

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRA-S-1875-SB-2003 (O&M)

Date of Decision:- 09.11.2016

Beeran Kaur @ Jasvir Kaur

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. APS Gill, AAG, Punjab.

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**RITU BAHRI, J. (Oral)**

Present appeal has been filed against judgment of conviction and order of sentence dated 24.09.2003, passed by the learned Addl. Sessions Judge, Bathinda whereby the appellant has been convicted and sentenced to undergo rigorous imprisonment under Section 306 IPC for a period of 6 years and fine of ₹1,000/-.

The trial Court, vide judgment of conviction dated 24.09.2003, convicted the accused-appellant under Section 306 IPC and sentenced her as under:--

Under Sec. 306 IPC

Six years R.I. and to pay fine of ₹1,000/-  
and in default of payment of fine, to further  
undergo R.I. for One year.

Present FIR was registered on the statement of complainant

Bawa Singh dated 13.02.2000 (Ex.PD) stating therein that his sister

Karamjit Kaur was married about nine years ago with Gurdeep Singh son of Pritam Singh Mehra. His sister was having two sons and one daughter. Two days before 13.02.2000, his sister gave message on telephone of Ex. Sarpanch Sadhu Singh that her husband Gurdeep Singh was having illicit relations with his maternal aunt (*Mammi*) Beeran Kaur wife of Charna Singh resident of Bathinda and they were harassing her too much. She has advised her husband and his maternal aunt otherwise she will commit suicide. At about 3.00 PM Bawa Singh and Sadhu Singh Ex. Sarpanch son of Harnam Singh gone to meet Karamjit Kaur with intention to advise her husband at Baba Deep Singh Nagar. When he enquired about his sister Karamjit Kaur, they very sadly gave signal towards cattle shed. Then, he and Sadhu Singh saw his sister Karamjit Kaur was found hanging from the roof and she had died.

The motive behind her death was that Gurdeep Singh was having illicit relations with Beeran Kaur and his sister had been forbidding him many times due to which he gave her beatings many times and being fed of that she has committed suicide.

The above statement was got recorded by the complainant when he after leaving Sadhu Singh Ex. Sarpanch with the dead body was going to report the matter and ASI Hemant Kumar PW7 met him at Badal crossing (Kainchain). On the said statement, ASI Hemant Kumar made endorsement Ex.PD/1 and on its basis a formal FIR Ex.PF was recorded. Inquest report Ex.PC of the dead body was prepared and dead body was sent through application Ex.PB for post mortem examination, on which Incharge Civil Hospital, passed order Ex.PB/1 for conducting the Post Mortem, which was done under endorsement Ex.PB/2. Copy of the post mortem

report has come on the file as Ex.PA. The Investigating Officer prepared rough site plan of the place of occurrence with correct marginal notes Ex.PG and scaled site plan Ex.PE, papers relating to the dead body were in parcel Ex.P7 and jewellery recovered from the dead body was in parcel Ex.P8, which were sealed by the doctor with seal bearing impression of letters SSM and were taken into police possession through recovery memo Ex.PH. Reasons for arrest were intimated to accused Gurdeep Singh through memo Ex.PJ and his personal search memo Ex.PJ/1 was prepared. Reasons for arrest were also disclosed to Beeran Kaur, vide memo Ex.PK and her personal search memo Ex.PK/1 was also prepared separately. After collecting the photographs and after formalities of the investigation, the challan against the accused was presented in the Court of Illaqa Magistrate on 10.04.2000. The Committing Court finding a case under Section 306/34 IPC, having been made out against the accused, committed the case to the Court of Sessions for trial from where this has been received by entrustment in this Court. Thereafter, the accused were charged under Section 306 IPC on 03.06.2000, by the learned Additional Sessions Judge, Bathinda.

The prosecution, in order to substantiate the crime against the accused, has examined PW1 Dr. Sat Pal Garg, Emergency Medical Officer Civil Hospital, Bathinda, who along with Dr. Pawan Kumar Bansal conducted the Post-mortem examination on the dead body of Karamjit Kaur on 14.02.2000 and opined that the cause of death due to apoplexy and asphyxia as a result of ligature around the neck, which was congested and sufficient to cause death in the ordinary course of nature. The prosecution has examined PW2 Mukhtiar Singh, who stated that the police have

body. PW3 Sadhu Singh and PW5 Bawa Singh have made the statements in support of the case of the prosecution. The prosecution has further examined PW4 Naib Singh, who stated to have taken the photographs Exs.D1 to D3. PW6 Sohan Lal Chiman proved on record scaled site plan Ex.PE and PW7 Hemant Kumar ASI, the Investigating Officer of the case.

After closer of the prosecution evidence, the statements of the accused under Section 313 Cr.P.C were recorded, wherein all the incriminating circumstances appearing against the accused were put to them. The accused denied the same and pleaded false implication. Appellant-Beeran Kaur (accused) took the plea that she was married about 12 years back and out of this wedlock she have four children and they were living at village Ghudda, which is far away from Bathinda. She never lived at Bathinda and her relations with Gurdip Singh her nephew (being son of real sister of her husband) are not permissible. She stated that Gurdip Singh is like her son and she has no illicit relation with him and this case has been brought against her due to misconceive suspicion.

With regard to the allegations of illicit relationship, the prosecution did not examine the minor children of the deceased and this defect in the investigation was considered by the trial Court by mentioning that if proper evidence is not collected it would not affect the case of the prosecution. Husband of deceased and Beeran Kaur were in illicit relationship and non-examination of the children of the deceased would not dent the case of the prosecution and held the accused guilty. The trial Court has examined the evidence led by the prosecution and has come to the conclusion that death took place on 12.02.2000 or 13.02.2000 would not be

material, as the complainant came to know that his sister had committed

suicide on 13.02.2000 and it is this date which the prosecution has taken for recording the statement of the complainant as well as registration of the FIR. Even if the body was hanging sometimes earlier the statement was recorded only when complainant had reached there and saw the dead body of the deceased. This aspect would not make any difference to the case of the prosecution. Consequently, the trial Court has convicted both the accused as they had abetted the commission of offence by deceased Karamjit Kaur due to their illicit relations, which resulted into committing of suicide by deceased Karamjit Kaur, for a period of six years and fine of ₹1,000/- each.

Learned counsel for the petitioner has submits that during pendency of present appeal, husband of deceased Karamjit Kaur has expired and appeal bearing CRA-S-1919-2003, filed by him, before this Court stands already abated, vide order dated 12.11.2014.

Reliance, at this stage, can now be made to a judgment of Division Bench of this Court in case **Rishi Kumar Vs. State of Haryana, 1988(1) R.C.R., 115**, whereby a bride had committed suicide due to maltreatment of her husband and the allegations against him were that he was having illicit relations with another lady. In para No.13 of the judgment, the Division Bench has held as under: --

*“From the reading of clause firstly of Section 107, it is clear that a person who instigates another to do a thing abets him to do that thing; in this sense it makes instigation tantamount to abetment. A person is said to instigate when he goads, provokes, incites, urges or encourages another to commit a crime. Maltreatment of the deceased Saroj by accused Rishi Kumar at intervals by beating and hurling abuses on her under whatsoever pretext and the creation by Rishi Kumar and his believed keep co-accused Tarawati of circumstances which made the deceased end her life by suicide, as held in Gurcharan Singh v. State (Delhi) 1983 Chandigarh Criminal Cases 350 does not amount to abetment*

*within the meaning of finding of 'Not guilty' returned against them by the learned trial Court on this score is, therefore, affirmed. State appeal filed against their acquittal under Section 306 of the Indian Penal Code is, therefore, dismissed. Criminal Revision filed by Mohinder Lal in so far as it prays for conviction and sentence of the three accused on the charge under Section 306 of the Indian Penal Code is also rendered without merit.”*

Applying the ratio of above said judgment and keeping in view the facts of the present case that appellant-Beeran Kaur was having illicit relations with husband of deceased Karamjit Kaur and appeal filed by husband of deceased already stands abated, the present appeal filed by appellant-Beeran Kaur is hereby accepted. Resultantly, the impugned judgment of conviction and order of sentence is hereby set aside.

With the above-said observations, the present appeal stands allowed.

November 09, 2016  
naresh.k

( RITU BAHRI )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |