

CRM-M-28364-2016 (O&M),
CRM-M-39510-2016 (O&M) and
CRM-M-37991-2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRM-M-28364-2016 (O&M)
Surjit Singh and othersPetitioners
Versus
State of Punjab and anotherRespondents
2. CRM-M-39510-2016 (O&M)
Gurwinder Kaur Nagi and othersPetitioners
Versus
State of Punjab and anotherRespondents
3. CRM-M-37991-2016 (O&M)
Inderjit SinghPetitioners
Versus
State of Punjab and anotherRespondents

Date of Decision:- 04.05.2017

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Majithia, Advocate, for the petitioners.

Mr. J.S. Riar, AAG, Punjab.

Mr. APS Randhawa, Advocate, for respondent No.2.

RITU BAHRI, J. (Oral)

As identical questions of law and facts are involved, therefore, I

propose to decide above indicated petitions, arising out of the same

incident/FIR, by means of this common judgment, in order to avoid the repetition.

Petitioners are seeking quashing of FIR No.92 dated 26.06.2016, under Sections 306 and 149 IPC, registered at Police Station Division 'B', District Amritsar.

In 1st case, petitioner Nos.1 and 2 are parents-in-law of sister of the complainant, namely, Ravneet Kaur @ Rosy (since deceased) whereas petitioner No.3 is brother-in-law of complainant's sister. Petitioner No.4 is son of petitioner No.3.

In 2nd case, petitioner No.1 is the sister of the Inderjit Singh-husband, petitioner Nos.2 to 4 are the maternal uncles of the Inderjit Singh-husband and petitioner No.5 is the maternal aunt of the Inderjit Singh-husband.

In 3rd petition, the petitioner is the husband of complainant's sister.

The marriage of son of petitioner Nos.1 and 2, namely, Inderjit Singh, was solemnized with deceased Ravneet Kaur @ Rosy in the year 2004. Immediately after the marriage, Inderjit Singh and Ravneet Kaur @ Rosy starting cohabiting at Gaziabad and stayed there till 2011. For the delivery of the child, one month prior to the delivery and eight months thereafter, the deceased Ravneet Kaur @ Rosy stayed at Amritsar with petitioner Nos.1 and 2 and Inderjit Singh shifted to Haridwar in November 2011. The deceased again joined her husband Inderjit Singh at Haridwar in March, 2012. On account of some misunderstanding, the relations between

them became bad to worse and Inderjit Singh had to quit his job at Haridwar

and came back to Amritsar in May, 2012 along with Ravneet Kaur @ Rosy and minor child. At Amritsar, they stayed till 3rd November, 2013. On 3rd November, 2013, on the occasion of Diwali, brother and father of the deceased came to the house of petitioner Nos.1 and 2 and Ravneet Kaur went off to her paternal house along with her brother and father and also took away the minor child. She stayed separately since 2013 from her husband and petitioners. Thereafter, Inderjit Singh had filed a petition under Section 13 of the Hindu Marriage Act, against Ravneet Kaur alias Rosy, which was withdrawn by him in the year 2015. No FIR under Sections 406 and 498-A IPC was got registered against petitioners or Inderjit Singh by her. Ravneet Kaur @ Rosy had initially made a false and frivolous complaint against petitioner Nos.1 and 2, their daughter and son-in-law in November, 2013 and the same was withdrawn by her in January, 2014. She made another complaint dated 28.03.2016 while staying in the house of her parents, which is pending investigation. While staying with her parents, she had a dispute with her own paternal family members and on 20.02.2012 she made a complaint against petitioner No.1 and Inderjit Singh alleging that her husband, father-in-law had beaten her and ejected her out of the house with her son Gupreet Singh. She further alleged that she was standing in front of her in-laws house with her son but her in-laws were not allowed her to enter in the house. This complaint made to the police by Ravneet Kaur @ Rosy by making a phone call on No.181 Police Help Line. On the basis of the said complaint, the police found that she was not found standing in front of her in-laws house. The police recorded the statements of various locality members, Inderjit Singh and deceased Ravneet Kaur @ Rosy.

Ravneet Kaur @ Rosy made a statement before the investigating officer ASI Parshotam Lal that her marriage with Inderjit Singh was solemnized about 10/11 years back and out of the said wedlock one son Gurpreet Singh, who is aged about five years, was born out. She further stated that she was residing separately from Inderjit Singh in her paternal house since November, 2013. On 19.02.2016, she was thrown out of her paternal house due to her quarrel with the wife of her brother. She further stated that she along with her son stayed in Gurdwara Baba Deep Singh Ji Shahid for the whole night. On the basis of statement (Annexure P-3), SHO 'B' Division' Gurbinder Singh arrived at a conclusion that the complaint made by Ravneet Kaur @ Rosy against her in-laws is a false and frivolous complaint and also observed that Ravneet Kaur @ Rosy was staying away from the petitioners and Inderjit Singh since 2013. His report dated 21.02.2016 is Annexure P-4. Thereafter on 26.06.2016 Ravneet Kaur had consumed some poisonous substance and she was admitted for treatment in Life Line Hospital Chamrang Road Amritsar where she died. FIR was got registered by brother of Ravneet Kaur @ Rosy with the allegations that present petitioners along with Inderjit Singh had cruel with her sister Ravneet Kaur @ Rosy and abetted her to commit suicide.

Mr. S.S. Majithia, learned counsel for the petitioners, has vehemently argued that since November 2013, sister of the complainant Ravneet Kaur @ Rosy, was stayed in her matrimonial house and even a complaint (Annexure P-2) made by her was found to be false as she had given her statement dated 20.02.2016 (Annexure P-3) that she was staying separately since 2013 and the divorce petition filed by her husband Inderjit

Singh in the year 2015 had been withdrawn. She had quarrel with her brother's wife and she was thrown out of house on 19.02.2016 in the evening and she spent whole night at Gurudwara Baba Deep Singh Ji Shahid along with her son. After recording the statement, the inquiry report dated 20.02.2016 (Annexure P-4) was given to the effect that the allegation that she was standing outside the house of her in-laws and was not allowed to enter the house along with her son was found to be false and in this regard the statement of neighbours had also been recorded. After February, 2016, there was no occasion for the family members of the petitioners and Inderjit Singh to harass her or abet her to commit suicide on 26.06.2016. There was a gap of almost four months and even the allegations levelled in complaint dated 20.02.2016 (Annexure P-2) have been found to be false as she was not standing outside the house of her in-laws and the allegations of cruelty could not be made out against the petitioners. Moreover, sister of the complainant had been residing separately since November, 2013 and there was a gap of almost three years after she committed suicide. There was no immediate abetment which can attribute to the present petitioners.

Learned counsel for the petitioners while relying upon the judgments of Supreme Court in M. Mohan Vs. State Tr. Dy. Supdt. Of Police, R.C.R (Criminal) 272 and Ramesh Kumar Vs. State of Chhattisgarh, 2001(4) RCR (Criminal) 537 argued that when the essential ingredients of abetment are not made out, the accused cannot be convicted under Section 306 IPC.

Mr. APS Randhawa, learned counsel for respondent No.2, has

argued that sister of complainant Ravneet Kaur @ Rosy (since deceased)

was tortured and harassed by her in-laws family as they were wanted to re-marry Inderjit Singh and to get rid from Ravneet Kaur @ Rosy. Even if she stayed in her parental house for the last three years, it would amount to abetment and instigating her to commit suicide especially keeping in view her complaint (Annexure P-2) where she had stated that on 19.02.2016 she had thrown out of her paternal house due to her quarrel with the wife of her brother and thereafter she along with her son stayed in Gurdwara Baba Deep Singh Ji Shahid for the whole night as she was not allowed to enter the house by her in-laws. Moreover, as per report of handwriting expert, letter dated 10.03.2016, written by Ravneet Kaur @ Rosy, clearly states that she had called by her in-laws house for some talk and she was abused when she went to her in-laws house. The police was called and she wanted to stay in-laws house with her husband.

Learned counsel for respondent No.2 has referred to a judgment of a Division Bench of Delhi High Court passed in case **State Vs. Hari Prashad 2016(5) R.C.R. (Criminal) 381** whereby due to repeated assaults committed on the wife, she was compelled many times to leave her matrimonial home. Consequently, the same was held to be sufficient to prove the allegations of abetment and the accused was convicted for the offence punishable under Section 306 IPC. Further, a reference has been made to a judgment of the Supreme Court passed in case **Satish Shetty Vs. State of Karnataka, 2016(3) R.C.R (Criminal) 373** whereby the husband had demanded ₹1 lac from his wife for business, harassed her mentally and physically and thereafter she committed suicide. The accused (husband) was

Learned State counsel has argued that after due investigation, the challan has been presented in the present case. On 06.07.2016, total 3 pages allegedly written by the deceased Ravneet Kaur in Punjabi language and having her signatures were produced to the investigating officer by the complainant-respondent No.2. These pages have been written by the deceased on different dates since 2012, in which she has described her all miseries, harassment and teasing, which she had been facing since her marriage with Inderjit Singh. In one of these hand writings (suicide note) dated 30.04.2106, deceased Ravneet Kaur has categorically mentioned that she had been teased and harassed by all the above petitioners, Inderjit Singh, Gurinder Kaur (sister-in-law), Harjit Singh (uncle-mamma), Karnail Singh, Bhappy and Nirmal Kaur (mammi). If something happens to her, then these persons were responsible. This handwriting is Annexure R-1/T. These all hand writings (suicide note) were sent to the Forensic Science Laboratory, Punjab, Mohali and as per the FSL report, all these suicide notes have been written by deceased Ravneet Kaur. On initial complaint dated 28.03.2016, made by deceased Ravneet Kaur, the enquiry was conducted by ADCP City-I, Amritsar and FIR under Sections 406 and 498-A IPC was registered against the petitioners and in the meantime, the complainant (died) and hence, the report submitted by the enquiry officer has been made part of evidence of the present case.

Further, during the pendency of this petition, learned counsel for the petitioners has placed on record documents (Annexures P-16 to P-23). Copy of challan (Annexure P-16) was presented after the investigation concluded along with the list of witnesses (Annexure P-17).

Copies of the statements of complainant-Gurpal Singh and his father Tejinder Singh, dated 26.06.2016 and 06.07.2016, are Annexures P-18 and P-19 respectively. Statement of 3rd private witness, namely, Gupreet Singh is Annexure P-20. One suicide note dated 04.06.2017 is Annexure P-21 and another is Annexure P-22. These suicide notes are part of the challan. Suicide note dated 05.12.2012 (Annexure P-23) was before the date when deceased Ravneet Kaur had left the company of her in-laws family.

After hearing the learned counsel for the parties, the date i.e. 03.11.2013 is not in dispute that on this date the sister of the complainant had left the company of Inderjit Singh and had gone back to her parental home. Suicide note dated 05.12.2012 (Annexure P-23), which is part of the challan, shows that she was having fight with her husband on petty matter and she that her mother-in-law had made her husband and father-in-law to fight with her. If she suffered injuries or died, then her mother-in-law, father-in-law and sister-in-law staying in Nakodar will be responsible. Suicide note (Annexure P-23) has not named Sukhdev Singh and Damandeep Singh (petitioner Nos.3 and 4). This writing is dated 05.12.2012 and thereafter on 03.11.2013 she went back to her parental house. Another writing is dated 04.06.2017 (Annexure P-21), which is almost after three years when she had left the matrimonial house in which she alleged that after her marriage in 2004, she had stayed with her husband Inderjit Singh at Gaziabad from 2004 to 2011. She further alleged that her father-in-law used to bring share of property from her house. Many people including her father and brother have gone to her in-laws house to plead but

not know where to go with her child. They are spoiling the future of the child. Inderjit's maternal uncles (mamma), Sukhdev Singh and Harjit Singh, maternal aunt (mami) Nirmal Kaur, maternal aunt (Massi) Bhappi, maternal uncle (massar), Karnail Singh, their sons, all threatened her that they will not allow her family life to settle and they will kill her if she come near to their house. If something happens to her, her parents-in-law and other family members including sister will be responsible for the same. The same fact has been reiterated in her writings/suicide note (Annexure P-22). In statement (Annexure P-22) she further stated that for the past 2½ years, she pleading and apologizing from the accused and making all efforts from all angles to compromise but they are not at all relenting.

From the above-said writings (Annexures P-21 to P-23) it transpires that deceased was mentally very upset and even the allegations against Inderjit's maternal uncles (mamma), Sukhdev Singh and Harjit Singh, maternal aunt (mami) Nirmal Kaur, maternal aunt (Massi) Bhappi, maternal uncle (massar), Karnail Singh and their sons, had been made for not helping her to settle in the matrimonial house. She stayed with her husband Inderjit Singh at Gaziabad from 2004 to 2011 and no complaint was made to the police during this period. In these writings, the name of petitioner Nos.3 and 4 did not find mention and the deceased being insecure has levelled allegations against Mamma and Massar as well apart from the parents-in-law. Even the statement dated 26.06.2016 (Annexure P-20) made by Gurpreet Singh, one of the witness who identified dead body, shows that Gurpal Singh son of Tejinder Singh was his childhood friend and the marriage of sister of his friend Ravneet Kaur was solemnized around 13/14

years back with Inderjit Singh, who has one son aged around 5 years and for the last three years Ravneet Kaur had stayed in paternal house owing to quarrel, fight and manhandling with her in-laws family and she had consumed poisonous substance due to trouble, after becoming sad and died at Lifeline Hospital. Even in this statement (Annexure P-20), no allegation that the accused had beaten Ravneet Kaur and it does not make out the allegation of abetment. In this manner, the statement of complainant Gupral Singh (Annexure P-18) and statement of his father Tejinder Singh (Annexure P-19). Perusal of statement (Annexure P-18) shows that from the year 2013 onwards his sister Ravneet Kaur has been staying with their house and tried to compromise with her in-laws family but she did not agree for anything. Inderjit Singh had filed a divorce petition, which later on withdrew. Due to these things, Ravneet Kaur used to remain depressed and unhappy. She had consumed poisonous substance being aggrieved and unhappy due to the in-laws family members. Perusal of statement (Annexure P-19) shows that after 2013, his daughter Ravneet Kaur @ Rosy, came to his house and stayed with him as her in-laws used to give filthy abuses to her every day. Attempts to compromise were made. Her husband Inderjit Singh has filed the divorce petition by levelling frivolous allegations her daughter and maintenance of ₹17000/- has been awarded to her daughter. On 02.06.2016, during the hearing of maintenance case in the Court, Inderjit Singh, his father, his mother and his maternal uncle (mama) Sukhdev Singh upset his daughter and while coming home, her daughter said to him while weeping that accused told her that die and leave us. On 26.06.2016, she

statements (Annexures P-18 to P-20) shows that deceased Ravneet Kaur @ Rosy was mentally sad and depressed because of the matrimonial dispute with her husband for the last three years when she had come to her parental house and the complainant in his statement (Annexure P-18) specifically stated that her sister was used to remain depressed and unhappy.

The question for consideration in the present petition would be whether on account of facing matrimonial proceedings in the Court and feeling sad and depressed would it amount to abetment of suicide.

This aspect has been considered by this Court in the case of **Dhani Ram Vs. State of Haryana** in **CRA-S-4547-SB-2013**, decided on 12.08.2013, whereby vide judgment dated 09.10.2013, passed by the Sessions Judge, Kaithal, accused-Dayawanti, has been acquitted of the charges framed against her under Sections 498-A/306 IPC. Dayawanti was the mother-in-law of the daughter of the complainant and the allegations against her were that she had abetted the daughter of complainant to commit suicide, who had died on account of burn injuries. As per dying declaration (Annexure A-1), the deceased was harassed by accused-Dayawanti and was compelled to finish her life. Trial Court, while examining the dying declaration, has observed that it does not contain any allegation or instance that the accused ever subjected the deceased to cruelty on demand of dowry or any valuable security or property, or gave any beatings or acted in a manner that caused apprehension of any threat to her life. Dayawanti had been quarreling for the last three days and this quarrel can be taken to normal course of life. In anger, she put herself on fire by sprinkling

kerosene oil. Hence, ordinary war and tears in a family or quarrel or exchange of words uttered in a spur of moment in domestic dispute or discord cannot be treated as constituting *mens rea* to attract the offence under Section 306 read with Section 107 IPC. Accused-respondent No.2 has been acquitted as there was no incriminating evidence of *mens rea* which could be attributed to accused.

The Hon'ble Apex Court in case **Bhagwan Dass Vs. Kartar Singh and others**, AIR 2007 (SC) 2045 has observed that harassment of wife by husband or in-laws due to differences, *per se* does not attract Section 306 read with Section 107 IPC, if wife commits suicide, which by itself would not constitute abetment to suicide.

Similar observations have been made by Hon'ble the Supreme Court in **Sohan Raj Sharma Vs. State of Haryana**, 2008 (2) RCR (Criminal) 810 whereby it was held that to establish the offence, there must be proof of direct or indirect acts of incitement to the commission of suicide. The mere fact the husband treated the deceased-wife with cruelty is not enough. In paragraph 10 of the said judgment, the Supreme Court has observed as under: -

“Section 107 Indian Penal Code defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in the Act as an offence. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision

for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. 'Abetted' in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.

Consequently, the Supreme Court had acquitted the accused and held that as per the factual scanario, the accused had been described as a sexual pervert and that he had behaved like an animal and the deceased had tolerated the insulting manner in which he behaved. They were married in Court. It was stated that accused was impotent and he was trying to defame the deceased for having relationship with ladies. Since the essential ingredients of Section 306 IPC were not established, therefore, the Supreme Court set aside the judgment of conviction and acquitted the accused.

Reliance, at this state, can now be made to a judgment of Division Bench of this Court in case **Rishi Kumar Vs. State of Haryana** 1988(1) RCR., 155 whereby a bride had committed suicide due to maltreatment of her husband and the allegations against him were that he was having illicit relations with another lady and consequently an offence under Section 306 IPC was not made out.

This Court in case titled **Beeran Kaur @ Jasvir Kaur** Vs. **State of Punjab** in CRA-S-1875-SB-2003, decided on 09.11.2016, had acquitted the accused on the ground that she was having illicit relationship with the husband of deceased Karamjit Kaur, which by itself would not constitute abetment to suicide.

In the facts of the present case no doubt deceased Ravneet Kaur @ Rosy was undergoing lot of mental pressure after being separated from her husband since 03.11.2013, however, she had stayed with her husband from 2004 to 2011 at Gaziabad and for a very short duration she had stayed at Amritsar with her parents-in-laws i.e. from 2011 to November 2013. For the last three years from November 2013 till the date of she committed suicide on 26.06.2016, she was in her parental house. Even if she was undergoing stress of matrimonial cases this in itself would not amount to *mens rea* to constitute an offence under Section 306 read with Section 107 IPC. Even as per statements (Annexures P-18 to P-20), the allegations of *mens rea* cannot be attributed to the present petitioners at all to constitute an offence under Section 306 read with Section 107 IPC.

Inderjit Singh husband of the deceased Ravneet Kaur @ Rosy had filed a divorce petition and when Rs.17,000/- maintenance was awarded to withdrew the divorce petition, the husband no doubt had caused harassment to wife Ravneet Kaur @ Rosy by not paying the maintenance. However, this harassment in itself would not amount to abetment under Section 107 IPC to make out an offence under Section 306 IPC. Moreover, after 2013 till 2016 all attempts made by the family members to get a compromise between the parties had also failed.

The judgments referred to by learned counsel for respondent No.2 in **State Vs. Hari Prashad's** case (supra) and **Satish Shetty Vs. State of Karnataka** case (supra) will not be applicable to the facts of the present case as the complainant was not given any repeated assaults when she was

staying in matrimonial house and further there was no evidence with regard

to demand of money. Moreover, before she separated in year 2013 no complaint was made to the police with regard to any demand of dowry.

Hence, keeping in view the law laid down by Hon'ble the Supreme Court in the above-said judgments, merely on account of facing matrimonial proceedings, the essential ingredients under Section 306 IPC abetment of suicide as laid down in Section 107 IPC to consitute an offence under Section 306 IPC is not made out and accordingly FIR No.92 dated 26.06.2016, under Sections 306 and 149 IPC, registered at Police Station Division 'B', District Amritsar and all the subsequent proceedings arising therefrom, qua petitioners in all the above-said three petitions, are hereby quashed.

The present petitions stands allowed.

May 04, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes