

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

CRM-M-8276-2019 (O&M)

Date of decision : 24.10.2019

Richa Singh and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Jitender Dhanda, Advocate for the petitioners.

Mr. Manish Bansal, DAG, Haryana.

Mr. A.K. Jain, Advocate for respondent No.2.

ANIL KSHETARPAL, J.

Present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.200 dated 26.08.2016 registered under Section 306 IPC at Police Station Naraingarh, District Ambala and all consequential proceedings.

On completion of investigation, final report has been submitted, relevant and substantive part thereof is extracted as under:-

“Stated that I'm the resident of above address and working as a contractor and my son Vijay Kumar aged 32 years had solemnized marriage, through Internet with his free will, with a girl namely Richa Singh daughter of Krishan Lal cast harijans resident of house No.20 A, Bilaspur tehsil, police station Sadar, main market Bilaspur on 22.11.2015. The marriage ceremony was organized at Hotel KC Sector-10 PANCHKULA, which was attended by family friends and relatives of both the families. Richa Singh wife of my son stayed with us for about a period of 2 months and thereafter she went back to her home. My son Vijay Kumar told me that

his wife Richa Singh is having a affair with some other boy and due to that reason she does not want to stay with him. Richa Singh went to her home without telling us on 27.01.16. Krishan Lal father of Richa Singh, Sister Priyanka , aunt Sarita Jaswal residents of PANCHKULA used to extend threats and humiliate my son. On being harassed by them my son Vijay Kumar consumed some poisonous substance with the intention to commit suicide yesterday at about 9:30 PM. He closed the door of the room situated on the 1st floor and he was saying it loudly that I'm committing suicide on being harassed by my in-laws. I got suspicious, because of the closing of door, and on hearing the voice, along with my elder son Sanjeev Kumar rushed to the room situated on the 1st floor and found that the door of that room was bolted from inside. We knocked the door but despite of knocking Vijay Kumar did not open the door. We pushed the door with the force, opened it and found my son Vijay Kumar in unconscious condition and thereafter we brought him to government hospital Naraingarh, from where he was referred to Government Medical College Hospital Sector 32 Chandigarh. He died on reaching to GMCH Sector 32. After checking in, the doctor declared him dead. My son has committed suicide on being harassed by his wife Richa Singh, father in law Krishan Lal, sister-in-law Priyanka, aunt Sarita Jaiswal. We also found a suicide note written by my son on a plain paper and a pocket diary. The diary and the suicide note has been handed over to you. In the suicide note also my son Vijay Kumar has mentioned name of all the above mentioned persons. I got recorded my statement at GMCH Sector 32. I have read the same. It is correct. One pocket diary and suicide note have been taken in possession. In the suicide note it is written that

“I, Vijay Kumar s/o Gurbax Singh is committing

suicide because my wife Richa she is having relation with someone else and her family members are also involved in the same, including father Krishan Lal, mother Beena Devi, sister Priyanka Singh and most importantly her aunt (Bua) Sarita Jaswal who is staying Panchkula. After two months of my marriage, they took away her from my home and when I went to her home, Richa was not present there, she was staying in Delhi. When I went to Delhi, I found she was with another boy in room. Sd/- Vijay Kumar.”

In the pocket diary it was written with red pen that my wife Richa, her aunt and her father are responsible for my death and besides them her sister who is staying in Panchkula and her sister who is staying in Mohali. Sd/- Vijay Kumar. Documents were taken in police possession by way of recovery memo signed by the witnesses. From the contents of the MLR and the suicide note offence u/s 306 IPC is made out as such ruqa is being sent to Police Station through EHC Gian Singh 150 and case was got registered. The investigation was carried out by SI Sukhwinder Singh. During investigation proceeding u/s 174 Cr.P.C. of deceased Vijay Kumar s/o Gurbax Singh r/o Ward No.5, Kala Aamb Road, Naraingarh. Postmortem of Vijay Kumar was got conducted from Civil Hospital Naraingarh on 26.08.2016 and report of deceased Vijay Kumar and parcels were taken in possession. The place of occurrence was inspected. Statement of witnesses were recorded. Thereafter, investigations were carried on by Inspector Amar Singh. During investigation documents with regard to account No.093101000110 ICICI Bank, Naraingarh were taken in police possession and the sample signatures taken from the bank record and also the opening form of account No.5696 dated 06.09.2006 were taken in police possession. On 27.08.2016, photographs of the marriage at KC Hotel

Panchkula were taken in possession. Photocopy of the record and the passport of Vijay Kumar were taken in police possession. During investigation the suicide note of Vijay Kumar alongwith his samples and handwriting and signatures were sent to FSL Madhuban for examination. Viscera of the deceased Vijay Kumar was sent to Chemical Examiner Karnal and other samples were sent to Medical College, Khanpur Kalan, Sonipat. Report of FSL Madhuban was received with the opinion in para No.A. "That A-1 to A-33, technically it has not be possible to express my opinion on questioned signatures marked Q-1 as well as Q-2 in comparison with standard signatures marked A-1 to A-33 being different in pattern. In Para No.B of Opinion-2-the person who wrote red enclosed standard writing stamped and marked Q-34 to A-92 also wrote the red enclose question writing similarly stamped and marked Q-34 to A-92 also wrote the red enclose question writing similarly stamped and marked Q-3 to Q-5."

Thereafter as per directions of the Superintendent of Police, Ambala opinion was sought with regard to handwriting and signatures and for sufficiency of evidence for arrest of the accused. On 17.04.2018 the DA Sahib opined as under: Opinion in C/W FIR No.200 dated 26.08.2016 u/s 306 IPC PS Naraingarh. Sir, with reference to you office memo No. 20609 dated 05.04.2018 on the subject cited above, the case file perused which reveals that the opinion of this office has been sought that after going through the FSL Report in which it is opined that regarding the signatures which is mentioned in the suicide note technically, it has not been possible to express any opinion on questioned signatures marked Q1 as well as Q2 in comparison with standard signatures marked A1 to A22, being different in pattern. Secondly, regarding handwriting

which is mentioned in standard writings stamped and marked A34 to A92 also wrote the red enclosed questioned writings similarly stamped and marked A34 to A92 also wrote the red enclosed questioned writings similarly stamped and marked A34 to A92 also wrote the red enclosed questioned writings similarly stamped and marked Q2 to 25. In this regard, I agree with the opinion of the concerned DDA dated 15.12.2017 in which he opined that as per the FSL Report expert did not opined that the same signatures did not match with the specimen signatures. In the present case, the FIR has already been registered u/s 306 IPC which is cognizable offence and the investigation of the present case is pending. Now, it is the prerogative of the investigating officer to investigate the manner and to collect the incriminating evidence regarding arrest.” After receipt of reports of Chemical Examiner Karnal and from Medical College, Khanpur Kalan with regard to deceased Vijay Kumar, opinion was sought from the concerned doctor and the collection of sufficient evidence for arrest of the accused, Sub Inspector Anand Singh arrested Smt. Sarita Jaswal wife of Cl. Satish Jaswal, House No.104, Block-E3, GH 79, Sector 20, Panchkula with the help of lady constable CGH Manjit Kaur 423 of police station Sector 20Panchkula in the presence of her husband cl. Staish Jaswal, she was interrogated the collection of sufficient evidence she was arrested as per law on 06.05.2018. Sarita Jaswal has been released on bail by Punjab and Haryana High Court vide order dated 06.06.2018 and arrest warrant were obtained on 24.05.2018 against other accused Richa Singh d/o Krishan Lal, Priyanka Singh d/o Krishan Lal, Beena wife of Krishan Lal and Krishan Lal s/o Sukha Ram r/o House No.24-A, Main Market Bilaspur, PS Sadar Bilaspur, District Bilaspur, HP which were issued on 01.06.2018. The accused file

application for anticipatory bail before Punjab and Haryana High Court Chandigarh and on grant of interim bail in Punjab and Haryana High Court vide order dated 06.06.2018 Richa Singh d/o Krishan Lal, Priyanka Singh d/o Krishan Lal, Beena wife of Krishan Lal and Krishan Lal s/o Sukha Ram r/o House No.24-A, Main Market Bilaspur, PS Sadar Bilaspur, District Bilaspur, HP were joined in the investigation on 12.06.2018 as per the order of the Hon'ble Court and interrogated. On collection of sufficient evidence against the accused they were arrested and released on bail. The investigation is already completed. Now there is sufficient evidence on the file for submission of challan against the accused as such challan is prepared and being submitted in the court for recording of evidence against Smt. Sarita Jaswal wife of Cl. Satish Jaswal, House No.104, Block-E3, GH 79, Sector 20, Panchkula and Richa Singh d/o Krishan Lal, Priyanka Singh d/o Krishan Lal, Beena wife of Krishan Lal and Krishan Lal s/o Sukha Ram r/o House No.24-A, Main Market Bilaspur, PS Sadar Bilaspur, District Bilaspur, HP. The witnesses be summoned and their statement recorded. The challan is being submitted as accused Richa Singh d/o Krishan Lal, Priyanka Singh d/o Krishan Lal, Beena wife of Krishan Lal and Krishan Lal s/o Sukha Ram r/o House No.24-A, Main Market Bilaspur. PS Sadar Bilaspur, District Bilaspur, HP are on interim bail.”

This Court has heard learned counsel for the parties at length and with their able assistance gone through the documents filed.

Learned counsel for the petitioners has submitted that from reading of the final report, no offence under Section 306 is made out against the petitioners. Hence, he submitted that prosecution against the petitioners should not be allowed to continue.

On the other hand, learned counsel for the respondents has submitted that police has formed an opinion that offence under Section 306 is made out, and, therefore, the High Court should not interfere in exercise of powers under Section 482 Cr.P.C.

Petitioners herein are wife-herself, sister-in-law, father-in-law, mother-in-law and aunt of the wife of the deceased. It is undisputed that marriage between petitioner No.1 and late Sh. Vijay Kumar, who committed suicide, took place on 22.11.2015. Richa-petitioner No.1 stayed with her husband for sometime but came back on 27.01.2016 to her parents. Thereafter, Richa has not been staying with late Sh. Vijay. From the reading of the final report, it is not clear that when Vijay allegedly visited the house of Richa to bring her back and thereafter went to Delhi when he saw Richa with some other person. However, on careful reading of the alleged suicide note, it comes out that late Sh. Vijay Kumar was feeling disturbed because of relationship of his wife with someone else. It is on account thereof, he allegedly committed suicide.

Offence of abetment to suicide is provided in Section 306 IPC. Section 306 uses the phraseology that whosoever abets the commission of such suicide. Abetment has been defined in Section 107 of Indian Penal Code. Section 107 is in three parts. First is when a person instigates any person to do that thing, similarly there is second and third part. Section 107 read with Section 306 have been critically analyzed by the Hon'ble Supreme Court in various judgments. It has been held that mere refusal of the wife to come back to matrimonial home or the allegations that she is involved with someone else, are not itself sufficient to make out a case of abetment to suicide so as to convict a person.

This Court has dealt with the aforesaid issue in the case arising between husband and wife in **CRM-M-48500-2018 titled as Neha Khurana Vs. State of Punjab and another, decided on 03.10.2019**. After discussing series of judgments passed by Hon'ble the Supreme Court, it has been found that there must be evidence of immediate instigation, goading or provocation or encouragement or inciting to do an act. Although it is not necessary that actual words must be used to that effect, however, to constitute instigation, there must be some evidence which necessarily and specifically suggest of the aforesaid consequences. In the present case, if one examines the final report, the only inescapable conclusion is that the prosecution has failed to make out a case for trial under Section 306 IPC. Still further, recently Hon'ble the Supreme Court in the case of **State of West Bengal Vs. Indrajit Kundu and others, Criminal Appeal No.2181 of 2009, dated 18.10.2019** has again reiterated that the matrimonial discord between husband and wife or utterance of words that "to go and die" are not sufficient to try the wife or in-laws of deceased for offence under Section 306/34 IPC.

Keeping in view the aforesaid settled law, this Court finds that in the present case also, offence under Section 306 IPC is not made out and, therefore, continuation of proceedings in the criminal case arising out from FIR in question shall result in abuse of the process of the law. Hence, quashed.

Accordingly, the present petition is allowed.

24.10.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

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