

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

CRA-AS No.65 of 2020

Date of decision: 17th October, 2023

Gurpartap Singh

... Appellant

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sakal Sikri, Advocate for the appellant.

MANJARI NEHRU KAUL, J.

1. The appellant has challenged the judgment dated 02.12.2019 passed by learned Additional Sessions Judge, Ferozepur, vide which the accused/respondents No.2 to 4 had been acquitted of the charges framed against them in FIR No.158 dated 05.09.2014 under Section 306 IPC registered at Police Station Makhu, District Ferozepur.

2. As per the case of the prosecution, in the evening of 20.04.2014, Sukhnaz Singh (hereinafter referred to as, 'the deceased') left his house along with his two children, Manjot Singh and Arshpreet Kaur, and did not return home. On 21.04.2014, an application was submitted to the police by the wife of the deceased, accused Paramjeet Kaur, regarding his disappearance. On the same day, the complainant, who is father of the deceased, received a call from Police Station Makhu informing them that a motorcycle belonging to the deceased had been found abandoned in the area of Police Station Ghall Khurd, near Bridge

at the Ferozepur-Moga road close to Rajasthan Feeder. On 25.04.2014, dead body of an unknown male child was recovered from the Rajasthan Feeder in the area of Police Station Kot Bhai, District Sri Muktsar Sahib. The body was identified by accused Paramjeet Kaur and her father Sukhchain Singh as being that of Manjot Singh. The complainant, on being informed about the abandoned motorcycle, went to the Police Station and identified it as belonging to his deceased son. On 23.04.2014, the dead body of the deceased was also discovered in the area of Police Station Ghall Khurd on Ferozepur-Moga road close to Rajasthan Feeder.

3. Subsequently, on 05.05.2014, the complainant filed a complaint that led to the registration of the FIR in question. It was alleged in the FIR that accused Paramjeet Kaur, wife of the deceased, had illicit relations with co-accused Davinder Singh and Harjeet Singh, who was a relative of Davinder Singh. It was also claimed that Davinder Singh had been sending money to Paramjeet Kaur from USA. When the deceased discovered about the illicit relations between his wife and Davinder Singh, he brought Paramjeet Kaur back from the house of Davinder Singh to his house along with his children, where she had been residing. Allegedly, Paramjeet Kaur in collusion with Davinder Singh, Harjeet Singh, Major Singh and Sukhchain Singh (Paramjeet Kaur's father), committed murder of the deceased. It was also alleged that the unknown dead body recovered had been incorrectly identified by Paramjeet Kaur as being that of her son Manjot Singh; the complainant suspected that

both of his grandchildren had been kept at a secret location by all the accused and could perhaps be in danger.

4. Following the complaint, an investigation was carried out by SP(D). The SP(D) vide its report dated 02.04.2014, arrived at a conclusion that the deceased along with his two children had jumped to his death in the Feeder Canal on account of the illicit relations of accused Paramjeet Kaur with accused Davinder Singh and Harjeet Singh. Subsequently, charges were framed by the learned trial Court for offences under Sections 306/34 IPC. On the basis of the material and other evidence led, the trial Court vide impugned judgment and order, acquitted the respondent/accused of the charges framed against them. Consequently, the appellant/complainant is now before this Court to challenge the judgment of acquittal passed by the learned trial Court.

5. Learned counsel for the appellant has contended that the learned trial Court had gravely erred in not appreciating that there had been an active instigation on the part of the respondent/accused which led to the deceased committing suicide. It was vehemently argued that the deceased, during his lifetime, had reported multiple instances of threats and pressure being exerted upon him by accused Davinder Singh, who had taken away his wife i.e. co-accused Paramjeet Kaur and children to his house. Furthermore, accused Davinder Singh had been exerting pressure upon the deceased to divorce accused Paramjeet Kaur. The deceased had also filed a petition under Section 9 of the Hindu Marriage Act, Ex.PW5/A for Restitution of Conjugal Rights, wherein also it had

been categorically mentioned that when the deceased went to bring back his wife Paramjeet Kaur, who had been living with Davinder Singh, she refused to accompany him and had also told him that she had contracted a second marriage with Hardeep Singh, respondent No.4, without obtaining divorce from him.

6. Learned counsel has argued that though the petition under Section 9 of the Hindu Marriage Act had been withdrawn on 11.12.2013, as the respondent accused Paramjeet Kaur along with her children had returned to her matrimonial home and had thereafter resumed cohabitation with the deceased, however, no finding had been given therein on merits. Learned counsel has vehemently argued that on consideration of the aforementioned facts and circumstances, the actions of all the respondents/accused amounted to abetment to suicide, for which they should have been convicted by the learned trial Court.

7. I have heard learned counsel for the appellant and perused the relevant material on record.

8. While lodging the FIR in question, the complainant had initially alleged that his deceased son had been murdered by the respondent/accused, his grandchildren kept at a secret location by the respondent/accused and could be in danger, however, no evidence came to the fore with respect to the deceased having been murdered and as such, charges were framed only under Sections 306/34 IPC.

9. The question which arises for consideration of this Court is as to whether the respondent/accused aided and abetted the suicide of the

deceased. It would therefore, be apposite to reproduce Section 306 and 107 IPC.

“306. Abetment of suicide

If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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.”

10. The term ‘abetment’ as per Section 107 of the IPC encompasses not only the act of instigation but also the intent facilitated by unlawful omissions. Abetment entails active complicity on the part of the abettor before the actual commission of the offence and this active involvement is fundamental to the crime of abetment. For an act to be considered abetment, mens rea is the crucial element. A careful examination of Sections 306 and 107 IPC reveals that the instigation by the accused must be of such magnitude as to compel the deceased to take his own life.

11. In the present case, although the appellant has relied upon Ex.P5 and Ex.P-6, i.e. applications stated to have been given by the deceased

prior to the occurrence in question, to establish an offence under Section 306 IPC, however, the prosecution failed to prove both these documents in accordance with law. Furthermore, during cross-examination, the appellant admitted that neither Ex.P5 nor Ex.P6 bore the seal or endorsement of any Police Station or the SSP. Furthermore, there was no reference made by qua these applications in the initial report i.e. Ex.PW/3 dated 05.05.2014 to the police. Under these circumstances, both these documents Ex.P5 and Ex.P6 could not be considered to be convincing, much less cogent pieces of evidence to support the allegations of abetment leveled by the complainant against the accused/respondents.

12. It would also be noteworthy to observe that the act or instigation on the part of the respondent/accused, leading to suicide of the deceased, must be proximate to the time of alleged occurrence. Although, the attention of this Court has been drawn to the petition under Section 9 of the Hindu Marriage Act filed by the deceased, it is a matter of record that the deceased had subsequently withdrawn the petition and brought his wife accused/respondent Paramjeet Kaur back to his house on 07.10.2013. Thereafter, the deceased along with Paramjeet Kaur continued to live together in the matrimonial home for several months until the demise of the deceased in April, 2014. It would also be pertinent to observe here that as per the evidence on record, after accused/respondent Paramjeet Kaur returned to her matrimonial house, both she and the deceased continued to live with each other, even though the deceased was well aware of her illicit relations with

accused/respondent Davinder Singh and Harjeet Singh. Therefore, the alleged illicit relations between accused/respondents Paramjeet Kaur and Davinder Singh cannot be deemed a proximate cause of the suicide of the deceased, as has been vehemently asserted by the learned counsel for the appellant. Mere allegations of harassment by the appellant without they being substantiated by any cogent evidence would have been insufficient to sustain the conviction of the respondent/accused under Section 306 IPC, which fact was thus, rightly considered by the learned trial Court while passing the impugned order.

13. As a sequel to the above discussion, there being no merit in the instant appeal, it stands dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

October 17, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No