

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

CRA-S-1054-SB-2015

Date of Decision:- 07.11.2016

Ravinder Singh @ Ram

....Appellant

Versus

The State of Haryana and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. S.S. Mor, Advocate,
for the appellant.**

Mr. D.K. Singla, DAG, Haryana.

**Mr. S.K. Chauhan, Advocate
for respondent No.2.**

RITU BAHRI, J. (Oral)

Appellant-complainant has filed the present appeal against judgment and order dated 27.11.2014, passed by learned Additional Sessions Judge, Bhiwani whereby accused, namely, Brijpal has been acquitted, after extending the benefit of doubt of charges levelled against him.

Briefly the facts of the case are that on 05.10.2013 at about 11.30 a.m., SI Dharambir Singh along with EHC Sita Ram and LC Sunita Devi were present at General Hospital, Bawani-Khera crossing. At that time, complainant-Ravinder Singh alias Ram son of Chaju Singh, came there and submitted an application Ex.P8. As per the allegations contained

in the application, his sister Rekha was married to accused Brij Pal son of Partu Singh. On 04.10.2013, at about 10.00 p.m., he received information on telephone from one Manipal that his sister Rekha has committed suicide by way of hanging. He reached there and found that his sister was murdered by pressing her neck with scarf/*chunni*. Her husband and his mother Parmeshwari, under conspiracy murdered his sister. Thereafter, on the basis of allegations contained in the application Ex.P8, rukka through EHC Sita Ram was sent to the police station for registration of formal FIR for the commission of offence punishable under Section 302/34 IPC against accused Brijpal and Parmeshwari. Accordingly, FIR No.332 dated 05.10.2013, under Sections 302/34 IPC (Ex.P3) was registered at Police Station Bawani-Khera.

Further investigations were carried out by SI Dharambir. On 05.10.2013, special report was sent to the learned Area Magistrate and senior police officers. Inquest proceedings were conducted. Thereafter, scene of Crime Team visited the place of occurrence and prepared Crime Scene visit report Ex.P5 and prepared rough site plan Ex.P6. Rough site plan Ex.P14 of the place of occurrence was also prepared by SI Dharambir. Chunni which was lying near the corpse of Rekha was lifted and taken into possessions, vide recovery memo Ex.P1. Post mortem examination on the corpse of deceased Rekha was got conducted, vide application Ex.P15. After conducting postmortem examination, concerned medical officer handed over some jewelry articles relating to victim Rekha. Same were taken into possession, vide recovery memo Ex.P2. Vide receipt Ex.P2/A, corpse of victim Rekha was handed over to her family members.

Headquarter. During investigation Sections 302/34 IPC was deleted from the FIR and Section 306 IPC was added. Accused Parmeshwari Devi (mother-in-law of victim Rekha) was declared innocent. Accused Brijpal was arrested on 16.10.2013. He suffered disclosure statement (Ex.P10) and demarcated the place of occurrence. On 18.10.2013 scaled site plan (Ex.P4) was got prepared by Dharmender Singh, Draughtsman. After completion of the investigations, final report under Section 173 Cr.P.C. was submitted in the Court on 25.10.2013. After order of the committal Court dated 31.03.2014, the charge under Section 306 IPC was framed against the accused, vide order dated 05.04.2014. As he did not plead guilty and claimed trial, therefore, the case was slated for evidence of the prosecution.

Thereafter, the prosecution, in order to substantiate the crime against the accused, has examined twelve witnesses i.e. PW1 to PW12 and has also relied upon the documents i.e. Ex.P1 to P-16.

After the close of the prosecution evidence on 17.11.2014, the accused was examined under Section 313 Cr.P.C. and he relied upon the documents i.e. Ex.D1 to D-5.

After presentation of the challan, the prosecution had submitted an application dated 05.08.2014 for summoning of Parmeshwari as additional accused under Section 319 Cr.P.C. and the same was dismissed vide order dated 03.09.2014. The trial was proceeded against the sole accused, namely, Brijpal.

The trial Court has considered the evidence of the prosecution and the fact that the marriage of victim with accused was solemnized long ago before the occurrence. They were blessed with two children. As per

contents of the application Ex.P8, given by PW10 Ravinder alias Raman

(brother of victim Rekha), his sister Rekha was murdered by her husband Brijpal on 04.10.2013 at about 10.00 p.m. SI Charambir (PW-11) made his endorsement Ex.P9 on the same and called the Scene of Crime Team on the spot. PW3 Dr. Ravinder Pal, Senior Scientific Officer, Scene of Crime Team, Bhiwani, inspected the spot and prepared crime scene report Ex.P5. During his cross-examination, he specifically admitted that there was no external mark of injury on the person of deceased Rekha. Blade of the ceiling fan was found bent. The iron bars of the window in question were found banded upward. He also observed that same were broken with some heavy object like hammer.

Dr. Ravinder Pal, Senior Scientific Officer, Scene of Crime Team, Bhiwani, visited the place of occurrence on 05.10.2013. He also prepared the rough sketch Ex.P6 of the place of occurrence. PW11 SI Dharambir, during the inquest proceedings on 05.10.2013, also prepared rough site plan Ex.P14. All these site plans clearly reveals that the offence was committed inside one room. One cot was lying thereat. Same was used for facilitating hanging. The iron bars of the window were found broken. On the basis of spot inspection PW3 Dr. Ravinder Pal, Senior Scientific Officer, came to a conclusion that death was due to suicidal hanging. The victim confined herself in a room and vigorous efforts were made to save her life by breaking the window bars with the help of hammer.

As per inquest report (Ex.P14) there was no injury mark on the person of the victim. The Board of Medical Officers conducted the postmortem examination on the corpse of deceased Rekha and submitted report Ex.P16. The Board of Directors as per statement of PW12 Dr.

except around the neck. As per inquest report (Ex.P14) victim was well built and healthy female. She was clad in blue blouse and blue printed Sarri. She was wearing clothes and bangles in her wrist and ear-rings in the ears. The prosecution then examined PW-9 Shiva, son of the victim, who stated that on 04.10.2013 at about 10.00 p.m. he was present in his house and a quarrel took place between his parents on account of purchase of a mirror. After the fight his father had gone to Baithak, belonging to his grandfather. His mother pushed her outside the room and bolted the door from inside. His mother committed suicide after hanging herself with the ceiling fan. On her noise, his cousin Bhupender alias Pammi, Tau Manipal, Sattan, Manjeet and Partap came there and immediate quarrel was the reason she committed suicide. In cross-examination, this witness again reiterated that his mother annoyed with his father over the purchase of a costly mirror and the same was purchased for the newly constructed house. His grandfather used to stay with his uncle and his sister has gone to meet his grandmother. There was no other dispute between his mother and father except purchase of a costly mirror.

The above facts shows that the deceased was an emotional woman and sudden outburst was led her to commit suicide. The deposition of PW9 Shiva, further shows that the couple were staying with his children in the house and the victim committing suicide was hypersensitive to ordinary petulance, discord and difference 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 Supreme Court in

2009(1) R.C.R. (Criminal) 947, while examining the matter, has observed in para Nos.10 and 11, is as under: -

“10. In State of West Bengal v. Orilal Jaiswal (AIR 1994 SC 1418) this Court has observed that the courts 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 her 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.

11. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in the Act as an offence. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. 'Abetted' in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.”

In **M.Mohan Vs. State of Tr. Dy. Supdt. Of Police, 2011(3)**

SCC 626, was a case where the deceased lived in a joint family and she was not allowed to use family car on one occasion and taunted by her *Jethani* (elder brothers wife) that she bring the car from her father if she wanted to

travel in car. The Bride committing suicide after 4 days of taunt. In this

case, the mother of the husband and his brother were charged under Section 306 IPC. They were acquitted by the Supreme Court by interpreting Section 306 IPC has held that abetment involves a mental process of instigating a person of intentionally aiding a person in doing of a thing and without a positive act on the part of the accused to instigate or aid in committing suicide, there cannot be any conviction. It was further held that to attract Section 306 IPC there has to be a clear *mens rea* to commit the offence. The Supreme Court in paragraph Nos.45 and 46, had held, is as under: -

“45. 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.

46. The intention of the Legislature and the ratio of the cases decided by this court are 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 this act must have been intended to push the deceased into such a position that he/she committed suicide.”

After hearing the learned counsel for the parties, going through the judgment of acquittal and perusing the above-said two judgments, this Court is of the considered view that in the present case, as per deposition of PW-9 (Shiva son of Brijpal), the deceased was a hypersensitive lady and on account of quarrel took place between his parents on account of purchase of an expensive mirror, his mother pushed him outside the room and bolted the door from inside and hang herself. Moreover, the appellant has miserably failed to produce any cogent evidence on record to prove the charges against the accused. Therefore, no interference is warranted in the impugned judgment. Such judgment, containing valid reasons, cannot possibly be interfered with by this Court, unless and until, the same is illegal, perverse

and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the appellant, so, the impugned judgment deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant appeal is hereby dismissed as such.

November 07, 2016
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No