

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

**CRR No. 181 of 2005 (O&M)
Decided on : 24.9.2015.**

Baldev Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Arvind Singh, Advocate,
for the petitioners.

Mr. Arun Luthra, AAG, Haryana.

Mrs. Baljeet Kaur Mann, Advocate,
for respondents No.2 to 5.

JITENDRA CHAUHAN, J.

This revision has been filed by parents of the deceased, Inderjit, impugning the judgment dated 21.7.2004, passed by the Additional Sessions Judge, Ambala vide which the respondents No.2 to 5 were acquitted in case FIR No.61 dated 27.6.2001 under Sections 306, 384, 342 read with Section 34 IPC registered at Police Station Panjokhra.

The instant revision was dismissed by this Court on 14.1.2013 for want of prosecution. An application for restoration of the revision was moved and the same was also dismissed vide order dated

17.7.2013. The complainant approached the Hon'ble Supreme Court and vide order dated 10.10.2014, the Hon'ble Supreme Court remanded the matter to this Court for fresh decision on merits of the case.

In brief, the case of the prosecution as detailed in the complaint (Ex.PA) moved by Gurmit Singh, brother of Inderjit the deceased, is that on 12.6.2001 at 7 PM, Inderjit, his friend Pardeep and Madhu Bala were apprehended and detained in Police Post Patvi as their scooter was challenged. The family members of the complainant received a telephonic call in the evening at their house on the basis of which, Manjit Singh, the other brother of the complainant went to Police Post Patvi, where he was also made to sit. The deceased, Inderjit and two police officials went to the house of Madhu Bala and stayed there for considerable time. In the meantime, Manjit Singh settled the matter with the police officials for Rs.10,000/- and thereafter Manjit Singh returned home. After some time, the deceased, Inderjit made a telephonic call at his house that the police were after him. On asking of the family members of the complainant about his whereabouts, the phone call was disconnected. Thereafter, the complainant along with his father and younger brother, Manjit Singh left for Police Post Patvi in an auto rickshaw at around 2 AM. On the way, this auto rickshaw came across auto rickshaw carrying the father of Madhu Bala. The same was got stopped and the complainant inquired about the whereabouts of the deceased, Inderjit, these people told that he had already been let off. The complainant and his father returned back to

their house in the auto rickshaw. In the morning, the complainant went to his work in his auto rickshaw, whereas, his father went in search of Inderjit. At around 6.30 AM, a neighbour informed the family members of the complainant that Inderjit was lying on the railway line. On hearing this news, the complainant reached the railway line and found his brother lying dead. The complainant informed the railway police about the incident on which the police told him that they would not be able to get the dead body for 2-3 days due to which the complainant made a statement that Inderjit had gone there to answer the call of nature and might have got killed in the accident by chance. The complainant made the complaint, (Ex.PA) to the Superintendent of Police, Ambala City on 14.6.2001 expressing doubt about the accidental death of his brother and apprehended that he might have been killed.

The complaint (Ex.PA) was inquired into by Sh. Udhey Shankar DSP(HQ). Vide enquiry report (Ex.P-38) DSP opined that the deceased committed suicide due to the insult caused by accused-respondents No.2 to 5. On the basis of inquiry report (Ex.P-38), FIR (Ex.P-3) was registered against the accused under Sections 342 and 306 read with Section 34 IPC. After investigation, challan/report under Section 173 Cr.P.C was presented before the Court.

Feeling dissatisfied with the police investigation, the

parents of deceased approached this Court for conducting investigation

by Central Bureau of Investigation. Vide order dated 19.3.2002 this Court directed that investigation of the case would be conducted either by Superintendent of Police or Deputy Superintendent of Police (Crime Branch) Madhuban. Thereafter, the investigation was conducted by Fateh Singh DSP and challan/report under Section 173 Cr.P.C was presented against the accused under Section 306, 384, 342 read with Section 34 IPC.

After complying with the provisions of Section 207 Cr.P.C, the case was committed to the Court of Session.

Charges under Section 342, 306 and 348 read with Section 34 IPC were framed against the accused-respondents No.2 to 5 to which the accused did not plead guilty and claimed trial.

In order to bring home the guilt of the accused, the prosecution examined PW-1 Madhu Bala, PW-2 Jaswant Singh, PW-3 Manjit Singh, PW-4 Gurmit Singh, PW-5 Pardeep Tiwari, PW-6 Inspector Bhagwant Kishore, PW-7 ASI Gulshan Rai, PW-8 Ajaib Singh, PW-9 Photographer Anil Sharma, PW-10 Sh. Rajesh Sharma, Judicial Magistrate, PW-11 SI Ravinder Kumar, PW-12 DSP Nripjit Singh, PW-13 DSP Phool Chand, PW-14 Dr. Amrish, PW-15 Constable Vir Shakti Singh, PW-16 Dr. P.K. Palivali, PW-17 HC Sat Naryan, PW-18 HC Baldev Singh, PW-19 DSP Udhey Shankar, PW-20 DSP Fateh Singh and closed its evidence.

Statements of accused were recorded under Section

313 Cr.P.C and all incriminating circumstances appearing in the

prosecution evidence were put to the accused. The accused denied the same and pleaded their false implication.

In defence, the accused examined DW-1 Constable Om Parkash and DW-2 ASI Sahinder Pal and closed the evidence.

After appraisal of evidence, learned trial Court vide impugned judgment dated 21.7.2004, acquitted the accused-respondents of the charges framed against them.

Feeling dissatisfied with the judgment of acquittal, parents of the deceased have directed this revision.

Learned counsel for the petitioners contends that the trial Court fell in error in acquitting the accused despite there being sufficient evidence against the accused. He further contends that son of the petitioners, namely, Inderjit, aged 20 years, was illegally apprehended, detained and kept in police custody at Police Post Patvi, District Ambala on 12.6.2001. He was murdered and his dead body was placed on the railway track, to project it as a suicide case, which was noticed in the morning on the next day i.e. 13.6.2001. The accused are police personnel. Learned trial Court has failed to appreciate the fact that there is no denial by the accused persons regarding apprehension and detention of deceased Inderjit. The deceased had not committed any offence of any kind so, there was no authority with the police to apprehend and detain him at Police Post Patvi. He further contends that on the basis of complaint (Ex.PA), an inquiry was conducted by Senior

accused were indicted. Similarly, the investigation of the case, in pursuance to the orders passed by this Court, was conducted by another Senior Police Officer Sh. Fateh Singh DSP (PW-20) in which the accused were again found guilty. There being sufficient cogent evidence, the trial Court has committed grave error in acquitting the accused.

On the other hand, learned counsel for respondents No.2 to 5 contends that the trial Court has rightly acquitted the accused. There is no legal evidence on record to connect the accused with the alleged commission of crime. She further contends that since deceased and his friends on enquiry by the Police had furnished false names and addresses in such circumstance, it was the duty of the police officials to verify the antecedents of the deceased and his friends. After the needful was done, telephone calls were made to the house of Inderjit, therefore, there was no illegal detention. She further contends that there is not an iota of evidence on record that the deceased was provoked or instigated by the accused to commit suicide. So, no liability whatsoever can be fastened upon the accused for the suicide committed by the deceased, Inderjit. She further states that with regard to the offence of alleged extortion, there are contradictions in the statements of PW-1, Madhu Bala and PW-4, Manjit Singh. Lastly, she contends that the power of High Court while exercising revisional jurisdiction is very limited in such cases, the interference by this Court is permitted only in exceptional cases in order to correct manifest illegality or prevention of

gross miscarriage of justice. The High Court cannot re-appraise evidence in exercise of revisional power.

I have heard learned counsel for the parties and have gone through record of the case.

The gravamen of the allegations against the accused-respondents No.2 to 5 is that firstly, they wrongfully confined the deceased, secondly, they abetted him to commit suicide and thirdly, an amount of Rs.10,000/- was extorted from the complainant. There is no evidence on record to suggest that the deceased was detained illegally. As per case of the prosecution, on the fateful day, deceased along with Madhu Bala (PW-1) and Pardeep Kumar (PW-5) was going on a scooter. They were stopped by the accused police officials. Documents of the vehicle were demanded from them but they did not have complete documents. On inquiring by the Police Party, they gave their false names and addresses. Madhu Bala (PW-1) and Pardeep Kumar (PW-5) in their examination-in-chief have admitted that when they were returning from the shrine of Tirlokpur, police checking was going on at around 6.30 pm and when Inderjit turned the scooter towards village Patvi they were apprehended by a constable. They further admitted that the documents of the scooter were incomplete and due to fear, they gave false names and addresses to the police but later on, they gave their real names and addresses. In such circumstances, if the police officials had detained them for verifying their names and addresses, then there was no illegality on their part. Rather, it was their

duty to verify the names and addresses of those persons, thus detention, if any, cannot be termed as illegal. Therefore, the accused have rightly been acquitted of the offence punishable under Section 342 IPC.

As regards the offence of “abetment”, the Hon'ble Apex Court in Sanju @ Sanjay Singh sengar vs. State of Madhya Pradesh 2002(2) RCR (Criminal) 687; (ii) Sohan Raj Sharma vs. State of Haryana 2008(2) RCR (Criminal) 811; (iii) Amalendu Pal @ Jhantu vs. State of West Bengal 2010(1) RCR (Criminal) and this Court in (iv) Criminal Appeal No. 1877-SB of 2002 titled Jagdev Singh alias Jaggi vs. State of Punjab decided on 24.8.2010 and (v) Pritam Singh and another vs. State of Punjab 2015(2) RCR (Criminal) 633 explained the meaning of “abetment” as defined under Section 107 IPC. The gist of the authorities is that one can be said to have abetted another if one instigates another to do that thing; or engages with other in any conspiracy for the doing of that thing; or intentionally aids the other person for the doing of that thing. There must be a direct nexus between effect of abetment and the abetment itself. The act of the deceased should have resulted from the direct instigation or provocation given by the accused. Secondly, the instigation or provocation must have been given intentionally.

In the present case, on 12.6.2001 the deceased was apprehended while he was on scooter. On finding that the deceased did not possess complete documents of the scooter, he was detained for sometime to verify his name and address. Thereafter, as per record, he

was let off. On 13.6.2001, the dead body of the deceased was found lying on the railway track. Manjit Singh brother of the deceased Inderjit has stated in his cross examination that after he reached the Police Post Patvi, he told the deceased Inderjit that he had not done a good thing and had brought a bad name to the family. PW-1 Madhu Bala has deposed that after meeting his brother, Manjit Singh had gone away from the Police Post. Even PW-19 Udhey Kumar DSP has stated that during his investigation, it had come to the fore that brother of Inderjit as well as father of Madhu Bala had scolded the deceased Inderjit as to why he had taken Madhu Bala with him which had brought a bad name to their family. This piece of evidence establishes that the deceased might have committed suicide due to the insult given by his brother and the father of Madhu Bala. So far as the insult given by police officials is concerned, there is no direct evidence as to what the police officials had told to the deceased. The mere detention in police custody for verifying the name and address of the deceased does not amount to instigation or provocation. There is no evidence that the accused ever instigated or provoked the deceased to commit suicide. The police officials acted on official duty. There is no nexus between the act of accused and the commission of suicide by the deceased. The requirement of law is that the act of accused must be the immediate cause of death which is not so in the present case. Therefore, the charge of abetment falls to the ground and the accused have been rightly

acquitted by the trial Court of the offence under Section 306 IPC.

PW-1 Madhu Bala and PW-5 Pardeep Tiwari deposed that the accused demanded Rs.800/- from Inderjit whereas Manjit Singh brother of the deceased stated that accused demanded Rs.10,000/-. If PW-1 Madhu Bala and PW-5 Pardeep Tiwari are taken to be true then Manjit Singh cannot be believed. Further, it is the stand of Manjit Singh that after settling deal at Rs.10,000/- he went to his home and demanded Rs.3500/- from his mother for delivering the same to the accused. The mother of Manjit Singh has not been examined as prosecution witness. So, there is no corroboration to the statement of Manjit Singh. The bald statement of Manjit Singh cannot be accepted in the face of contradictions with Madhu Bala and Pardeep Tiwari. So, the alleged demand of Rs.10,000/- as extortion money is not proved.

In view of the above observations, this Court feels that there is no illegality or irregularity in the impugned judgment passed by the trial Court. The finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact, there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondents. Consequently, the present revision stands dismissed.

24.9.2015.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether refer to reporter : Yes/No