

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-671-SB of 2005
Date of Decision : January 17,2019

Nachhatar Singh..... Appellant

VERSUS

State of Punjab..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. Narinder Singh, Advocate
for the appellant.

Ms. Jaspreet Kaur, AAG Punjab.

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred against the order dated 21.03.2005 passed by the learned Additional Sessions Judge, Bathinda, vide which the appellant was convicted for the offence punishable under Section 306 IPC and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>
306 IPC	Rigorous imprisonment for seven years and fine ₹ 5,000/-, in default of payment of fine, he shall further undergo rigorous imprisonment for three months.

The prosecution case in nutshell is that on 02.04.2003 at about 7:00 A.M. Rajbir Kaur telephoned her husband's family at village Bhaini Bagha from Talwandi Sabo, to inform them that her husband Jagtar Singh (deceased) had consumed some poisonous substance. On receipt of the aforesaid telephone call, the complainant Suraj Singh along with his other

son Kuldeep Singh and Lambardar Gurdev Singh reached Talwandi Sabo where they found the house of the appellant locked. Thereafter, they went to the hospital, where deceased Jagtar Singh had been admitted, but learned that he had already expired. The complainant then got recorded his statement Ex.PF on 02.04.2003 wherein he alleged and blamed accused/appellant-Nachhatar Singh, his sons Rupinder Singh, Jaskaran Singh and daughter-in-law Rajbir Kaur for being responsible for his son's death as they had been maltreating the deceased and quarreling with him on the issue of not letting his wife-Rajbir Kaur accompany the deceased-Jagtar Singh to Bahadurgarh which was his place of posting.

After completion of all the requisite formalities and filing of report under Section 173 Cr.P.C., the accused were sent up for trial in the court of Sessions where they were charged for the offence punishable under Section 306 IPC to which they pleaded not guilty and claimed trial.

The prosecution in support of its case examined as many as seven prosecution witnesses and tendered all the relevant documents.

All the incriminating circumstances appearing against the accused in the prosecution evidence were put to them under Section 313 Cr.P.C. which were denied by all the accused. Rather they pleaded that the complainant-Suraj Singh had got them falsely implicated in the instant case in order to deprive Rajbir Kaur from the service benefits of her deceased husband Jagtar Singh.

The learned trial Court acquitted Rajbir Kaur, Rupinder Singh and Jaskaran Singh by giving them the benefit of doubt. However, accused/appellant-Nachhatar Singh i.e. father-in-law of the deceased-Jagtar Singh was convicted and sentenced as already detailed above.

Learned counsel for the appellant has vehemently argued that it is a case wherein the learned trial Court has drawn self-contradictory conclusion inasmuch as it has recorded a finding of acquittal against Rajbir Kaur, Rupinder Singh and Jaskaran Singh but on the same set of evidence convicted the appellant-Nachhatar Singh. Further, the learned counsel for the appellant has urged that a perusal of the evidence on record does not by any stretch of imagination point to the guilt of appellant-Nachhatar Singh for abetting the suicide of Jagtar Singh and hence the basic ingredients of Section 306 IPC are clearly missing.

The learned State counsel on the other hand has submitted that the deceased died an unnatural death due to consumption of Chlorocompound poison which stands established from the report of Chemical Examiner Ex.PD and there is sufficient evidence on record to conclude that appellant-Nachhatar Singh, who was the father-in-law of the deceased, played a negative role in preventing his daughter Rajbir Kaur from accompanying the deceased-Jagtar Singh to his place of posting which in turn compelled the deceased-Jagtar Singh to take the extreme step of ending his life.

I have considered the rival contentions of the parties as well as perused the evidence and other material on record.

It is not disputed that the deceased died an unnatural death due to consumption of chlorocompound poison. The moot question which, thus would arise is whether the conduct and action of accused-appellant drove the deceased to end his life? It would therefore be relevant to critically analyse the evidence adduced before the trial court.

The prosecution case was set in motion on the statement of

complainant-Suraj Singh PW2, who is the father of the deceased-Jagtar Singh. As per the testimony of PW2 Suraj Singh, the deceased-Jagtar Singh had come to his native village Bhaini Bhaga on 30th March 2003 and on the next day i.e. 31st March 2003, had left for Talwandi Sabo, the village of his in-laws, where at that point of time his wife-Rajbir Kaur was staying with her parents. The complainant deposed that while leaving on 31st March 2003, his deceased son had told him that in case his wife-Rajbir Kaur did not accompany him back to his place of posting i.e. at Bahadurgarh, Patiala, he would in future not return to take her back because there had been a dispute between his deceased son and the accused party since they were not letting Rajbir Kaur accompany Jagtar Singh to Bahadurgarh. PW2 Suraj Singh went on to further depose that on 31st March 2003, Rajbir Kaur had informed him on telephone that Jagtar Singh (deceased) had been quarreling with them, on which he had assured Rajbir Kaur that he would visit them the next day and get the matter sorted out.

As against this version of the complainant-Suraj Singh, is the testimony of PW3 Kuldeep Singh, who is none other than the son of the complainant and brother of deceased Jagtar Singh, which is at complete variance with that of the complainant.

In fact, the evidence adduced by the prosecution during the trial comes across as most unreliable and unconvincing on the face of it. PW3 Kuldeep Singh has in his cross-examination stated that not only were the relations between his deceased brother-Jagtar Singh and his wife-Rajbir Kaur extremely cordial but also the relations between Jagtar Singh (deceased) and the family of his in-laws and the relations between his family and the family of the accused/appellant had all along been very

cordial. Somuch so after the marriage of Jagtar Singh with Rajbir Kaur, the latter had been staying with her deceased husband at his place of posting and they would often visit them at village Bhaini Bhaga and also Talwandi Sabo as and when the occasion arose. PW3 Kuldip Singh further deposed that Rajbir Kaur was in an advance stage of pregnancy at the time of the alleged occurrence and gave birth to a child after about three months of the suicide of deceased Jagtar Singh. In fact, there is nothing to suggest on record, even remotely, that prior to the alleged occurrence there had been any bickering or quarrel between the deceased Jagtar Singh and his wife- Rajbir Kaur or with the family of his in-laws. In view of the deposition of PW3 Kuldip Singh that the relations between the deceased and his in-laws were cordial, it would be very difficult to digest the prosecution case as projected by the complainant that the accused/appellant would often quarrel with the deceased on the issue of not sending his wife Rajbir Kaur to his place of posting. The testimony of complainant is thus, belied by the testimony of his own son PW3 Kuldip Singh and totally demolishes the very fabric of the prosecution case. It is indeed very strange that on one hand the learned trial Court in its wisdom and rightly so, did not find the evidence of the prosecution against the co-accused i.e. Rajbir Kaur, Rupinder Singh and Jaskaran Singh to be reliable and acquitted them of the offence for which they were charged with but at the same time on the same set of evidence concluded that the evidence of the prosecution against appellant-Nachhatar Singh was reliable and accordingly convicted him. The learned trial Court erroneously arrived at a conclusion qua involvement of appellant merely on presumptions which are neither legal nor consistent with any other material or legal evidence on record.

It would be very relevant to also take note of the evidence of PW7 Constable Kewal Singh which further creates a severe dent in the case of the prosecution. PW7 Kewal Singh proved copy of DDR No.9 dated 01.04.2003 qua the one day casual leave application Ex.PW7/B of the deceased-Jagtar Singh which reveals that the deceased was given leave on 01.04.2003 till 02.04.2003 and he was relieved for proceeding on leave on 01.04.2003 at 01:00 P.M. The least that the prosecution could have done was to produce some record prior to 01.04.2003 to establish the presence of deceased Jagtar Singh at village Talwandi Sabo which is admittedly missing. It would be pertinent to notice that the deceased was working with the Punjab Armed Police and was posted at Bahadurgarh, Patiala, which is about 200 kms. from village Talwandi Sabo and 150 kms. from village Bhaini Bhaga. In this background, it is highly unbelievable and improbable that the deceased Jagtar Singh would have visited village Bhaini Bhaga on 30th March 2003 and left for Talwandi Sabo on the next day i.e. 31st March 2003 as deposed by the complainant PW2-Suraj Singh.

The essential ingredients to prove a case under Section 306 IPC are:

- a) a guilty mind to commit an offence. Further there should be clear *mens rea* to commit an offence under Section 306 IPC;
- b) an active and direct participation, suggestion or support and not just passive acquiescence leading the deceased to commit suicide;
- c) leaving the deceased by such act or suggestion into taking the extreme step of ending his or her life.

A perusal of the entire evidence adduced during trial does not

even obliquely refer or point to any specific, direct or indirect act of incitement on the part of the accused/appellant from which it could be inferred that his instigation either by conduct or by words led the deceased to commit suicide. Had there been even an iota of evidence adduced by the prosecution, leveling any specific allegation of harassment meted out to the deceased by the appellant, then of course the conviction of the appellant could be justified. But in the absence of any nexus having been established between the suicidal death of Jagtar Singh and the alleged ill treatment meted out to him at the behest of the accused/appellant his conviction under Section 306 IPC is not sustainable.

In view of the above, this appeal is allowed. The order dated 21.03.2005 passed by the learned Additional Sessions Judge, Bathinda, is set aside and the appellant is acquitted of the charges under Section 306 IPC.

17.01.2019

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(MANJARI NEHRU KAUL)
JUDGE

Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No