

CRR No. 316 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR No. 316 of 2016 (O&M)

Date of decision : July 27, 2016

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Hemchander Dahiya

.....Petitioner

Versus

State of Haryana

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. A.K Pipaniya, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

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RITU BAHRI, J.

Present revision petition has been preferred against the order on charge as well as framing of charge dated 18.12.2015 (Annexure P-9) passed by the Additional Sessions Judge, Sonapat, whereby the petitioner has been charged for the offence punishable under Section 306/34 IPC.

The present petitioner is the real uncle of the husband of the deceased, Kavita. Facts, in brief, are that the marriage of the daughter of the complainant Ran Singh was solemnised 9 years back with Anand @ Rinku Son of Gulab Singh. Kavita, daughter of the complainant was blessed with a baby boy namely Dharambeer. Kavita was facing harassment for dowry after some time of the marriage by her mother-in-law Saroj Bala, father-in-

law namely Gulab, sister-in-law namely Nirmala and brother-in-law namely Ashok. The complainant and his son-in-law Anand made several attempts to pacify them. On 4.8.2015, the complainant received a call of his daughter at about 8:00 A.M from the mobile phone of his son-in-law bearing No.9999932417 to his mobile phone that due to the torture of in-laws, she and her husband Anand had consumed poison. The complainant along with one Raj Kumar reached the house of his daughter, where he was handed over a suicide note and his grandson told him that his father and mother were rushed to JK Hindu Hospital. Kavita expired due to consuming poison but his son-in-law remained under treatment for being critical. A complaint dated 5.8.2015 (Annexure P-1) was given by the complainant and thereafter the FIR bearing no.478/2015 was registered at Police Station Sonapat City under Section 306/34 IPC. During investigation, statements of the husband of the deceased Anand under Section 164 Cr.P.C and other witnesses namely Raj Singh and Deepak under Section 161 Cr.P.C were also recorded (Annexures P-3 to P-6).

The petitioner is the maternal uncle of the husband of the deceased and resides at Gurgaon and his name has not been mentioned in the suicide note (Annexure P-7). The suicide note (Annexure P-7) is reproduced as under:

Suicide Note

I, Anand @ Rinku stating in my full conscience that my family members has been torturing me and my children for last 7 years for money and sometime for dowry in which four persons are included namely Gulab Singh, Saroj Bala,

Nirmal @ Renu and Ashok , who demanded money

Anand Singh

Kavita

Dharambeer

After completing the investigation, a challan under Section 173 Cr.P.C (Annexure P-8) was presented before the CJM, Sonapat and the matter was committed to the Additional Sessions Judge for trial. Vide order dated 18.12.2015 (Annexure P-9), charges were framed against Gulab, Saroj Bala, Ashok, Nirmala and Hem Chander under Section 306 read with Section 34 IPC that they had abetted Kavita to commit suicide.

Counsel for the petitioner has argued that the charges have been framed under Section 306 in mechanical manner. Present petitioner is residing at Gurgaon and the incident took place at Sonapat, where the deceased Kavita was residing with her in-laws family and husband. The petitioner Hem Chander is real brother of Gulab, father in law of the deceased. He had no occasion to abet the daughter-in-law of his brother to commit suicide and hence the order framing charges against him is liable to be set aside.

Pursuant to the orders passed by this Court on 22.7.2016, the Investigating Officer has given in writing that the petitioner has been residing in Gurgaon since 1972 and he had made a house over there in the year 1981. Moreover he has no property at Sonapat.

Counsel for the petitioner has further informed the Court that the petitioner and his brother have joint two acre land in Panipat which is not being cultivated by the petitioner as he is residing in Gurgaon. As per

the statement given by Anand (P-3) on 2.8.2015, his wife Kavita had gone to her parental home and came back on 4.8.2015. She told him that she had a brawl with her father Ran Singh. After reaching home, she gave him some medicine as he was having blood pressure problem. After consuming the same, he felt uneasy. After some time, she told him that she had consumed poison and had also given the same to him. He went outside and sought help to take them to the Hospital. Thereafter, he became unconscious. He was discharged on 10.8.2015 and then came to know that his wife was no more. Because of his father-in-law, his wife Kavita had committed suicide. As per the statements of Raj Singh, Deepak and complainant Ran Singh recorded under Section 161 Cr.P.C, Kavita had died because of continuous torture by her in-laws family for want of dowry. In the statements made, there is no mention of the name of the petitioner who was residing at Gurgaon. Even in the suicide note, the present petitioner has not been named. In the challan, it has been submitted that Kavita had informed the complainant on mobile that she and her husband had consumed poison because of continuous torture by her in laws and that the suicide note has also been written in this regard.

Heard counsel for the parties. Though at the time of framing the charge sheet, trial Court is not required to examine the evidence which is to be led in defence. However, at the same time the accused against whom there is no allegation that he had tortured the deceased Kavita should not face the proceedings of a criminal trial. In the present case, the petition deserves to be allowed and as in the suicide note (Annexure P-7) and even in the statement of husband of the deceased recorded under Section 164

recorded under Section 161 Cr.P.C, there is no reference to the behaviour of the present petitioner in the matrimonial relation of Kavita and Anand. Rather Anand has stated that his wife was upset on account of some brawl with her father Ran Singh. A perusal of the order dated 18.12.2015 (Annexure P-9) further shows that the alleged suicide note had been recovered and as per the FSL report, the handwriting matched. As per the report dated 27.7.2016 given by the Investigating Officer and the suicide note (Annexure P-7), there is no prima facie evident to charge the present petitioner to face a trial under Section 306 read with Section 34 IPC.

In view of all that has been discussed above, present revision petition is allowed and the order dated 18.12.2015 (Annexure P-9) is set aside.

July 27, 2016

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**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No