

Criminal Appeal No.2076-SB of 2012.

**IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

...

Criminal Appeal No.2076-SB of 2012

Date of Decision: October 28, 2017.

Gurdeep Singh and another

... Appellants

VERSUS

State of Punjab

...Respondent

CORAM : **HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Ms. Payel Mehta, Advocate (legal aid counsel),
for the appellants.

Mr. Arpinder Singh Sidhu, DAG, Punjab.

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RITU BAHRI, J.

This appeal is against the judgment of conviction and the sentence order dated 09.04.2012 passed by the learned Additional Sessions Judge (Ad hoc), Fast Track Court, Rupnagar, convicting Gurdeep Singh, Swaran Singh and Jasbir Kaur under Section 306 of the Indian Penal Code (for short 'the Code') and sentencing them to undergo rigorous imprisonment for five years and to pay fine of Rs.3000/-, each in default whereof to undergo further rigorous imprisonment for two months.

Appellant Gurdeep Singh is the husband of Hardeep Kaur (deceased), appellant Swaran Singh is father-in-law of Hardeep Kaur whereas Jasbir Kaur is her mother-in-law.

The instant case was registered at the instance of Jatinder Singh, whose sister Hardeep Kaur was married with

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appellant Gurdeep Singh about two years prior to the occurrence, which took place on 23.02.2011. Out of this wedlock, one daughter, was born. As per allegations of the complainant, from the very beginning of the marriage, the appellants started harassing and humiliating his sister on trifle matters. This fact was brought in their notice many times by the deceased but they reconciled the matter with the help of respectables so many times with the hope that the appellants will mend their way. On 15.02.2011, the deceased-Hardeep Kaur had come to her matrimonial home at Ropar. On 23.02.2011, father-in-law of the deceased had informed telephonically to come soon on Ropar as their sister who had slept in the night, but had died. On reaching there along with relatives, the complainant saw that the dead body of her sister was lying on the floor in the verandah. On enquiry, he came to know that his sister had consumed some poisonous substance due to atrocities caused to her by her in-laws. On the basis of this statement, the case was got registered against the accused and investigation was conducted by ASI Tarlochan Singh. During investigation, post mortem of the dead body of the deceased was got conducted at Civil Hospital, Ropar. Site plan was prepared and accused were arrested. Statements of the witnesses under Section 161 Cr.P.C were also recorded.

After completion of investigation, challan against the accused-appellants was presented before the Magistrate, who committed the case to the Court of Session.

Charge under Section 306 of the Code was framed against the appellants, who did not plead guilty to the charge and claimed trial.

At the trial, the prosecution examined Dr. Harinder

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Singh (P.W.1), Davinder Singh (P.W.2), Jatinder Singh (P.W.3), Karnail Singh (P.W.4), Balamjit Singh (P.W.5) and Tarlochan Singh (P.W.6)

In their statements recorded under Section 313 of the Code of Criminal Procedure, the accused denied the prosecution allegations and pleaded innocence but they did not examine any witness in defence.

I have heard the learned counsel for the parties and have gone through the records of the case.

Section 306 of the Code, for which offence the appellants have been convicted and sentenced, as mentioned above, for facility of reference, is reproduced as under:-

“ 306. **Abetment of suicide.-** If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

In this case, admittedly Hardeep Kaur (deceased) had consumed poison in the house of the accused. However, ingredients of Section 306 is missing and no case is made out against the accused under Section 306 of the Code. Further there are lot of improvements in the statement of the complainant-Jatinder Singh and Karnail Singh-father of the deceased. As per the report of the doctor, the cause of death is due to Chloro Compound Group Poisoning which is anti mortem in nature and sufficient to cause death in the ordinary course of nature.

Learned counsel for the appellant argued that as per

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testimony of P.W.3 Jatinder Singh and P.W.4 Karnail Singh, the appellants used to torture the deceased on trivial issues. However, there was no allegation of demand of dowry by the accused in the entire complaint and thus, the fight on trivial issues in the matrimonial house would not amount to abetment to suicide. Further reference has been made to testimony of P.W.5 Balamjit Singh-President of Nagar Panchayat Khmano who merely stated that he had got the matter compromised between the parties many times.

As per deposition of P.W.3, on 15.02.2011, the deceased was sent back to her matrimonial house and she committed suicide on 23.02.2011, thus there is a gap of almost 08 days. Therefore, when she committed suicide on 23.02.2011, there is no immediate cause for abetment which can be attributed to the accused.

In view of the above, I am of the considered opinion that the case of the prosecution against appellants Gurdeep Singh and Swaran Singh has not been proved beyond all reasonable doubts and they are entitled to be extended the benefit of doubt.

Consequently, the appeal is accepted, the impugned judgment of conviction and the sentence order qua them are set aside and they are acquitted of the charges framed against them by giving them the benefit of doubt.

October 28, 2017.
G Arora

(RITU BAHRI)
JUDGE

***Whether speaking/reasoned
Whether reportable***

***Yes
No***