

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

CRA-S No. 729-SB of 2015(O&M)

Date of decision: 27. 02.2017

Kuldeep SinghAppellant

VERSUS

State of Haryana and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Jitender Dhanda, Advocate for the appellant.

Mr. Vikas Malik, DAG, Haryana.

Mr. Deepak K. Sharma, Advocate for respondents No.2 and 3.

REKHA MITTAL, J.

The present appeal has been directed against the judgment dated 11.12.2014 passed by the Additional Sessions Judge, Hisar whereby the accused/respondents No.2 and 3 have been acquitted of the offence punishable under Section 306 of the Indian Penal Code, 1860 (in short 'IPC').

Briefly stated, Smt. Amarpati (since deceased) was sister of Kuldeep Singh (petitioner herein) and was married to Daya Singh- accused in the year 1991. Out of the wedlock, one daughter namely Sunil @ Sunita was born. Daya Singh had three children from his previous marriage. Accused Daya Singh had illicit relations with Suman wife of Ram Mehar, son of accused Daya Singh. On this count, Daya Singh along with Ram Mehar and Sunil @ Sunita used to beat Smt. Amarpati. On 23.05.2009, at about 4 PM a telephonic message was received by Kuldeep Singh and his

family members that his sister Amarpati committed suicide by hanging. On the basis of statement made by Kuldeep Singh, FIR No.171 dated 27.05.2009 for offence punishable under Section 306 IPC was registered at Police Station Sadar, Hisar.

On completion of investigation, challan was presented in the Court and the case was committed to the Court of Sessions as offence punishable under Section 306 IPC is exclusively triable by the said Court.

On finding a prima facie case, Daya Singh and Ram Mehar were charged for committing offence punishable under Section 306 IPC to which they pleaded not guilty and claimed trial.

The prosecution examined as many as eight witnesses namely ASI Raj Kumar PW-1, Inspector Rajpal PW-2, Inspector Jaibir PW-3, Kuldeep PW-4, Dhan Singh PW-5, Balbir Singh PW-6, Subhash PW-7 and Dr. Ved Pal PW-8.

Having heard counsel for the parties and bestowing its consideration to the rival submissions made by counsel for the parties, trial Court after referring to various judgments of Hon'ble the Supreme Court of India as well as Madhya Pradesh High Court came to conclude that the prosecution has failed to prove its case beyond all reasonable doubt and accordingly the accused are acquitted of the offence charged against them. The Court refused to rely upon testimony of Kuldeep PW-4, the star witness in the case, for the reasons recorded in the judgment.

Counsel for the appellant has submitted that the judgment passed by the trial Court is based on surmises and conjectures but without properly appreciating ample evidence adduced by the prosecution that Amarpati had not committed suicide rather she was murdered as her

postmortem report shows signs of strangulation and not of hanging. It is further submitted that the judgment passed by the trial Court may be set aside and the matter be remitted to the Court below for fresh trial after framing of charge under Section 302 IPC. However, counsel has not made any submissions in order to point out any defect or lacunae in the judgment exonerating the respondents/accused of their alleged culpability for committing offence qua abetment of suicide by Amarpati.

Counsel for respondents No.2 and 3 has supported the judgment passed by the trial Court with the submissions that even from the allegations raised in the FIR, essential ingredients of offence under Section 306 IPC are not satisfied, therefore, the trial Court has rightly acquitted the respondents/accused of the offence charged against them. It has further been argued that during the course of trial, an application was filed for framing of charge for offence punishable under Section 302 IPC but the same did not find favour with the trial Court and the order passed by the trial Court has attained finality.

I have heard counsel for the parties, perused the paper-book and records of the trial Court.

Indisputably, counsel for the appellant has not challenged findings of the trial Court that charge for offence punishable under Section 306 IPC is not proved against the accused, thus, they are liable to be acquitted of the offence under Section 306 IPC.

I have carefully gone through the judgment passed by the trial Court and did not find any reason to disagree with the findings recorded by the trial Court holding in favour of the respondents/accused more particularly in the circumstances that there must be compelling and

substantial reasons for the Court of appeal to interfere in the judgment of acquittal. In this view of the matter, challenge to judgment of the trial Court acquitting respondents No.2 and 3 of the charged offence is unfounded and unjustified.

So far as the plea that a charge under Section 302 IPC was required to be framed against the accused, admittedly, application filed before the trial Court in this regard was dismissed and the order has attained finality. This apart, there is no eye-witness to the occurrence that Smt. Amarpati was strangled by the accused. In this view of the matter, I do not find any merit in contentions of the appellant that either a charge for committing offence punishable under Section 302 IPC is liable to be framed against the accused or the matter deserves to be remitted to the trial Court for subjecting the accused to rigors of trial for committing offence of murder.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed.

FEBRUARY 27, 2017

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no