

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

**CRM-A-2321-MA-2016**

**Date of decision:22.11.2017**

Sohan Lal

.....Applicant

Versus

State of Punjab and others

.....Respondents

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**CORAM : HON'BLE MR.JUSTICE T.P.S. MANN  
HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU**

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Present: Dr. Anmol Rattan Sidhu, Senior Advocate with  
Mr. Pratham Sethi, Advocate  
for the applicant.

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**MAHABIR SINGH SINDHU, J.**

Present application has been filed under Section 378(4) of the Code of Criminal Procedure (for short-“Cr.P.C.”) for seeking leave to file an appeal against the judgment dated 4.10.2016 passed by learned Additional Sessions Judge, Sangrur vide which respondents No.2 to 4 have been acquitted for the offence punishable under Section 302 of the Indian Penal Code (for short-“IPC”) and convicted only under Section 306 IPC.

Brief facts of the case are that applicant-complainant Sohan Lal made a complaint Ex.PA alleging therein that he is resident of Jakhal and has been running a shop of electronic goods. He has three daughters

and one son and all are married. The eldest daughter, namely, Suman was married to Vinod Kumar-respondent No.2 in the year 1999 and was having two sons namely Dharuv Singla (aged about 11 years) and Gaurav Singla (aged about 9 years). Suman was a Punjabi teacher in Girls Senior Secondary School, Jakhal situated near his house and thus she frequently used to meet him and generally complained regarding the maltreatment and harassment at the hands of her in-laws for demand of dowry. It is further alleged that he has paid money to her in-laws on three occasions, but still they were not satisfied and used to beat her. About two years ago also, they demanded money from Suman-deceased, but due to the failure on the part of the complainant, Bachni Devi-respondent No.4 (mother-in-law of the deceased) had poured boiled milk upon the deceased-Suman. At that time the matter was settled with respondents Nos.2 and 3, and they apologized regarding the incident, but despite that continued to harass the deceased. For the last few days she was complaining to the complainant regarding danger to her life at the hands of her in-laws and thus she was afraid of even having meal in the house so that her in-laws may not administer poison in food. It is further alleged that on 4.10.2011 deceased rang the applicant-complainant and disclosed about the danger to her life, but he gave consolation that they will come on the following day to settle the issue. On 5.10.2011 in the morning at 5:30 a.m. respondent No.2-Vinod Kumar gave a telephonic call to the complainant and informed that Suman had died and as a result thereof complainant alongwith Bhagirath Lal, Navjot Singh Ex-Sarpanch came to

the matrimonial home of the deceased and found that she was lying on the terrace in burnt condition and oil was also spilled near her dead body and one oil can was also lying in the stair case near the door. It is further alleged that Vinod Kumar-respondent No.2 (husband), Jagan Nath-respondent No.3 (father-in-law) and respondent No.4-Bachni Devi (mother-in-law) burnt her to death and there is possibility that her daughter was killed and thereafter her body was burnt. It is further alleged that in-laws of the deceased used to mal-treat her and they have also killed his daughter.

On the basis of the above statement, an FIR under Section 302 read with Section 34 IPC was registered against the accused and on 6.10.2011, all the accused were arrested. During investigation, no evidence regarding commission of offence punishable under Section 302 IPC was found, as such, case was converted under Section 306 read with Section 34 IPC and after usual investigation, report under Section 173 Cr.P.C. was submitted in the Court of learned Judicial Magistrate Ist Class.

The case was committed to the Sessions Court and thereafter, learned trial Court prima facie found that accused have committed an offence punishable under Section 302 IPC or in the alternative offence under Section 306 IPC and charged them accordingly, to which the accused pleaded not guilty and claimed trial.

Learned trial Court after taking into consideration the testimonies of the prosecution witnesses and the medical evidence

available on record, besides, statements of accused under Section 313 Cr.P.C. and the defence led by the accused, convicted respondents No.2 to 4 for offence punishable under Section 306 IPC but acquitted under Section 302 IPC. Hence the present application for seeking leave to appeal.

It has been contended by learned counsel for the applicant that the trial Court has failed to appreciate the deposition made by PW-5, son of the deceased. It is also urged that learned trial Court has further erred in considering the fact that the prosecution investigated the matter in a shoddy manner and failed to collect the material objects, which could lead to conviction of the accused under Section 302 IPC, rather than Section 306 IPC.

Heard learned counsel for the applicant and perused the record and the paper-book.

Dharuv Singla, PW-5, son of the deceased had given three versions, i.e. first in his statement dated 23.11.2011, in which, he stated that his mother committed suicide; second version was sent to DGP, in which, it was alleged that his mother was first killed by the accused at about 10/11 p.m. on 4.10.2011 and he saw the incident from inside the room and his father has threatened him not to come out and his mother was crying but the accused (his grand-mother) was carrying plastic can containing kerosene oil, grand-father carrying match box and all the three accused set his mother on fire. The third version was deposed before the trial Court as PW-5 when he implicated another family member, namely,

Jawahar Lal, brother of his father. As per first version dated 23.11.2011, the offence under Section 306 IPC is made out and as per the the second and third versions, it is Section 302 IPC, which is made out.

It is necessary to mention here that Jawahar Lal and Bholi @ Asha Rani, sister-in-law of the deceased were declared innocent by the police during investigation and an application filed by the prosecution under Section 319 Cr.P.C. was also dismissed. Even Criminal Revision No. 94 of 2013 against the order of trial Court was also dismissed by this Court vide order dated 24.5.2016. Although there is allegation in the testimony of Dharuv Singla that accused were beating his mother and she was crying and saying that *Na Maro – Na Maro*, but there is no medical evidence to prove the same as the doctor who conducted the post-mortem examination has categorically ruled out any injury on the body of the deceased except the burn injuries. The statement of Dharuv Singla, aged about 11 years was recorded by the police first time under Section 161 Cr.P.C. on 23.11.2011, i.e. after about more than 1½ month of the occurrence, stating that on 4.10.2011 his mother and grand-mother had a quarrel with each other and her mother was fasting at that time. His grand-mother gave filthy abuses to his mother and she even stated to the deceased-Suman that she will not care for her even if she died by consuming poisonous substance and as a result his mother started weeping and on 5.10.2011, she committed suicide by pouring kerosene oil on her body

Further, Dr. Rajiv Kumar Jindal (PW-2), Medical Officer,

Civil Hospital, who conducted the post-mortem examination on the dead body of deceased-Suman alongwith Dr. Poonam Dhir as well as Dr. Naresh Kumar, deposed that smell of kerosene was present and her face was swollen and tongue was protruding. Stiffening of body was present. Cherry red staining were present on the back. Black soot was present in the orifices. Soot particles were present in pharynx, larynx and trachea. Patchy destruction of cuticle of the body was present except at bilateral lower legs, palms, feet and part of back of chest. Singeing of hair was present except back of scalp hair. Deposit of black soot was present on the body. Lines of redness were also present. It has further been mentioned that probable time between death and post-mortem was within 24 hours and between injury and death was immediate. After receipt of report of Chemical Examiner dated 14.12.2011, Dr. Rajiv Kumar Jindal PW-2 opined that the deceased-Suman suffered antemortem burns, which were sufficient to cause her death in its ordinary course of nature. During his cross-examination, he has stated that there was no external mark on the body of the deceased and burn injury was the only cause of death. As per report of Chemical Examiner, no poison was detected on the body sent to the Chemical Examiner.

The FSL report also did not detect any poison, rather it was opined that *“on the basis of odour, ignition test, Mecoun’s method of extraction and chemical tests, Petroleum product with typical smell of kerosene have been detected on the clothes”*.

Thus it is conclusively proved that Suman died on account of

unnatural death. There is also no dispute that marriage of Suman was solemnized in the year 1999 and present occurrence had taken place on 4.10.2011 i.e. approximately after a period of 12 years. Therefore, keeping in view the inconsistencies in the deposition of PW-5, the medical evidence on record and the FSL report this Court is of view that the learned trial Court has rightly come to the conclusion that the version of the child witness dated 23.11.2011 seems to be correct, in which, he stated that his mother committed suicide. There is no evidence on record to prove that the accused/respondents have committed the offence punishable under Section 302 IPC; rather, learned trial Court has rightly found the accused guilty for offence punishable under Section 306 IPC.

In view of the above, this Court does not find any ground to grant any leave to file an appeal against the impugned judgment dated 04.10.2016. Hence the application is dismissed and leave to appeal declined.

**( T.P.S.MANN )**  
**JUDGE**

**( MAHABIR SINGH SINDHU )**  
**JUDGE**

**22.11.2017**  
Gaurav Sorot

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|----|------------------------------|------------|
| 1. | Whether reportable?          | <b>No</b>  |
| 2. | Whether reasoned / speaking? | <b>Yes</b> |