

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 1279 of 2005
Date of Decision : 18.03.2015

Subhash Chander

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the 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?*

Present: None for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

R.P. Nagrath, J. (Oral)

FIR for this incident was recorded on 24.07.2002 for offence under Section 306 read with Section 34 of Indian Penal Code (IPC) on a written complaint made by Subhash Chander the father of deceased Neeraj.

The prosecution story briefly stated is that Neeraj son of the complainant was married with Rekha accused-respondent no. 2 on 10.12.2000. The couple also had a male child aged 8 or 9 months at the time of occurrence. The dispute between the husband and wife took place one and half month before the incident and Rekha-accused went to her parents house alongwith the child. After about ten days, the deceased went to his in-laws house alongwith Subhash Chander-complainant, brother-in-law of the deceased and brother-in-law of Subhash Chander-complainant

but all the family members were insulted by the family members of Rekha-accused. They also shunted out Neeraj-deceased and told him to die somewhere and not to show his face again.

The incident took place on 23.07.2002, while the deceased went to his in-laws house to bring his wife and child back to matrimonial home. The deceased was statedly insulted again same way. Neeraj took his scooter and went to Kurukshetra and Subhash Chander received a telephonic call at about 08.00 p.m. from his son Rakesh that condition of Neeraj was serious.

The postmortem of the dead body of deceased was conducted in the Civil Hospital, Kurukshetra by a team of doctors of which PW-1 Dr. Surinder Kumar was the member. On receipt of Chemical Examiner's report, the cause of death was found to be poisoning due to organo phosphorus compound a group of insecticides. However, there was no bodily injury found on the person of deceased. The challan was presented on completion of investigation against Rekha, her parents and other family members and there were in all five accused.

Charge was framed against the accused persons under Section 306 read with Section 34 IPC. The prosecution examined 13 witness in support of its case and among them are PW-12 Subhash Chander-complainant and PW-11 Sadhu Ram brother-in-law of the complainant. Rest are the official witnesses. After analysis of evidence learned trial Court found charge to be not free from doubt and acquitted all the accused of the charge framed

against them. The complainant preferred revision against the judgment of acquittal, which was admitted for hearing. Despite notices to counsel for the petitioner and that of the accused none has put in appearance for them. In fact none represented the petitioner even on the last two dates.

I have heard learned State counsel, perused the judgment of trial Court and also the record.

Apart from oral evidence basic reliance on behalf of the prosecution was placed upon the suicide note written in the hand of deceased himself. The original of the suicide note is Ex. PH. The contents of the suicide note which translated into English read as under:-

"I am committing suicide feeling harassed from my wife Rekha Sharma and her mother Anjana Sharma. I have been so much harassed that I do not want to live and on that account I am committing suicide for which my wife, her parents and other family members are responsible. My wife would have no concern with my family. If there is some share in my property that would only belong to my son provided he comes and stays with my parents. He is my only hope. My mother-in-law has never permitted us to remain happy. She always wanted that me and my wife should remain separate. Even my wife never wanted to stay with me. However, I cannot live without my wife and

therefore, I am ending my life. I am writing this document in my full consciousness”

The contents of aforesaid suicide note cannot under any circumstance be considered as attracting the ingredients of offence under Section 306 IPC for having abetted the commission of suicide. Learned trial Court has properly analyzed the evidence and made the following observations:-

“28.The quarrel between Neeraj and his wife took place around 1 ½ or 2 months before the occurrence and thereafter in first week of June, 2002. Rekha did not come back to matrimonial home despite requests by Neeraj, his father and other panchayat members and rather they were insulted and the deceased was asked not to show his face and go and die. The deceased is said to have committed suicide on 23.07.2002 i.e. almost 1 ½ months after the said occurrence. Therefore, it is clear that there is no nexus of the said utterances/incident with the suicide as the deceased had sufficient time to think over and react. The said incident cannot be taken as a conduct on the part of the accused so as to drive him to commit suicide. Now as far as the second incident is concerned, there is nothing on record to show as to how and what prompted the deceased Neeraj to go to his in-laws house on 23.07.2002 having been shunted out of the house after insulting him in June, 2002. It is strange that now a days, when there is great awareness about the matrimonial rights and there was an option of going to the court and

lodge appropriate legal proceedings for restitution of conjugal rights in case he wanted his wife back and restore her to matrimonial home and there was sufficient time with him to think over the matter and take appropriate steps, however, still Neeraj Sharma visited the house of his in-laws to fetch Rekha and that too well prepared to commit suicide if prosecution case is to be believed that he was taken to hospital by in-laws in unconscious state after he visited their house. On the contrary, there is no convincing and cogent evidence on record to show that Neeraj even visited the house of her in-laws at Kurukshetra on the said date i.e. 23.07.2002. Rakesh Kumar is the only person who has told everybody that deceased had gone to his in-laws house at Kurukshetra. The only evidence of Subhash Chander in this regard is hearsay. However, Rakesh Kumar has not stepped into the witness box so as to prove this fact. The only other person who could have proved the visit of Neeraj at house of accused is the lady who allegedly met Subhash Chander once he went to the house of the accused persons. However, surprisingly no name of that lady is forthcoming. No investigation in this regard has been done and the said lady has not stepped into the witness box to prove this fact. Therefore, this hearsay evidence of Subhash Chander about visit of deceased Neeraj cannot be admitted into evidence and relied upon. Therefore, the prosecution case fails on this short count, as even the visit of Neeraj to house of the accused

is not proved. Another feeble attempt has been made by the prosecution to connect the accused with deceased through statement of Dr. Madan Gopal (PW-8) who has brought out that Neeraj was brought to his hospital by some boy who later on skipped and it was he who had informed the police regarding the admission of Neeraj Sharma in the hospital and also regarding his death. It is surprising that the doctor did not make any enquiry from the boy who had brought Neeraj in the hospital on the ground that boy had skipped away from the hospital and he could not get time to enquire from him. He has further brought out that the deceased was answering to his whereabouts at the time of his admission and that he was brought at 5.50 p.m. and was declared dead at 6.10 p.m. but the doctor did not even care to ask from the deceased as to how and why he has consumed the salphos tablets, though he was specifically alleged to have been brought with the history of intake of salphos tablets. The story of skipping of the boy is also not believable and it cannot be presumed that this boy was one of the accused once none of the accused has been got identified from the doctor. Moreover, once it was the scooter of the deceased, which was recovered from outside the Gita Surgical Hospital, Kurukshetra, it obviously shows that in fact the deceased himself came on the said scooter to the doctor. The only evidence of Neeraj having committed suicide of Subhash Chander (PW-12) who has brought out that he received a telephonic message from his son

Rakesh as to admission of Neeraj in the hospital. There is nothing on record as to who made the said telephonic call to Rakesh. Even the information about admission in Civil Hospital from an unknown lady in the vicinity of the house of accused is shrouded in suspicious circumstances as it is not known as to how that lady came to know that the dead body of Neeraj is lying in the Civil Hospital, Kurukshetra. Therefore, no reliance on hearsay evidence of Subhash Chander and Sadhu Ram in this regard can be made. Now, coming to the suicidal note Ex. PH proved to be in the handwriting of the deceased. Even this suicide note does not show that the deceased visited the house of his in-laws on 23.07.2002. The suicide note does not clearly establish that accused persons instigated the deceased to commit suicide. There is no such circumstance proved on record or any such circumstance is mentioned in suicide note that the deceased was so distorted, frustrated and placed in such a precarious condition that he had no other option but to commit suicide. There is nothing to show that due to the cruel conduct of the accused, the deceased was provoked to commit suicide. Merely because her wife had refused to accompany him to her matrimonial home or that she did not want to live with him or that his in-laws have created a situation where his wife is not willing to live with him, is no reason or circumstance forcing him to commit suicide. The intent of law is not that where a fickle minded person commits suicide listing out

various persons responsible for his death, than every such person is to be held liable for offence of abetment of suicide on the basis of such suicide note. It is the attending circumstances, which has to be taken note of in order to determine as to whether the conduct of the accused would have lead to a normal and natural person to commit suicide in the given facts and circumstances. The matrimonial discord and disharmony is a natural phenomenon and there can be variety of reasons for the same and there are always and means to sort out the same and there is no justification to commit suicide and hold other party responsible for the same. This case may also be seen in yet another reverse scenario where wife living with husband and his parents and the husband and his parents etc. keeps on taunting and treating the wife with cruelty and the lady has no other place to go and she can not go back to parental house and her life is made hell at her in laws place and than she commits suicide, than it could certainly be said that she was driven to death having put in such a condition but certainly, in the present case no such circumstances or conditions have been made out which prompted the deceased to commit suicide and hold the accused liable under section 306 of Indian Penal Code. There is no evidence that the accused ill-treated the deceased to drive him to suicide. The alleged conduct of the accused is not the necessary concomitant and intended consequence to attract rigours of section 306 of the IPC. It seems that

the deceased committed suicide in fit of anger and emotion. There is no legal evidence that accused had indulged in instigation and therefore abetted in the commission of suicide by the husband. In present case, even after taking into account the suicide note, it cannot be said that the accused goaded, provoked, incited, urged and encouraged the deceased to commit suicide. Thus the prosecution has failed to bring home the guilt of the accused under section 306 of the IPC. Therefore, there is no hesitation to hold that offence under section 306 of Indian Penal Code is not made out against any of the accused.”

I am of the view that the learned trial Court has given perfectly valid and elaborate reasons in coming to the conclusion that the offence under Section 306 IPC is not attracted and no fault can be found in the said opinion. It would not be possible for this Court to come to a different opinion in the exercise of the revisional jurisdiction even if another view was possible. No ground to interfere in the findings of the trial Court recording acquittal of the accused persons. The instant revision is dismissed.

March 18, 2015
jk

(R.P. NAGRATH)
JUDGE