

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

CRA-S-722-SB-2015

Date of decision:-22.3.2018

Surjit Singh

....Appellant

Versus

State of Punjab and another

....Respondents

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

Present : Mr.Inderjit Sharma, Advocate
for the appellant.

H.S. MADAAN, J.

Accused Gurmail Singh faced trial by learned Additional Sessions Judge, Bathinda for offence under Section 306 IPC and vide judgment dated 7.7.2014, he was acquitted of the charge framed against him.

Briefly stated, facts of the case are that the FIR in question was lodged by complainant - Surjit Singh, Ex.Subedar by making statement before ASI Sandhura Singh on 14.9.2012 when he was heading a police party present near Church in the area of Police Station Sadar, Bathinda in connection with patrolling and at that time complainant was being accompanied by Amritpal Singh. In such statement got recorded with ASI Sandhura Singh, the complainant stated that he had retired as Subedar from Indian Army about 20 years earlier;

that he had two sons and one daughter all are married; that his son Tejinder Pal Singh had studied up to 10+2 and was diploma holder in Fire Safety; that Tejinder Pal Singh was married with Gurjit Kaur daughter of Shamsher Singh, resident of Kachar Bhan (Ferozepur) about 6 years earlier and the couple had two children i.e. one son and one daughter; that about 2-3 years back, Tejinder Pal Singh fell into bad company and started taking intoxicants, however, on being persuaded by his family members, he stopped doing so about two months back; that about 10 days previously, Gurmail Singh Khalsa met his son Tejinder Pal Singh and questioned him about Surjit Singh (complainant), father of Tejinder Pal Singh (deceased) having illicit relations with Gurjit Kaur wife of Tejinder Pal Singh stating that if he wanted to save her honour, he should murder his father Surjit Singh with bricks and then he (Gurmail Singh Khalsa) would save him; that the deceased Tejinder Pal Singh disclosed all those facts to the complainant in presence of the whole family. According to the complainant Gurmail Singh Khalsa used to give money to Tejinder Pal Singh for taking intoxicants and about a week back, he had made an announcement in the Gurudwara situated in Basti No.4 that Surjit Singh – Jathedar (the complainant) had illicit relations with his daughter-in-law Gurjit Kaur and Surjit Singh was a man of bad character and further Tejinder Pal Singh was not taking any steps to save the honour of his wife Gurjit Kaur from his father and they should not keep any relations with Surjit Singh and his family; the villagers heard the said announcement; that the complainant called respectables of the village and Gurmail Singh Khalsa was also summoned there where Gurmail Singh Khalsa again said the same

words to Tejinder Pal Singh; Amritpal Singh, Panch of Basti No.5, Beer Talab and Gura Singh son of Sarup Singh, resident of Basti No.4 witnessed such incident; resultantly Tejinder Pal Singh started remaining under mental tension and on 14.9.2012 when the complainant and his wife returned to their home, they found that their son Tejinder Pal Singh had committed suicide by hanging himself with the ceiling fan; the complainant and his wife cut the piece of cloth with knife and dead body of Tejinder Pal Singh was brought down but he had died by that time. According to the complainant Tejinder Pal Singh had committed suicide due to false rumours spread by Gurmail Singh Khalsa regarding illicit relations of the complainant with his daughter-in-law i.e. wife of Tejinder Pal Singh deceased.

The Investigating officer put his endorsement on such statement of complainant Surjit Singh and sent ruqa to the police station, on the basis of which formal FIR was registered. The matter was investigated. Accused was arrested in this case. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court, 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 the offence under Section 306 IPC is exclusively triable by Court of Sessions, learned Magistrate committed the case to the Court of learned Sessions Judge, Bathinda from where it was entrusted to the Court of learned Additional Sessions Judge, Bathinda.

On receipt of case in the Court, learned Additional Sessions

Judge, Bathinda, observing that prima facie charge for offence under Section 306 IPC was disclosed against accused, he was charge-sheeted him accordingly. The accused pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution examined as many as nine witnesses, namely, Darshan Singh as PW1, Guranditta Singh as PW2, Bikkar Singh as PW3, Amritpal Singh as PW4, Surjit Singh as PW5, MHC Jagrant Singh as PW6, Gurjit Kaur as PW7, Dr.Indervir Kalra as PW8 and ASI Sandhura Singh as PW9.

With that the prosecution evidence got concluded.

Statement of the accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and has been falsely involved in this case.

Accused did not examine any witness in his defence.

After hearing arguments, learned trial Court acquitted the accused, which left the complainant aggrieved and he has filed the present appeal.

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

Admittedly Tejinder Pal Singh had committed suicide. The crucial question to be seen is as to whether accused Gurmail Singh Khalsa had abetted that suicide of Tejinder Pal Singh. To determine that we have to see as to what abetment actually means. Section 107 of the Indian Penal Code deals with abetment. For ready reference, the provision is reproduced as under :-

“107. Abetment of a thing.—A person abets

the doing of a thing, who—

(First) — Instigates any person to do that thing; or

(Secondly) —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly) — Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing. Illustration A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does

anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

The sine qua non of abetment is instigation, which means to goad, urge, forward or to provoke, incite urge or encourage to do an act. The alleged act and conduct on the part of the accused in this case do not come within the mischief of abetment.

The reasoning given by the trial Court is contained in para Nos.25 to 29, which are as under:

The main witness in the present case i.e. PW1 Darshan Singh, PW2 Guranditta Singh, PW3 Bikkar Singh have denied the case of the prosecution. It has come on the file Tejinderpal Singh was drug addicted. He was facing numerous trials.

So, by going through the entire statements, it is clear that they have tried to improve their version. There is no evidence on the file which can show that Gurmail Singh even taunted Gurmail Singh, son of Surjit Singh complainant nor he has abetted his suicide.

To prove case under Section 306 of Indian Penal Code, the prosecution is duty bound to prove accused abetted suicide the person who has committed suicide. In the present case, the main story of the prosecution is that the accused Gurmail Singh instigated to kill his father, if Tejinder Pal Singh wants to save honour of his wife and

due to this fact Tejinderpal Singh committed suicide. There is not an iota of evidence on the file to prove that Gurmail Singh instigated deceased Tejinder Pal Singh, due to this fact Tejinder Pal Singh committed suicide. There is no evidence to prove this fact at all. In the present day, no human being is perfect, Follies and the tragic flaw are in each human being. There is no evidence on the file that the accused has abetted Tejinderpal Singh, husband of PW Gurmit Kaur, for commission of suicide. In order to bring home the charge under Section 306 of IPC, there should be an abetment to commit suicide. Even assuming that the prosecution has proved the fact of instigating, harassment and torturing, but that itself is not sufficient to hold the accused to be guilty of the offence punishable under Section 306 of IPC. The harassment and torturing though not proved may be a reason for suicide, but cannot be said to be abetment which requires a positive step to be taken by persons to induce the commission of the offence.

So by going through the evaluable evidence on the file every witness has proved his version in the Court. When they were corroborated with the statements or before the police. These things were missing in that statements. So, keeping in view the law laid down it has clearly been held by our Hon'ble High Court and Hon'ble Apex Court in numerous citations that taking the totality of materials on record and facts and circumstances of the case into

consideration, it will lead to irresistible conclusion that it is the deceased and he alone and none else, is responsible for his death.

In view of my discussion above and keeping in view the law laid down by our Hon'ble High Court, and keeping in view the evidence on the file no abetment is proved against the accused Gurmail Singh. So, I am of the considered opinion that the prosecution has miserably failed to prove its case against the accused beyond shadow of reasonable doubt. Therefore, by giving the benefit of doubt to the accused, he is acquitted from the charge framed against him.

The prosecution had miserably failed to prove that accused had abetted such suicide of Tejinderpal Singh, as such necessary ingredients of offence under Section 306 IPC were not complete. The trial Court was justified in giving verdict of acquittal of the accused.

Thus I do not find any illegality or infirmity in the judgment passed by the learned trial Court. Rather it is based upon proper appraisal and appreciation of the evidence and correct interpretation of law. The said judgment of acquittal is upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

22.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No