poisonous substance. Her condition became serious and she was shifted to Guru Ram Dass Hospital where she was administered first aid and was discharged. They returned home but her condition became worse and she was admitted in hospital again the next day. Reena died in the hospital. Postmortem was conducted. The cause of death was stated to be shock as a result of aluminium phosphide which was sufficient to cause death.

3. On the basis of this complaint, the investigation was made and charge sheet was filed.

4. Charge was framed under Section 306 IPC to which the accused pleaded not guilty.

5. In order to bring home the charges, the prosecution had examined the complainant and mother of the deceased, besides the Medical Officers and Investigating Officers.

6. After the evidence was over, the statement of the accused was recorded under Section 313 Cr.P.C. The accused had examined two witnesses in defence.

7. The Additional Sessions Judge recorded acquittal.

Aggrieved, the complainant has assailed the judgment.

8. The appellant had placed on record the statement made by the complainant and his wife.

9. The counsel had urged that Reena had died as false allegations concerning the character of the victim were levelled and it had caused a lot of harassment. It was urged that there was no other reason for the girl to end her life in this manner and it was the accused who had compelled the deceased to commit suicide.

10. In order to succeed in the charge under Section 306 Cr.P.C., the prosecution has to establish that the accused had abetted the act of suicide and that there was intentional instigation, incitement or intentionally aiding the person to commit suicide and some act prior to or at the time of the commission of act was done which facilitates in the doing of the act.

11. Allegations of harassment have been alleged against the sister-in-law. The victim was her niece. The complainant had stated that relations with Manjit Kaur and her family were not good and she used to attack her reputation and had got a false case registered against his daughter and his family and on 26.04.2012, a quarrel had taken place. It has come in evidence that the daughter was taken to the hospital. She was treated and was discharged and she was brought home but was taken to the hospital on the next day as she had again complained of pain and dizziness. In this intervening period, no statement was given

by the girl nor the matter was reported to the police. It was after her death that the incident was reported. The defence witnesses had deposed that the deceased wanted to marry a boy of her choice while the parents wanted her to marry a boy of their choice.

12. The trial Court had noted that there was no witness to any verbal altercation and version was not supported from an independent source. There was no evidence that the accused had made any allegations before the public. The trial Court disbelieved the evidence and rejected the story.

13. The provisions of Section 306 read with Section 107 IPC are required to be considered in the background of the facts and the evidence. The Hon'ble Apex Court in AIR 2002 (SC) page 3270 had observed that the word "suicide" has not been defined in the Indian Penal Code and before the offence under Section 306 IPC would be attracted, there has to be sufficient evidence for a foundation of such conclusion about instigation.

14. The word "instigation" has been considered and interpreted by the Hon'ble Apex Court in judgment reported in 2001 (9) SCC 618 which reads as under:-

"20. 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. The present one is not a case 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 been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

15. Looking at the provisions, I am of the view that the prosecution had failed to establish that there was any intention, knowledge or *mens rea* or that there was any incident which had occurred prior to the incident. The findings recorded by the Court below cannot be said to be perverse nor they are contrary to the material available on record which would call for interference.

Dismissed in limine.

(ANITA CHAUDHRY)
JUDGE

04.08.2015
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