

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

CRR No.475 of 2017 (O&M)

Date of Decision: 08.05.2017.

Balwinder Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Tribhawan Singla, Advocate,
for the petitioners.

JITENDRA CHAUHAN.J.

This revision is directed against the order dated 19.01.2017 passed by Additional Sessions Judge, Jalandhar vide which the petitioners were charge-sheeted under Section 306 read with Section 149 IPC.

It is contended that the impugned order is illegal as no offence in facts and circumstances of the case is made out against the petitioners. It is further contended that Parminder Singh (deceased) and Saranjit Kaur, petitioner No.3 got married in the year 2015. Both had matrimonial discord. It is further contended that there are general allegations against the other petitioners who are family members of Saranjit Kaur. No incitement or abetment was made by the petitioners to deceased Parminder Singh to commit suicide. Learned counsel relies upon authorities:- **(i) S.S. Cheena vs. Vijay Kumar Mahajan and another 2010(4) RCR (Criminal) 66; (ii) Madan Mohan Singh**

vs. State of Gujarat and another 2010(4) RCR (Criminal) 207; (iii)

Kishor Dattatraya Shinde vs. State of Maharashtra and another

2016(1) AIR Bom.R (Criminal) 846; (iv) Ramesh Kumar vs. State

of Chhattisgarh 2001(4) RCR (Criminal) 537; (v) Jagdish Singh vs.

State of Punjab and another 2016(2) RCR (Criminal) 352 and; (vi)

Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi) 2009(4)

RCR (Criminal) 196 to contend that in order to constitute an offence

of abetment under Section 306 IPC, there must be some positive act on

the part of accused which drives the deceased to commit suicide.

Heard.

It is to be noticed that the instant FIR was registered against the petitioners on the allegations that the accused used to abuse and threaten the deceased and due to harassment caused by the accused, he committed suicide on 27.01.2016. Prima-facie, there are allegations of harassment against the petitioners. As per the FIR, petitioner No.3 telephonically called her family members at the house of the deceased whereupon the remaining petitioners came there and started abusing and threatening the deceased. Allegedly, petitioner No.2 Tirath Singh armed with a 'Datar' threatened and chased deceased Parminder Singh due to which he had to run away from the house in order to save his life. The accused/petitioners created such unbearable hostile circumstances for the deceased that the deceased felt that there was no other way to mend things but to commit suicide.

The ratio of the judgments relied upon by the learned

counsel for the petitioners is that there must be some positive act on the part of the accused which leads to commission of suicide by the deceased.

However, in the context of matrimonial discord, if either of the spouses creates such circumstances that the other spouse sees no other option but to commit suicide, this can be said to be a positive act on the part of the accused which compelled the deceased to commit suicide. There is nothing on record to show that the deceased was hyper sensitive or that he had suicidal tendencies. In the case of **Soma Chakravarty vs. State through CBI (2007) 5 SCC 403**, Hon'ble the Supreme Court while dealing with relevant considerations at the stage of framing of charge has held as under:-

“It may be mentioned that the settled legal position, as mentioned in the above decisions, is that if on the basis of material on record the Court could form an opinion that the accused might have committed offence it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. At the time of framing of the charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true at that stage.

Before framing of a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commitment of offence by the accused was possible. Whether in fact, the accused committed the offence, can only be decided in the trial.”

Considering the above, this Court feels that the learned trial Court has rightly framed charges on the basis of material placed before it. Consequently, the present revision petition is dismissed.

08.05.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No