

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

CRA-S-1705-SB-2014 (O&M)
Date of Decision: 30.03.2016

Chand Ram

...Appellant(s)

Versus

Bhagwan Dass and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. Rahul Vats, Advocate
for the appellant.

Mr. B.R. Vohra, Advocate
for respondent no.1.

ANITA CHAUDHRY, J.

This appeal is directed against the judgment dated 14.01.2014, passed by Additional Sessions Judge, Fatehabad who acquitted the accused in FIR No.156 dated 22.08.2012, registered under Section 306 IPC at Police Station Sadar Tohana.

Record had been summoned.

I have heard the counsels of both the sides.

Briefly sketching the facts. Chand Ram lodged a complaint with the police. His daughter Darshana was married to Bhagwan Dass accused 15 years ago. Darshana had three children. The allegations were levelled that Bhagwan Dass was alcoholic and used to beat Darshana and fed up with constant quarrels she returned to her parents. Earlier Darshana had attempted to commit suicide by jumping into a canal but was

rescued. Darshana had filed a civil case seeking transfer of the property owned by Bhagwan Dass in her children's favour. The civil suit is pending. The allegations further were that the husband and the in-laws used to treat Darshana with cruelty. Darshana ended her life by consuming poison.

On this complaint, the police registered the FIR. Postmortem was conducted. After completion of the usual formalities challan was presented against the accused under Section 306 IPC.

To bring home the guilt of the accused, the prosecution examined ten witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied his involvement. He had stated that he had withdrawn Rs.1 lac on 13.08.2012 which was handed over to the deceased and later he came to know that amount was taken away by Chand Ram complainant and he had promised to return it. When Darshana asked for it, her father did not return it for that reason she was disturbed and ended her life. To prove that fact the Manager of the Bank was summoned to prove the account record and to show that Darshana was a nominee.

The trial Court found that the death was on account of poisoning. It had noted that the deceased had tried to commit suicide five years earlier and there were suicidal tendencies. It had noted that the wife had filed a suit seeking transfer of the property in the name of the children. The civil suit was stated to be dismissed in 2009. The trial Court found

that there was no evidence of aiding, abetting or instigation. It had also noted that the accused was in the habit of drinking. The accusation made before it were that he used to beat the deceased. The trial Court noted that except for the oral statement of the complainant there was no evidence to support that fact. The Court also noticed that the children of the deceased had suffered a statement under Section 164 Cr.P.C., however, the prosecution did not chose to refer to it. The children had stated that the father had asked for Rs.100/- from his wife, she refused and a quarrel arose and the accused slapped their mother and left the house with the buffaloes. In his absence, the mother took poison. The trial Court rejected the prosecution case holding that it was not a case of abetment nor it fell within the definition given in Section 107 IPC.

I have examined the evidence and I find no infirmity in the finding recorded by the trial Court. There was absolutely no evidence of abetment. There was no evidence of intentionally aiding, facilitating or pushing the woman to take her life. The mere fact that the accused had beaten up his wife prior to the incident would not be sufficient to record a conviction under Section 306 IPC.

There is no merit in the appeal. The appeal is dismissed. Lower Court record be sent back.

(ANITA CHAUDHRY)
JUDGE

30.03.2016
sunil