

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

**CRR No.1252 of 2016 (O&M)
Date of decision: 20.04.2017**

Ankit Singla

.....Petitioner

Versus

State of Punjab & another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Bedi, Senior Advocate,
with Mr. Sunil Sihag, Advocate,
for the petitioner.

Ms. Manpreet Dhaliwal, AAG, Punjab.

Mr. Anmol Rattan Sidhu, Senior Advocate,
with Mr. Ashwani Markanday, Advocate,
for respondent No.2.

Ritu Bahri, J.

CRM No.9060 of 2017

For the reasons mentioned in the application, same is allowed and
applicant-Sanjeev Goyal is impleaded as respondent No.2 in this petition.

Amended memo of parties is taken on record.

CRR No.1252 of 2016

This petition has been filed against the order dated 16.03.2016
passed by the Additional Sessions Judge (Fast Track Court), Bathinda,
whereby application filed under Section 193 Cr.P.C. for taking cognizance
of the offences under Sections 304-B/302/406/34 IPC has been dismissed
and charge against the accused has only been framed under Section 306 read
with Section 34 IPC.

FIR No.64 dated 21.07.2015, under Sections 304-B read with

Section 34 IPC was registered on the statement made by complainant-petitioner (Ankit Singla) to the effect that marriage of his sister namely Depali (since deceased) was solemnized with Sahil Goyal son Sanjeev Kumar on 14.02.2015 as per Hindu rites and ceremonies. Approximately, a sum of Rs.40 lakhs had been spent at the time of this marriage and sufficient gold ornaments, household articles and cash etc. were given by the family of the complainant. Accused Sanjeev Goyal, father-in-law of Deepali Singla, had to undergo heart surgery, for which, a sum of Rs.2 lakhs was paid by the complainant. However, the accused again demanded a sum of Rs.5 lakhs on the pretext of downfall in their business. On 29.06.2015, birthday of Deepali Singla was celebrated in Sun City Hotel, Bathinda, which was attended by the parents of the complainant. Parents of complainant gave gifts to the in-laws family of Deepali, but they were not happy with those gifts and raised a demand of luxury car. Thereafter, they started maltreating Deepali. On 19.07.2015, Deepali Singla made a phone call to the complainant and stated that her in-laws had been maltreating her for not bringing a car. Upon this, complaining along with Mahesh Jain, Ravinder Gupta and other relatives visited the matrimonial house of Deepali Singla at Bathinda. However, they found that dead body of Deepali Singla was lying on the floor of the house and there were marks on her neck. In this background, the aforesaid FIR was registered.

Postmortem examination of the body of Deepali was conducted in Civil Hospital, Bathinda by a Board of Doctors comprising Dr. Sandeep Singla and Dr. Preet Mahinder. As per opinion of doctors, the cause of death was Asphyxia, which was due to ante-mortem strangulation and was sufficient to cause death in due course of nature. It was a case of homicidal

death. On the basis of opinion of Board of Doctors, offences under Section 302 IPC was added vide DDR No.29-A dated 29.07.2015. Apart from this, offence under Section 406 IPC was added vide DDR No.25-A dated 29.07.2015. Accordingly, accused persons were re-arrested under Sections 302/304-B/406/34 IPC and dowry articles were recovered from them. Thereafter, a Special Investigation Team (SIT) was constituted on an application filed by Raj Kumar Goyal, brother of accused Sanjeev Goyal. After conducting investigation, the Special Investigation Team, without associating the complainant, deleted Sections 302/304-B/406 IPC and the challan was presented under Section 306/34 IPC only. Feeling aggrieved, the complainant-petitioner filed an application under Section 193 Cr.P.C. for taking cognizance of offence under Sections 302/304-B/406/34 IPC, which has been dismissed by the trial Court vide impugned order dated 16.03.2016. Hence, this petition.

As per report of SIT, on 20.07.2015, when accused Sahil Goyal (husband) was seeing the mobile phone of Deepali Singla, suddenly facebook messenger of Deepali Singla got opened and Sahil Goyal had seen her (deceased's) chatting with Ankit Rastogi. In this regard, when he asked Deepali Singla, she got perplexed. Thereafter, Sahil Goyal discussed this matter with his parents and brother. They all warned Deepali on that score and said that they would tell the same to her parents. However, she could not tolerate this warning and on the next morning, she went in the bathroom for taking bath. When she did not come out after passing substantial time, Sahil Goyal knocked the door of the bathroom, but there was no response. Upon this, he went to the other side and saw from the window glass that Deepali was hanging with the shower pipe by wrapping her *dupatta* around

the throat. Then, he called his parents and brother. Thereafter, they broke the door of the bathroom and took Deepali to Delhi Heart Hospital, Bathinda, where doctors on duty declared Deepali Singla as dead. After that they took her back to home. Thereafter, parents of the deceased were informed. After investigation, Special Investigation Team came to the conclusion that allegations of demand of dowry were found to be false. Entire records of chatting done by deceased with Ankit Rastogi were got examined by SIT through State Cyber Crime, Punjab, S.A.S. Nagar. After going through the above said evidence, it was found that not even a single word of cruelty or demand of dowry was there in the said chatting. Allegation of paying Rs.2 lakhs for surgery of Sanjeev Goel was also found to be false from the account statements of accused persons. As per postmortem report, there was no mark of external injury on the body of deceased, which falsifies the allegation of strangulation. On conclusion of the investigation conducted by Special Investigation Team, offences under Sections 302, 304-B and 406 IPC were deleted.

Trial Court, after considering the report of SIT and the opinion given by the Board of Doctors, who had conducted autopsy of the deceased, dismissed the application filed by complainant-petitioner vide impugned order dated 16.03.2016. While dismissing the application, trial Court had also considered the second report given by the Medical Board, Guru Gobind Singh Medical College and Hospital, Faridkot, whereby it has been opined that it was not a case of strangulation, rather it was a case of hanging. After going through the records of chatting between the deceased and Ankit Rastogi, it transpired that they were having friendly relationship before marriage. It was observed by the Court that from the voluminous chatting

record, it was not made out that Depali Singla had ever complained to her parents or other family members that she was being harassed by her in-laws family on account of demand of dowry. With these observations, the application has been dismissed.

Upon notice, reply on behalf of respondent No.2 has been filed, wherein it has been stated that the postmortem report given by the Board of Doctors comprising Dr. Sandeep Singh and Dr. Preet, Gynecologist, was clear about the suicidal death of Smt. Deepali Singla. The Special Investigation Team had chosen to seek an expert opinion from the Department of Forensic Medicine & Toxicology. As per medical report dated 07.09.2015 (Annexure R-4), it was opined as under:-

“On going through the post mortem report, FIR and photographs of deceased, death appears to be due to compression of neck. Considering sparing of ligature mark at back of neck, absence of struggle marks, no other external injury on the body except ligature mark and photographs of deceased showing upward going ligature mark, possibility of death as a result of hanging cannot be ruled out. However, circumstantial evidence must also be taken into consideration.”

It has been further stated in the reply that family members of the complainant namely, Mahesh Kumar, Mukesh Kumar, Vanit Kumar, Usha Rani, armed with weapons, had come to the house of respondent No.2, created chaos and stolen certain valuables including one mobile phone (Sony Experia), which was being used by Smt. Deepali Singla before she started using new I-phone gifted by her husband on 29.06.2015. The said phone also contained the backup files of the whatsapp conversation between the deceased (Deepali Singla) and Mr. Ankit Rastogi. In this regard, Raj Kumar Goyal, brother of respondent No.2, had made a complaint dated 23.07.2015 to the concerned Senior Superintendent of Police and Deputy

Superintendent of Police. When no action was taken thereon, he made representations dated 29.07.2015 and 31.07.2015 to the competent authorities. Finally, FIR No.75 dated 10.09.2015, under Sections 380/454/427/506/148/149 IPC was registered at Police Station, Cantt., Bathinda, District Bathinda. In that case after presentation of the challan, charges have been framed by the Court on 11.11.2016. It has been further stated that the report dated 07.09.2015 (Annexure R-4) given by the Department of Forensic Medicine & Toxicology, GGSDM, Faridkot, was a clarification of the earlier report, in which, the Board of Doctors, after considering the position of the ligature marks had given its expert opinion that the present case regarding the death of Deepali Singla was a case of hanging. The investigating agency, after going through the depth of each and every allegation, has presented the challan under Section 306 read with Section 34 IPC.

The complainant had earlier made an application under Section 190 (1) (B) Cr.P.C. for taking cognizance of the offences under Sections 302/304-B/406/34 IPC, which was dismissed by the Judicial Magistrate Ist Class, Bathinda vide his order dated 18.01.2016. Thereafter, the case was committed to the Court of Sessions. Subsequently, complainant-petitioner filed the present application under Section 193 Cr.P.C., which has been dismissed vide impugned order dated 16.03.2016.

Learned counsel for the petitioner has placed on record certain documents i.e. statements of Darshan Singla, Mahesh Jain, Neha Singla and Vinod Rani (Annexures P-8 to P-11) in order to substantiate that demand of Rs.5 lakhs had been made by the accused persons on the pretext of expanding their business and thereafter, Rs.2 lakhs were given for the

surgery of Sanjeev Goyal. Apart from this, the accused persons had also made a demand of big car on the birthday of Deepali Singla. He has argued that without complying with the provisions of Section 65-B of the Evidence Act, 1872, chat record from the mobile phone of the deceased cannot be made basis for presentation of challan under Section 306 IPC.

A separate reply has been filed by respondent No.2. Along with the same, he has placed on record enquiry report dated 12.10.2015 (Annexure R-1). From the said report, it transpires that Sahil Goyal had seen the chatting done by Deepali Singla with Ankit Rastogi. She had also sent pictures to him. Upon this, he warned Deepali Singla and told her that he would disclose the same to her parents. During investigation, a written report with regard to the chatting done through the Facebook Messenger of Deepali Singla, was obtained from the Assistant Inspector General, State Crime Branch, Cyber Investigation Cell, S.A.S. Nagar, Mohali. According to the said report, it was proved that the chatting was done between Deepali Singla and Ankit Rastogi.

The question for consideration would be, “once a report has been sent by the Assistant Inspector General, State Crime Branch, Cyber Investigation Cell, then requirement of Section 65-B are satisfied or not?

This aspect has been considered by Hon'ble the Supreme Court in Anvar P.V. Vs. P.K. Basheer and others, 2015 AIR (SC) 180, wherein it has been held that if, an electronic record is part of a police investigation and that record is duly signed by the police official, provisions of Section 65-B of the Evidence Act for certificate with regard to that statement will not be required. It has been further observed as under:-

“21. It may be seen that it was a case where a responsible official had duly certified the document at the time of production itself. The

signatures in the certificate were also identified. That is apparently in compliance with the procedure prescribed under Section 65-B of the Evidence Act. However, it was held that irrespective of the compliance with the requirements of Section 65-B, which is a special provision dealing with admissibility of the electronic record, there is no bar in adducing secondary evidence, under Section 63 and 65, of an electronic record.”

The record of chatting done by the deceased with Ankit Rastogi had been duly proved by the report of the Assistant Inspector General, State Crime Branch, Cyber Investigation Cell, S.A.S. Nagar, Mohali. The deceased had taken the extreme step of killing herself on the ground of her relationship with him (Ankit Rastogi). As per report submitted by the Medical Board, Guru Gobind Singh Medical College and Hospital, Faridkot, it was not a case of strangulation. As per report, ligature marks were present on the body, which were going upward and were not present on the backside of the neck. The allegations with regard to strangulation were not proved. Ultimately, challan under Section 306/34 IPC was presented. Application under Section 193 Cr.P.C. has rightly been dismissed by accepting the report of the Assistant Inspector General, State Crime Branch, Cyber Investigation Cell, S.A.S. Nagar, Mohali and the medical opinion.

After hearing learned counsel for the parties and going through the facts and circumstances of the case, no ground is made out to interfere in the impugned order as no illegality, much less perversity, has been found therein.

Resultantly, finding no merit, the present petition is dismissed.

(RITU BAHRI)
JUDGE

20.04.2017