

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-3347 of 2013 (O&M)
Date of decision: January 19, 2016

Jagdish Singh	Versus	...Petitioner
State of Punjab & another		...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Anil Chaudhary and
Mr. G.N. Malik, Advocates for the petitioners.
Mr. Shilesh Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.

This order shall dispose of two Criminal Revision petitions i.e. CRR-3347 of 2013 and CRR-3315 of 2013, filed by petitioners Jagdish Singh and Rita Sharma respectively, against order dated 21.09.2013, passed by the trial court, whereby charges have been framed against them under sections 306, 506, 120-B IPC.

Case was registered on the statement of Sandeep Kumar Markan, a teacher by profession, against the petitioners as well as other accused namely, Pardeep Singla and Sukha. He stated that on 6.9.2010, his father Harmesh Kumar Markan, a Lecturer of Economics in Government Senior Secondary School, Sandaur, was deputed as Centre Superintendent for conducting the Board Examination. On 20.9.2010, flying squad visited the school for checking and asked the teachers to

show their school relieving certificates. Two teachers showed their certificates but one of them went to his house to bring the certificate but did not return. After flying squad left, accused closed the school and asked father of the complainant to go home. On reaching home, he narrated the entire episode to the complainant. Same day, press reporters came to know about the incident and started threatening father of the complainant on his mobile phone. They alleged that examination had been conducted by deputing teachers in an illegal manner. They also started demanding money. Then accused Pardeep Singla and Sukha came to their house and demanded money, but they refused. In the meantime, petitioners sent a fax to DGSC levelling certain allegations against his father. Father of the complainant could not bear the shock and on 24.9.2010 at about 11.30 A.M. he consumed some poisonous substance. He was taken to DMC, Ludhiana where he expired on 26.9.2010. A suicide note was also recovered from pocket of the deceased. On the basis of this statement a case under sections 306, 506, 120-B IPC was registered. Investigation ensued. All the accused were arrested. After completion of investigation, challan was presented before the competent court.

The accused were thereafter heard by the trial court on the question of framing of charge. Vide order dated 21.09.2013, the court ordered framing of charge against all the five accused under sections 306, 506, 120-B IPC. Charges were framed against the accused on the same day.

Learned counsel for the petitioners has posed a serious

challenge to the order framing charge on the ground that no sanction to prosecute the petitioners was obtained, which is mandatory under section 197 Cr.P.C. Moreover, there is no direct allegations against the petitioners. In the suicide note, deceased levelled allegations only against the press-reporters. Thus, no offence is made out against the petitioners.

Learned State counsel has opposed the plea.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

The question that arises before this court is whether petitioners abetted the crime in a manner that it would attract provisions of Section 306 IPC. Before his death, deceased left a letter, contents whereof are as under:-

“Harmesh Markan

24/9

It is informed to Deputy Commissioner Sangrur, D.S.P. Malerkotla, S.D.M. Malerkotla that Principal Rita Sharma Girls School Malerkotla and Jagdish Singh Lecturer (Girls) School Malerkotla has relieved me from the duty as Centre Superintendent on S.A. Jain School Centre No.4 without mentioning any reason. I have been blemished in the society, due to this reason I have been forced to commit suicide. Except from this, News Channel Reporter Pardeep Singla, Sukha Singh, Ashok Joshi headmaster S.A. Jain School were leveling false allegations on telephone and demanded money on dated 22.9.2010. Every reporter of channel had demanded Rs.5,000/- to 10,000/-. Due to this I have consumed medicine under compelled reasons. I have no grudge and tension from any members of my family or any other relative. Nobody is at fault. Therefore appropriate proceedings be initiated against the above said persons. Principal Joginder Singh Sandaur and all staff had fully cooperated with me

and did not harass me in any way. This is my last letter. My nephew Jai Pal had also felt annoyed and also talked to the President of the Teachers Association that my uncle has been betrayed. I have also written to Sangrur that I have been relieved from the Superintendent in a wrongful manner. Conveyed me full cooperation. I am leaving behind my wife and son Sandeep, and daughter-in-law Samya Deep Kohli and grand-daughter and grand-son that live in peace and love. After selling this house, change the place at Patiala or at any other appropriate place. Try to live in the society with peace. This is my last wish so I am fully hopeful that you will lead your life with love.

Sd/- Harmesh Markan.”

A perusal of the aforesaid letter shows that deceased has merely alleged that petitioners had relieved him from duty as Centre Superintendent of the school without assigning any reason. Allegations, if any, are levelled against other accused. Even money was demanded by reporters of a news channel. It is, thus, inexplicable how ingredients of offence under section 306 IPC would be made out. There is nothing on record to show that petitioners had intended or engineered the suicide by deceased Harmesh Kumar Markan. No overt act is attributed to the petitioners either in the last note written by the deceased or in the FIR.

For constituting an offence under section 306 IPC, some intention or instigation on part of the accused is necessary. Without any material to show that there was *mens rea* on the part of the accused to abet commission of suicide, it is not possible to come to the conclusion that such person abetted commission of offence under section 306 IPC. There has to be some active or direct act which led the deceased to commit suicide. Hypersensitive individual may resort to such a desperate

measure and commit suicide. However, unless a person is shown to have actively participated in creating such situation that an individual is left with no option but to end his life, it cannot be said that provisions of Section 306 IPC would be attracted.

Under the circumstances, I find that the order passed by the court below charging the petitioners for offence under section 306 IPC is unsustainable. Same is hereby set-aside. This court does not feel the necessity to give a finding on the issue of sanction as the order framing charge has been set-aside.

Both the revision petitions are allowed in these terms.

(RAJAN GUPTA)
JUDGE

January 19, 2016
'Rajpal'

Whether to be referred to reporter? Yes / No