

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

CRA-S No.559-SB of 2014

Date of decision: 21st November, 2017

Ajab Singh

... Appellant

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. N.S. Shekhawat, Advocate for the appellant.

FATEH DEEP SINGH, J.

This appeal by the unsuccessful appellant Ajab Singh, who happens to be complainant in case got registered by way of FIR No.123 dated 19.08.2012 under Section 306 IPC pertaining to Police Station Ateli, District Mahendergarh, has impugned before this Court under the provisions of Section 378(4) Cr.P.C. judgment dated 23.12.2013 whereby the Court of learned Additional Sessions Judge, Narnaul had drawn conclusion that the prosecution has failed to prove the guilt of the accused Manju respondent No.2 and thus, acquitted her of the charges so framed against her.

The brief facts are that complainant Ajab Singh husband of accused Manju moved an application dated 19.08.2012 that his marriage with Manju was solemnized about 1½ years prior to this occurrence and she had matrimonial dispute with him and in spite of best efforts the same could not be resolved. Complainant alleged that Manju filed a criminal complaint under the dowry and other provisions against family of the

complainant before Woman Cell, Rewari on 23.08.2012 where family of the complainant was summoned and it is as a sequel to this, his father Nand Lal committed suicide by jumping into a well and that is how the present case was got registered.

Prosecution to prove its case examined 15 witnesses namely PW1 Dr. O.P. Dudi; PW2 Ajab Singh complainant present appellant; PW3 SHO Sandeep Kumar; PW4 Constable Devender Kumar; PW5 ASI Mahesh Kumar; PW6 SI Suresh Kumar; PW7 HC Rohtash Singh; PW8 Rakesh Kumar Manager; PW9 Dr. Satish Kumar; PW10 Constable Satbir Singh; PW11 ASI Ashok Kumar; PW12 HC Naresh Kumar; PW13 ASI Sheotaj Singh; PW14 Yashpal and PW15 Constable Sukhbir Singh. Upon closure of the evidence of prosecution, incriminating evidence was put to the accused in her stand taken under Section 313 Cr.P.C. who denied the allegations and in her defence examined DW1 Ram Kumar and DW2 Ram Pal to bring about the reasons for the matrimonial dispute leading to passing of the impugned findings.

After hearing learned counsel for the appellant Mr. N.S. Shekhawat, Advocate and on perusal of the records. The lone submission which was subject matter of much force and vehemence by the appellant side is the purported suicide note left behind by the deceased for which learned counsel has sought to bear out that the private expert examined by the complainant namely PW9 Dr. Satish Kumar to prove signatures of the deceased Nand Lal on the suicide note Ex.PC and who had proved his report to this effect as Ex.PX. A close look at the report is in itself

suggestive that because of the insult and mental tension deceased was forced to take such a step and has used the following line in the suicide note “*main apne shareer ko daan kar raha hun*”.

Section 306 IPC which deals with offence of abetment to suicide, necessitates that there should be instigation by any person to commit suicide. No doubt, the evidence on the face of it clearly bears out that the deceased had committed suicide which is well proved by PW1 Dr.O.P. Dudi and other official witnesses of the police and has proved police request for postmortem Ex.PA/1 and postmortem report Ex.PB and has given cause of death to be hemorrhagic shock due to multiple injuries on body. However, the word abetment is defined in Section 107 IPC and means and conveys abetment of a thing when a person instigates any person to do that thing or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, or intentionally aids, by any act or illegal omission, the doing of that thing and therefore, necessitates that the abettor must have intentionally aided commission of crime and the mere fact that without the interposition of the alleged abettor the thing has happened, is in itself not enough to romp home with this offence. In the present case, it is nowhere spelled out in this documentary proof by way of suicide note that it was the accused who has instigated and aided the deceased to take such a drastic step and putting an end to his life. More so, there is no such evidence that immediately prior in point of time to this commission of suicide the

accused had acted or said something which has abetted and instigated the deceased to take such a drastic step.

The own stand of the prosecution states that it was on 23.08.2012 the deceased and the complainant were summoned by the Women Cell on the complaint of the accused and the suicide has taken place much prior thereto i.e. 19.08.2012 and therefore, this could not be a cause or an element of harassing. The courts below have rightly observed in the impugned findings that after a few days of marriage on account of matrimonial dispute the accused had left her matrimonial home, further adds to the woes of the appellant side and she even refused to go back and there is no allegation of any interaction between the two sides after the accused left her matrimonial home and the very testimony of the complainant PW2 Ajab Singh has been disbelieved by the courts below and have held that the same was unbelievable and the FIR had been registered way back on 27.07.2012 Ex.D5 which nullifies the stand of the prosecution by all means. There is no direct evidence that the deceased was compelled or instigated by the accused to commit suicide and even the alleged person Ranbir before whom it is claimed by the prosecution that the deceased prior to his death has made statement, was never examined; leaves a big question mark over the veracity of the prosecution story. Rather what meets the eye that the deceased Nand Lal appears to be of a weak composition of mind and as a consequence of the matrimonial dispute between his son and daughter-in-law, the latter having left her matrimonial home, apparently because of the ignominy in

this traditional society, had taken such a step. There are only oral uncorroborated allegations which cannot take place of legitimate piece of evidence worth relying. Since there is a history of matrimonial dispute apparently between the two sides, the present prosecution stems out of this element of vendetta and therefore, in the light of what has been detailed and discussed above, no case for grant of leave to appeal is made out in favour of the appellant. The application for leave to appeal/prayer to that effect by way of the same stands dismissed and consequently the appeal also stands dismissed. Records be sent back forthwith.

(FATEH DEEP SINGH)
JUDGE

November 21, 2017

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No