

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

Crl. Appeal No. S-3168-SB of 2014 (O&M)

Date of decision: 08.05.2015

Mahender

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Raminder Partap Kaur, Advocate,
for the appellant.

Ritu Bahri, J.

This appeal has been filed against the judgment dated 22.01.2014 passed by the Additional Sessions Judge, Sonapat, whereby accused-respondent Nos. 2 to 4 have been acquitted of the charges under Section 306 read with Section 34 IPC.

The FIR was registered on the basis of a complaint, Ex.PC, made by Mahender-complainant alleging that his son namely Monu was married to Bimla @ Monika daughter of Shiv Charan on 28.11.2010. Soon after the marriage, relations between Monu and his in-laws became strained. Monu had told his father Mahender-complainant that his wife Monika, father-in-law Shiv Charan, mother-in-law Bala and brother-in-law Biswas had been pressurizing him to live at Gannaur, near their colony. Thereafter, the complainant told Shiv Charan that since he was a poor person residing in the village, therefore, he could not construct a house in the city. On 25.05.2011, Bimla @ Monika (daughter in law of the complainant) went her father's

house at Gannaur by making an excuse of illness. On 28.05.2011, Shiv

Charan made a telephone call to the complainant and asked him to reach at the railway station. Thereafter, the complainant visited at the railway station and asked Shiv Charan to send Bimla @ Monika along with them. But, Shiv Charan refused to send her (Bimla @ Monika) with them. Thereafter, Shiv Charan, his wife and daughter Bimla @ Monika boarded a train. Bimla @ Monika asked her husband-Monu that in case, he wanted to live with her, then he should come and stay at Gannaur. Monu also boarded the same train along with them. At about 7/8 P.M., Shiv Charan telephonically informed the complainant that Monu (son of the complainant) had died in an accident with the train. Railway police, Gannaur also informed the complainant with regard to the death of his son. Thereafter, Mahender-complainant, his son Sonu along with their family members and villagers reached at the railway station, Gannaur and identified the dead body of Monu. Complainant was fully confident that Shiv Charan, his wife Bala, their son Vishwas and daughter Bimla @ Monika had slapped Monu (deceased) at railway stations, Sonapat & Gannaur and compelled him to live at Gannaur. Consequently, being harassed by all the above said persons, Monu had committed suicide near railway station, Gannaur by coming/jumping in front of *Shatabadi* train. After registration of FIR, Ex.PW12/A, investigation was carried out and site plan of the place of occurrence was prepared. Dead body of deceased-Monu was handed over to the complainant and Sonu vide receipt, Ex.PD. Accused Shiv Charan and Bala were arrested on 14.06.2011. After completion of necessary investigation, challan was prepared and presented in the Court. On presentation of the challan, charge under Section 306 read with Section 34 IPC was framed against the accused-respondent Nos. 2 to 4, to which, they

In order to prove its case, prosecution examined Hakim Singh Tyagi, Station Master, Gannaur (PW-1), Naveen, Rail Warden (PW-2), Akhilesh Kumar Singh, Assistant Driver, Head Quarter, Kalka (PW-3), ASI Ballister Tyagi, P.S. GRP (PW-4), Mahender, complainant (PW-5), Sonu (PW-6), C. Ramdia, RPF, Sonapat (PW-7), Sandeep (PW-8), HC Sanja Pal (PW-9), Rajender Pal, Logo-Pilot (PW-11), Randhir Singh, SHO, GRP, Panipat (PW-12), HC Inder Singh, RPF, Sonapat (PW-13), Retd. SI Rajender Singh (PW-14) and Dr. Sumit Kaushik (PW-15). Thereafter, evidence of the prosecution was closed.

After conclusion of prosecution evidence, statements of accused-respondent Nos.2 to 4 under Section 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same and pleaded false implication. In defence, the accused examined Dr. Santosh Aggarwal (DW-1), Rajender Singh, Pharmacist (DW-2), Ram Kishan (DW-3), Dr. Archana Vats, Lab Superintendent, Railway Hospital, Delhi (DW-4) and thereafter, closed their evidence.

The trial Court, after going through the entire evidence led by the parties, acquitted the accused-respondent Nos. 2 to 4 of the charges framed against them. Hence, this appeal.

As per the deposition of Mahender-complainant (PW-5), his son-Monu had strained relations with his wife Bimla @ Monika. Family members of Bimla were pressurizing Monu to shift his house to Gannaur. However, Monu showed his inability to do so because he was a poor person and could not leave his parents alone. On 28.05.2011, the complainant was called by his father-in-law and mother-in-law at railway station. When he reached there at about 4/4.30 PM., he found that his son-Monu was also

the accused at railway station and thereafter, the accused persons along with the deceased had left for Gannaur in a train. At about 7.00/8.00 P.M., he received a telephonic message from Shiv Charan that he should come and take the dead body of his son. Thereafter, the complainant, his son and other family members went to Gannaur and identified the dead body of his son-Monu. Dead body of Monu had been mutilated by the train on the railway track. In-laws of deceased-Monu had alleged that he had died in a train accident. But, the complainant had alleged that his son Monu had been killed by the accused persons (respondent Nos. 2 to 4) by giving him beatings and thereafter, they had thrown his dead body on the railway track. Statement of the complainant was recorded as Ex.PC, which bore his thumb impression. Ex.PW4/B was the *jama talashi* of deceased and the complainant received the dead body of Monu vide receipt Ex.PD. Sonu son of the complainant appeared in the witness box as PW-6 and corroborated the version of the complainant. Constable Ramdia appeared as PW-7 and deposed that on 28.05.2011, he was posted as constable at Police Station, RPF, Sonapat. On that day, when he was taking tea on platform No.2 near the office of Station Master, he noticed some crowd towards Ambala side. He went there and asked HC Inder Singh about the reason of crowd. He further deposed that there was dispute in a family, where husband was intending to take his wife back to her matrimonial home, but she was not sent back by his father-in-law and mother-in-law. His in-laws had told him that unless and until, he got a house constructed at Gannaur and lived separately from his parents, they would not send their daughter with him. He also met and enquired from Bimla @ Monika, as to whether she wanted to go with her husband. She replied that she wanted to live with her husband, but with a condition that he would get a house constructed at

Gannaur and live separately from his parents. Next day, he came to know that the husband had committed suicide by humping himself in front of *Shatabdi* train. HC Inder Singh (PW-13) had deposed that he was posted as head constable at police station, RPF, Sonapat. On the day of occurrence, at about 4.20 P.M., he saw that the accused persons were quarreling with Monu, who was their relative. On enquiry, they disclosed that Monu wanted to take his wife with him. He (PW-13) pacified them and thereafter, they along with Monu went towards Gannaur in a train. The deposition of Sandeep (PW-8) was to the effect that on 28.05.2011, at about 6.15 P.M., he was going to purchase vegetables. When he reached under the railway over-bridge near railway track, he saw a boy was standing in the middle of the railway track and a *Shatabdi* train was coming from Delhi side. Driver of the *Shatabdi* train blew horn again and again, but the boy did not move and was eventually, run over by the train. Some stones hit the face of Sandeep (PW-8), due to which, blood oozed out and thereafter, he rushed to the doctor for taking medicines. In this way, the boy had committed suicide. Hakim Singh Tyagi, Station Master (PW-1) deposed that on 28.05.2011, when he was posted as Station Master, Railway Station, Gannaur, he sent information, Ex.PA, to GRP, Gannaur regarding the death of a person namely Monu son of Mahender, resident of Kakroi. Akhilesh Kumar Singh, Assistant Driver (PW-3) deposed that on 28.05.2011, he was posted as Assistant Driver on Delhi to Kalka train i.e. Tain No.12005 UP Shatabdi Express. On that day, this train was going from Delhi to Kalka. At about 6.16 P.M, when the said train was crossing railway station, Gannaur, a person was seen standing near the starter signal. They were continuously blowing born, but he did not move. Consequently, he collided with the engine. The driver applied emergency brakes and the train stopped at

advanced starter signal. The said person had expired on the spot and was cut into pieces. Information with regard to the incident was given to Station Master, Gannaur. As per deposition of Dr. Sumit Kaushik (PW-15), he had conducted postmortem on the dead body of deceased-Monu vide postmortem report, Ex.PW15/B. The inquest report is Ex. PW14/B. He further deposed that the cause of death was shock and haemorrhage and the body was badly mutilated. The depositions of remaining witnesses were formal in nature.

In the present case, the incident took place on 28.05.2011 and thereafter, a complaint, Ex.PC, was made by Mahender-complainant and his statement was recorded at Police Post, Gannaur. He identified his thumb impression on Ex.PC. However, the complaint, Ex.PC, is dated 31.05.2011 and there is no explanation as to why FIR, Ex.PW12/A, was registered on 31.05.2011 when the statement of the complainant had already been recorded on 28.05.2011. There was delay of three days in lodging the FIR. While appearing as PW-5, Mahender-complainant has stated that Monu was beaten by his father-in-law Shiv Charan, mother-in-law Bala, brother-in-law Vishwas and wife Bimla @ Monika. But, this fact was not mentioned in the complaint, Ex.PC. The complaint does not carry any allegation that after giving beatings to his son Monu, his body was thrown away on the railway track. Even these facts had not been stated by Sandeep (PW-8), Akhilesh Kumar Singh, Assistant Driver (PW-3), Rajender Pal (PW-10), who were witnesses to the death of deceased-Monu. SI Rajender Singh, Investigating Officer (PW-14) had admitted in his cross-examination that on 28.05.2011, Shiv Charan came to Gannaur by train after getting treatment of his daughter from a Delhi hospital. Therefore, presence of accused-respondent Nos. 2 to

P.M., became doubtful. As per attendance register, Ex.DW2/A, produced by Rajender Singh, Pharmacist, Divisional Railway Hospital (DW-2), Shiv Charan was working as sweeper in the Divisional Railway Hospital, SP, Mukharji Marg, Delhi and his duty hours were from 8.00 A.M. to 4.00 P.M. Further, as per the deposition of Dr. Archana Vats, Lab Superintendent, Railway Hospital, Old Delhi (DW-4), Bimla @ Monika wife of Monu-deceased was medically checked on 28.05.2011 between 9.00 A.M. to 11.00 A.M. and generally the reports were given in the evening around 4.00 P.M. Therefore, her presence at the spot was also doubtful. Moreover, Mahender-complainant (PW-5) in his complaint, Ex.PC, had stated that his daughter-in-law Bimla @ Monika had gone to the house of her father at Gannaur by making excuse of illness, whereas in his examination-in-chief he stated that before the date of occurrence, the accused persons had taken her to their house forcibly without their consent.

The contradictions in the deposition of Mahender-complainant, coupled with the aforesaid facts and postmortem report, Ex.PW15/B, were sufficient to come to a conclusion that accused-respondent Nos. 2 to 4 had not abetted deceased-Monu to commit suicide. A Co-ordinate Bench of this Court in **State of Haryana Vs. Hari Singh and another**, 2013 (3) RCR (Crl.) 1035, while considering a case under Section 306 IPC had upheld acquittal of the accused by not placing reliance on the dying declaration of deceased. The deceased, in that case, had committed suicide after 5 years of marriage and was having two children. In the dying declaration, she had stated that she was fed up with her life and wanted to die as her parents-in-law used to harass and beat her. There was no allegation of demand of dowry and immediately, the accused had informed her parents, which

order of acquittal was upheld.

In the present case, Shiv Charan himself informed complainant-Mahender about the death of deceased-Monu. In the absence of any allegation of beating in the complaint, Ex.PC, and presence of accused-respondent Nos. 2 to 4 being doubtful at the time of occurrence, it cannot be held that accused-respondent Nos.2 to 4 had abetted deceased-Monu to commit suicide.

In the light of the above discussion, this Court is of the view that the impugned judgment of acquittal has been passed on correct appreciation of evidence and no interference is required therein.

Dismissed.

08.05.2015
ajp

(RITU BAHRI)
JUDGE