

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Appeal No. S-2409-SB of 2013(O&M)

Date of decision : 15.01.2016

Krishan Lal

..... Appellant

versus

Nirmal Singh and another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. KDS Hooda, Advocate for the appellant

Mr. H.S. Baath, Advocate for respondent No. 1

ANITA CHAUDHRY, J. (ORAL)

This is an appeal against acquittal in FIR No. 72 dated 7.10.2013 registered under Section 306 IPC at Police Station Mullanpur. The trial ended in acquittal. Aggrieved by the same the complainant has come up in appeal.

Raj Kaur was married to Nirmal Singh for over 10 years. They had two children from the marriage. She was expecting a third child when she consumed poison. No case was registered. The report of the FSL was received by the police two months later and thereafter the complainant approached the police for registration of the FIR. The complainant is said to have approached the Court seeking direction to the police for registration of the FIR. The husband was arrested and was challaned.

Charge was framed under Section 306 IPC. The prosecution examined 6 witnesses. The only witness who had deposed against the accused was Kirshan Lal – complainant. Karam Singh – PW2 had identified the body of his niece. The remaining witnesses were the Medical Officers and the Police Officials. The trial Court examined the evidence and acquitted

the accused.

Para 22 and 23 of the judgment passed by the Court below reads as under:-

22. *In the case in hand, Raj Kaur wife of accused Nirmal Singh died on 22.2.2011. Upon the basis of her father's statement EX. PWI/A, a DDR entry was made in the Police Station and proceedings under Section 174 of the Cr.P.C initiated. Till this period, Raj Kaur wife of accused was stated to have died for having consumed certain pills which proved fatal. At the relevant time, she was stated to be pregnant and having a frail health. It was only upon the receipt of report of Chemical Examiner Ex. PW4/C that her father complainant Krishan Lal suddenly woke up to the fact that his daughter had consumed poison after having been fed up with the illicit relations which her husband accused Nirmal Singh had with one Rajni alias Raji resident of Majri. His supplementary statement Ex. PWI/B at this stage led to the registration of FIR Ex. PW5/B and on the basis thereof accused Nirmal Singh was arrested and put to trial under Section 306 of the IPC.*

23. *In order to prove that it was accused Nirmal Singh who had abetted the suicide of his wife Raj Kaur, we have the solitary statement of Krishan Lal father of deceased Raj Kaur. Even his statement, if taken at its face value, is not sufficient to bring home the guilt under Section 306 of the IPC to the accused. No one from the village, what to talk from neighbourhood of deceased Raj Kaur has been examined to show that prior to her death she used to remain upset to such a degree on account of the illicit relations which her husband had with Rajni, that she was left with no other option but to commit suicide. Even the complainant does not*

state that on 21.2.2011 or prior thereto, his daughter Raj Kaur had ever complained to him or to any one else with regard to her strained mental condition which was caused by her husband's acts and conduct. Thus, in the instant case, there is no evidence and material available on record where from an inference may be drawn that the accused has abetted the commission of suicide of his wife Raj Kaur. Neither any instigation nor any act or omission of any kind by the accused towards the deceased is shown to have taken place, which might have goaded her to commit suicide.

I have heard both the sides at length and have gone through the record.

Learned counsel for the appellant has urged that the husband is in relationship and the deceased had committed suicide in the matrimonial home. She was under great mental strain on account of the conduct of the appellant and the father had spoken about the harassment and the torture the girl was facing on account of his illicit relationship whom he married within few days of the death.

Learned counsel appearing for respondent No. 1 supported the judgment and urged that no complaint was made to the police and when poison was detected in the FSL report the father may have come up with the allegations of illicit relationship.

The accused had been charged under Section 306 IPC. None of the ingredients of the offence of abetment of suicide are available in the case. No witness has spoken about the steps taken by the accused regarding instigation by him for committing suicide. Infact the complainant had no information nor he suspected any foul play. It was only after the report of the FSL that the FIR was lodged which implies that the deceased had not

disclosed anything to her parents. They did not know, therefore, it means that the deceased had not indicated about the husband's relationship. It is on hearsay that the FIR had been lodged. The deceased had not complained to her father regarding ill treatment or harassment. There is no evidence of torture or ill treatment. A reasonable nexus had to be established between cruelty and suicide which in this case is lacking. I find no evidence to take a view contrary to the one taken by the Court below. The order is neither perverse or illegal nor it can be said that the trial Court had ignored the evidence.

The appeal is dismissed.

January 15, 2016

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**(ANITA CHAUDHRY)
JUDGE**