

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

**Crl. Misc. No. A-521-MA of 2016
Date of decision : 17.03.2017**

Rupinderjit Singh

....Applicant

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.S. Pheruman, Advocate
for the applicant

RITU BAHRI, J.

The present appeal is against the judgment dated 17.12.2015 passed by learned Addl. Sessions Judge, Amritsar, vide which the private respondents i.e respondent Nos. 2 to 4 were acquitted of the charges framed against them.

Heard.

Brief facts of the case are that the allegations levelled against respondent Nos. 2 to 4 are that they abetted the suicide committed by Mohinder Kaur-mother of the complainant/petitioner, as daughter-in-law of deceased and wife of the complainant/petitioner had developed illicit relationship with the neighbourer Tirath Gautam. Complainant/Petitioner and his mother (since deceased) tried to make her understand but she did not mend her way. Rather Tejinder Singh-brother of his wife started giving threats to him and his mother. About 10-12 days prior to the occurrence, a meeting was held in which relatives were called. In the meeting, his wife and Tejinder Singh came who stated to the mother of the petitioner that 'you are my mother-in-law and it does not effect whether she lives or die'. Thereafter, his mother got disturbed

mentally. Thus, mother of the petitioner being fed up with the illicit relationship of Amanbir Kaur and Tirath Gautam committed suicide. On the basis of statement of the petitioner, F.I.R was registered against private respondent i.e respondent Nos. 2 to 4

After completion of investigation, a cancellation report dated 08.05.2010 was filed by the investigating agency exonerating all the accused. However, the said cancellation report was not accepted and vide order dated 01.10.2010, the same was returned back for re-investigation. Thereafter, again a cancellation report dated 20.10.2010 was filed by the police on the ground that the complainant has compromised the matter with the accused. Notice to the complainant was issued and he got recorded his statement dated 03.01.2011 that he is agree with the said cancellation report filed by the police. However, vide order dated 03.01.2011, the said cancellation report was again not accepted by learned Magistrate on the ground that the offence under Section 306 IPC is non-compoundable. Thereafter, parties filed CRM-M-3803 of 2016 for quashing of the above said F.I.R and the parties were directed to get their statements recorded. However, learned Magistrate vide her report submitted that the cancellation report has not been accepted as the deceased had left behind a suicide note implicating the accused. Thereafter, the petition was dismissed being not pressed on the ground that that they will make submission before the Area Magistrate as the cancellation report has again been submitted.

Thereafter, another cancellation report dated 26.01.2011 was filed on the ground that no offence under Section 306 IPC was made out against the accused. However, vide order dated 23.04.2012, the cancellation report was again declined and cognizance for an offence under Section 306 IPC read with Section 34 IPC was taken against all the accused by learned Magistrate on the

statement of complainant/petitioner and consequent F.I.R, suicide note left by

deceased, post mortem report, statement of Nirmal Kaur, Atinder Kaur, Nanihal Singh, Dr. Harbir Singh recorded under Section 161 Cr.P.C and police diary showed the involvement of the accused persons in the commission of offence punishable under Section 306/34 IPC. Accordingly, the cancellation report submitted by the police was declined vide order dated 23.04.2012 and notice to all the three accused was issued.

Upon appearance of all the three accused, commitment proceedings were undertaken by the committal Court vide order dated 24.07.2014 and the case stood committed to the Court of Sessions and thereafter, was entrusted to the Court for trial.

From the record, a prima facie case triable under Section 306 IPC stood made out against the accused and they were charge sheeted to which they pleaded not guilty and claimed trial.

To prove its case, prosecution examined 12 witnesses and thereafter, statements of the accused under Section 313 Cr.P.C were recorded in which the incriminating prosecution evidence was put to the accused, to which they defied and the accused pleaded for their innocence and preferred to lead defence evidence.

The Court below after going through the entire evidence led by the parties acquitted the accused, as the complainant has failed to prove its case beyond shadow of doubt. Initially the complainant failed to prove on record that his wife was having illicit relations with accused Tirath Gautam and that is why the deceased being fed up of their behavior had committed suicide. Further complainant had already suffered the statement that he agreed with the cancellation report submitted by this police earlier.

P.W.1 Naunihal Singh has not supported the case of the

prosecution. P.W.3 Dr. Artinder Kaur (daughter of the deceased) also admitted

in her cross examination that she had no proof with regard to the fact that the accused Amanbir Kaur had developed illicit relations with accused Tirath Gautam. The evidence of P.W.5 has been held to be created lateron as she stated in her chief examination that on the day of occurrence, all the accused had come to the deceased and had threatened her but no such incident was mentioned at the time of registration of F.I.R by the complainant.

Further it is also an admitted fact that the deceased was residing in a house in which she was running a paying guest facility in which 20-25 girls were residing and none of the said girls have been joined in the investigation nor any such statement has been recorded which shows that all the accused had come to threaten the deceased.

The learned trial Court while referring to the judgments i.e *State of Himachal Pradesh v. Nikku Ram and others 1996(1) Apex Court Journal 171 (S.C)*, *Kishori Lal vs. State of M.P 2007(3) ACJ 327 (S.C)*, *M. Mohan and others v. State represented by the DSP 2011(2) CCC 0001 (S.C)* and *Gangula Mohan Reddy v. State of Andhara Pradesh 2010(1) CCC 461 (S.C)*, has rightly held that the essential ingredients of Section 306 IPC read with 107 IPC was not proved by the prosecution, as the accused have not abetted or instigated the deceased to commit suicide.

In the absence of any intent on the part of the accused to derive the deceased to commit suicide, they have rightly been acquitted by the Court below by giving them benefit of doubt.

Accordingly, the appeal stands dismissed.

17.03.2017
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No