

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

CRA-S-3395-SB-2013(O&M)

Date of decision:-28.3.2018

Chanan Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Pahal Mehta, Legal Aid counsel assisted by
Mr.Ashu Kaushik, Advocate
for the applicant/appellant.

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

Accused Kunan Singh aged about 70 years, his son Jagdish Singh aged about 48 years, wife Bachan Kaur aged about 68 years and daughter Jasbir Kaur @ Manpreet Kaur aged about 32 years faced trial by learned Additional Sessions Judge, Gurdaspur, who vide judgment dated 17.7.2013 acquitted such accused of the charge framed against them.

Briefly stated, facts of the case as per prosecution story are that FIR in this case was registered on the basis of statement of deceased – Malkiat Singh wherein he stated that he was married with Jasbir Kaur @ Manpreet Kaur about 6 years prior to the incident and the couple was blessed with a female child; that about four years earlier, Kunan Singh father of Jasbir Kaur @ Manpreet Kaur took her to her parental house and

at that time said Jasbir Kaur @ Manpreet Kaur had taken away all her articles and thereafter such Jasbir Kaur @ Manpreet Kaur filed a case for grant of maintenance in the Court, though the matter was compromised but Jasbir Kaur @ Manpreet Kaur had not withdrawn the cases filed by her against the deceased and that all the accused used to harass Malkiat Singh, as such on 17.2.2010, he had consumed celphos tablets. On the statement of complainant Ex.PA, which was recorded by ASI Mukhtiar Singh from Police Station Kahnuwan, an endorsement Ex.PA/1 was appended, then ruqa was sent to police station where formal FIR Ex.PA/2 was recorded. Malkiat Singh had expired at Oberoi Hospital, Gurdaspur. The Investigating Officer went there and carried out necessary proceedings including getting the post mortem examination conducted on the dead body. The matter was investigated. The accused were arrested in this case.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Gurdaspur.

On presentation of challan in the Court of Judicial Magistrate Ist Class, Gurdaspur, copies of documents relied upon in the challan were supplied to the accused free of costs as provided under Section 207 Cr.P.C. Then finding that offence under Section 306 read with Section 34 IPC is exclusively triable by the Court of Sessions, learned Judicial Magistrate Ist Class, Gurdaspur vide order dated 15.1.2010 committed the case to the Court of learned Sessions Judge, Gurdaspur from where it was entrusted to the Court of learned Additional Sessions Judge, Gurdaspur.

On receipt of case, learned Additional Sessions Judge, Gurdaspur, observing that charge for an offence under Section 306 read with Section 34 IPC was disclosed against all the accused, charge-sheeted them accordingly, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as 13 witnesses, namely, PW1 Chanan Singh, PW2 Rulda Singh, PW3 SI Mukhtiar Singh, PW4 Dr.Ashok Oberoi, PW5 Dr.Jagan Nath Paul, PW6 Inspector Ram Lal, PW7 HC Surjit Singh, PW8 ASI Surjit Raj, PW9, Arminder Singh, PW10 PHC Sarabjit Singh, PW11 HC Jaswinder Singh, PW12 SI Paramjit Singh, PW13 SI Dharam Pal.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations contending that they were innocent and had been falsely involved in this case.

Further, in addition to pleading false implication, accused Kunan Singh took up a plea that his daughter Jasbir Kaur was married with deceased Malkiat Singh on 10.4.2004 but due to his cruel behaviour and demand of dowry, his daughter was turned out on 20.2.2005; that one daughter namely Taranjot Kaur was born in his house on 14.4.2005; that many efforts were made but deceased and his family were reluctant to keep her in the matrimonial house; that his daughter filed a maintenance application and Rs.85,000/- to Rs.1,00,000/- became due but the deceased was not paying the maintenance to his daughter and her daughter Taranjot

Kaur; that his daughter was serving at Ludhiana in a hospital for earning her livelihood.

Further, accused Jasbir Kaur @ Manpreet Kaur adopted the plea as taken by accused Kunan Singh adding that she filed an execution application for recovery of Rs.85,000/- to Rs.1,00,000/- and the case was fixed in the Court on 6.2.2010 and on that day the case was transferred to Lok Adalat for 27.2.2010 for recovery of maintenance; that in between on 17.2.2010 Malkiat Singh committed suicide in his house; that two years prior to the occurrence, she had joined Jyoti Kendra Charitable General Hospital, Chhoti Habbowal, Ludhiana for earning their livelihood and got Taranjot Kaur admitted in St.Patric Public High School, Habbowal Kalan, Ludhiana; that on the day of occurrence, she was present in the hospital from 9:00 a.m. to 5:00 p.m. and never left the hospital and her in-laws house is 180 kms. away from Ludhiana.

Further accused Bachan Kaur took up a plea that she is not keeping good health and is almost confined to the bed, whereas accused Jagdish Singh took up a plea that he is residing at Ludhiana for the last 20 years; that two years prior to the occurrence, he was serving as a business development officer in Deutsche Post Bank Home Finance Ltd., Ludhiana and on the day of incident on 17.2.2010, he was present in his office from 10:00 a. to 5:00 p.m. and never left the bank.

During their defence, accused examined three witnesses, namely, DW1 Sandeep Kumar, DW2 Kartar Singh and DW3 Dr.Swinder Singh.

After hearing arguments, learned Additional Sessions Judge,

Gurdaspur acquitted all the accused of the charge framed against them, which left the complainant aggrieved and he has filed the present appeal.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the appeal.

The trial Court in light of a settled legal position and facts and circumstances concluded that the acts attributed to the accused do not come within the definition of abetment. Though Malkiat Singh had committed suicide but the accused cannot be held responsible for that suicide since there was nothing to show that they had instigated, goaded or compelled him to do so. Thus the prosecution having been unable to prove the abetment on the part of the accused for suicide of the deceased, they could not possibly be convicted for the offence under Section 306 read with Section 34 IPC and were rightly acquitted by the trial Court.

In my considered view, the judgment of acquittal passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The same is upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

Necessary intimation be sent to the quarter concerned.

28.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No