

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

**CRA-S-1234-SB of 2014
Date of Decision: 10.08.2016**

Ram Phal

.....Petitioner

Vs.

Shamsher and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.N.Lohan, Advocate for the petitioner.

Mr.Virender Singh Punia, Advocate, for respondent No.1.

Mr.Himmat Singh, DAG Haryana.

RITU BAHRI, J. (ORAL)

The present appeal has been filed against the judgment dated 10.01.2014 whereby respondent-Shamsher has been acquitted of the charges under Section 306 IPC by Addl. Sessions Judge, Jind.

The brief facts of the case are that petitioner/complainant made a statement Ex.PA alleging that marriage of his Bua (father's sister) Bimla was solemnized with Shamsher-accused/respondent No.1 about 23-24 years prior to that date. Shamsher-accused/respondent No.1 was drunkard and used to beat Bimla. He further alleged that on 29.02.2012, a telephonic message was received from Bimla that she was given beatings by her husband and mother-in-law, Kala and Sonu son of Bhopal. The complainant asked Bimla to come to her parental house to which she replied that she was not in a position to walk and in case, she returned to her parental home then she would be given beatings. On 01.03.2012, Jyoti daughter of deceased Bimla informed the complainant that Bimla had been killed and he should reach

immediately. Complainant alongwith others went to the village of accused-Shamsher and found that dead body of Bimla was lying on floor of the house and an electric wire was hanging from the ceiling fan with a noose. He further alleged that his bua Bimla had been forced to commit suicide by her husband Shamsher and his mother-in-law and Kala and Sonu son of Bhopal.

The challan was presented and thereafter charges framed on 25.07.2012. The prosecution examined as many as 13 witnesses. Thereafter, Shamsher-accused/respondent No.1 examined under Section 313 Cr.P.C. where he denied prosecution allegations and all incriminating evidence. He pleaded that he was innocent. He said in his statement that he was married to the deceased Bimla since about 23-24 years ago and they were living peacefully till her death. Three children were born out of this wedlock . On 29.02.2012, she had a quarrel with the complainant Ramphal on telephone regarding the possession of the land. She being hypersensitive and committed suicide and he has been falsely implicated.

PW-2 Dr.Suchi Goyal had deposed that she was a member of medical board and it was found to be a case of death by asphyxia on account of hanging. Except ligature mark there was no mark of violence on the dead body of the deceased. Hence, the version of the prosecution that deceased was subjected to cruelty or beating by Shamsher-accused/respondent No.1 and others on 29.02.2012 could not be substantiated by medical evidence. As per initial version of complainant Ramphal PW1, Ex.PA, deceased Bimla informed them telephonically on 29.02.2012 that she was given beating by her husband Shamsher accused, mother-in-law, Kala son of Raja and Sonu son of Bhopal but she was unable to move on account of beating but this fact

prosecution witnesses of incident of 29.02.2012 given by the complainant PW-1, Sadhu Ram PW9 and Anil PW13 was belied by the medical evidence.

Learned trial Court further observed that for attracting Section 306 IPC, it was required for the prosecution to prove that accused had abetted the deceased to commit suicide. Abetment involves instigation and under Section 107 IPC 'abetment' means instigate any person to do a thing, engage with one or more other person or doing that particular thing or intentionally aiding by act or illegal omission in the doing of that thing. Even the petitioner levelled allegations against four persons including mother-in-law and two nephews of Shamsheer-accused/respondent No.1, they were found innocent by the police during investigation.

After considering the facts mentioned above, learned trial Court found that prosecution has miserably failed to prove its case against the accused/respondent No.1-Shamsheer and he was acquitted of the charges framed against him.

After going through the judgment dated 10.01.2014, it transpires that trial Court acquitted the accused/respondent No.1-Shamsheer after correctly appreciating the evidence on record especially medical evidence. As such, there is no ground is made out to interfere in the well reasoned order and the present appeal against acquittal of respondent No.1 is hereby dismissed.

(RITU BAHRI)
JUDGE

10.08.2016
anil

Whether speaking/reasoned :
Whether reportable

Yes/No.
Yes/No.