

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

CRA-S-1455-SB-2003

Date of Decision : 10.01.2020

Lakhwinder Singh and othersAppellants

VERSUS

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. D.S.Pheruman, Advocate
for the appellants.

Ms. Devaki Anand Sullar, AAG, Punjab.

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred against the judgment of conviction and order of sentence dated August 06, 2003 passed by the Sessions Judge, Amritsar, vide which the accused/appellants were convicted under Section 306 IPC and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/- each. In default of payment of fine, they were ordered to further undergo rigorous imprisonment for a period of six months.

At the very outset, learned counsel for the appellants states that appellant No.3-Piar Kaur has since expired on 02.09.2017. In the circumstances, the learned counsel submits that he would not press this appeal qua appellant No.3-Piar Kaur in view of her death and the appeal qua her stands abated.

Learned counsel for the State, on instructions from ASI Balwinder Singh, has verified the factum of death of the said appellant and

placed on record the report dated 08.01.2020 of the Head of Police Station

Lopoke, District Amritsar, along with Panchayatnama of the Panchayat members of the said village in the said regard. The same are taken on record.

In view of the aforesaid submissions, the appeal qua appellant No.3-Piar Kaur stands abated. Qua appellant No.2, appeal already stood abated vide order of this Court dated 06.02.2015.

The prosecution case in brief is that Sarabjit Kaur (since deceased) daughter of the complainant-Darshan Singh was married with appellant No.1-Lakhwinder Singh on 15.04.1995. Sarabjit Kaur would often be harassed by the appellants and subjected to physical assault as well. She would be compelled to get money from her parents. Resultantly, many a times, the complainant parted with varying sums of money to satiate the greed of the appellants/accused. On 05.09.2001, on receipt of information about Sarabjit Kaur having been admitted in Sri Guru Teg Bahadur hospital at Lopoke with burn injuries, the complainant-Darshan Singh along with his son-Dilbagh Singh reached the hospital wherein the deceased Sarabjit Kaur told both of them that being fed up with the ill treatment which was being meted out to her by the accused-appellants, she had set herself ablaze after dousing herself with kerosene oil. While Sarabjit Kaur was in the process of being shifted from the hospital at Lopoke to another hospital in Amritsar, she died.

In the above facts and circumstances, FIR No.177 dated 05.09.2001 (Ex.PE/1) under Section 306/34 IPC was registered at Police Station Lopoke on the statement (Ex.PG) of the complainant-Darshan Singh.

On completion of the investigation, the appellants were charged

for the offence punishable under section 304-B IPC to which they pleaded not guilty and claimed trial.

In support of their case, the prosecution examined as many as seven witnesses including PW3, complainant Darshan Singh and PW4 Dilbagh Singh, brother of the deceased Sarabjit Kaur. All the accused when examined under Section 313 Cr.P.C. denied the charges and pleaded false implication.

In defence, the appellants examined Karnail Singh as DW1 and A.S.Powar, DSP Qadian as DW2.

On an analysis of the evidence led, the learned trial Court held that the offence under Section 304-B IPC could not be brought home to prove the guilt of the accused/appellants as there was uncertainty about the year of the marriage and instead held them guilty for offence under Section 306 IPC and sentenced them as already detailed above.

Learned counsel for the appellants vehemently argued that the trial Court gravely erred in ignoring the fact that no complaint was ever made by the complainant party against the accused qua the mental and physical harassment which was meted out to the deceased at any time prior to the occurrence in question nor any Panchayat was ever convened in respect of the same. It was urged that had the deceased actually been tortured and harassed, the complainant who was none other than the father of the deceased would not have kept quiet but would have definitely moved the authorities concerned against the alleged maltreatment. It was further argued that in fact the deceased had suffered burns while she was cooking meals in her bed room and it was the accused/appellants who had immediately rushed to her rescue and shifted her to the nearest hospital for

her medical treatment but unfortunately she could not survive. Learned counsel for the appellants further argued that the essential ingredients of Section 306 IPC i.e. abetment to suicide were missing in the instant case and even the allegations as levelled in the FIR by the complainant-Darshan Singh, father of the deceased, the mischief of Section 107 IPC was not attracted.

The learned State counsel, on the other hand, while opposing the submissions made by the learned counsel for the appellants submitted that there was enough cogent and convincing evidence on record to show that the deceased was being subjected to acute mental and physical harassment in her matrimonial home which led to her ending her life by setting herself afire. It was also contended that the deceased just before she succumbed to the burn injuries told the complainant-Darshan Singh PW3 and her brother Dilbagh Singh PW4 that being fed up with the acute harassment meted out to her by her husband and parents-in-law, she had decided to end her life.

I have heard learned counsel for the parties and have re-appraised the evidence and other material on record.

It cannot be disputed that the deceased-Sarabjit Kaur died of burn injuries sustained by her in her matrimonial home on 05.09.2001. The factum of her having received burn injuries finds corroboration from the medical evidence in which regard the prosecution examined PW6 Dr. Amarjit Singh, Medical Officer Incharge, S.H.C. Datarpur, P.H.C. Hazipur, District Amritsar and PW7 Dr. Harpreet Singh, Medical Officer, Kakkar Hospital, Amritsar.

The question, thus, which would arise for consideration is –

Whether the burns were accidental as pleaded by the defence or were the result of an abetment of suicide?

From the evidence on record it stands established and is not disputed by either of the parties that the occurrence took place in the bedroom of the deceased from where the investigating agency recovered one empty plastic can, one match box and half burnt clothes of the deceased.

Firstly, had it been a case of the deceased having accidentally caught fire while cooking, a stove and some other utensils would have definitely been found at the place of occurrence which admittedly is not the case. Only an empty can of kerosene along with a match box and half burnt clothes of the deceased were recovered from the place of occurrence i.e. the bed room according to PW5 SI Shingara Singh, the investigating officer. Secondly, it is indeed very strange and does not appeal to reason as to why the deceased would have chosen to cook her meals in the bed room when admittedly as per the site-plan (Ex.PF) there was a kitchen in the house. All these circumstances when seen in totality do indicate that the deceased Sarabjit Kaur had indeed set herself ablaze by sprinkling kerosene on her body.

The next question which would arise for consideration is – Whether the accused/appellant No.1 was responsible for abetting the suicide of his wife i.e. deceased Sarabjit Kaur?

It would be thus appropriate to reproduce Section 107 IPC:-

“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.

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 facilitates the commission thereof, is said to aid the doing of that act.”

It can not be over emphasized that it is not possible to lay down any straight jacket formula as to what would constitute abetment in a particular case as the same would have to be inferred from the facts and circumstances of each individual case. In the case in hand, admittedly the deceased died an unnatural death. It may not always be that an accused would be actively involved in the abetment of suicide so as to attract the offence under Section 306 IPC. Abetment, can also be passive and unobtrusive in nature. In the instant case abetment would have to be appreciated by taking into consideration all the surrounding circumstances including the statement of the deceased made to the complainant-father-Darshan Singh PW3 and her brother-Dilbagh Singh PW4 soon before her death at the hospital.

On a minute perusal of the evidence on record there are overwhelming circumstances from which a clear inference can be drawn that the deceased was not being treated well and was subjected to acute harassment. It has come in the evidence of the father of the deceased, who appeared as PW3, that his deceased daughter, was ill-treated and harassed by the accused-appellants and would cook her meals separately. Not only this, it has also come in his evidence that he had also been told by his deceased daughter that the appellant-husband would take his meals with his parents to her exclusion. So much so, many a times the deceased was

without food. Nothing can be more agonizing and torturous for a woman than to be left neglected and humiliated by her husband and the rest of his family. This circumstance clinchingly reveals that the allegations levelled by PW3 Darshan Singh against the accused-appellants are not without any basis. It definitely lends credence to his allegations against the accused-appellants that the deceased had been driven against the wall and left with no other option but to end her life because of the callous behaviour of none other than her husband who was expected, as a spouse, to lend her all emotional and moral support. In fact, it is evident that the deceased bore all the atrocities for a considerable period of time and despite that the appellants refused to reform themselves and their atrocities had been multiplying by the day leaving her with no other option but to end her life. There is no reason to disbelieve or discard the testimony of the complainant-Darshan Singh PW3, father of the deceased, and Dilbagh Singh PW4, brother of the deceased, who too corroborated each other's evidence to the effect that when they both reached the hospital, the deceased categorically told them that being fed up with the harassment and maltreatment which was being meted out to her by her husband and parents-in-law she had sprinkled kerosene on herself and had set herself afire to end her life.

In the light of the aforementioned discussion, I do not find any merit in this appeal. The judgment of conviction and order of sentence dated August 06, 2003 passed by the Sessions Judge, Amritsar, are upheld.

Appeal is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

10.01.2020

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Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No