

101 (3 cases)

2024.PHHC.092277-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

CRA-S-1963-SB of 2003
Date of Decision: 26.07.2024

Hoshiar Singh and others
Vs.
State of Haryana

...Appellants

...Respondent

2.

CRR-243-2004

Ram Phal
Vs.
Hoshiar Singh and others

...Appellant

...Respondents

3.

CRM-A-1908-MA-2015

State of Haryana
Vs.
Hoshiar Singh and others

...Appellant

...Respondents

**CORAM: HON’BLE MR. JUSTICE GURVINDER SINGH GILL
HON’BLE MR. JUSTICE N.S.SHEKHAWAT**

Present: Mr. Rakesh Nehra, Senior Advocate with
Mr. Rupender Hooda, Advocate
for the appellants in CRA S-1963-SB-2003 and
for the respondents in CRR-243-2004 and
CRM-A-1908-MA-2015.

Mr. Salil Bali, Advocate
for the petitioner in CRR-243-2004.

Ms. Sheenu Sura, DAG, Haryana
for the respondent in CRA-S-1963-SB-2003 and
for the applicant in CRM-A-1908-MA-2015.

N.S.SHEKHAWAT, J.

1. This judgment shall dispose off three petitions, **CRA-S-1963-SB of 2003**, titled as “**Hoshiar Singh and others Vs. State of Haryana**”, **CRR-243-2004** titled as “**Ram Phal Vs. Hoshiar Singh and others**” and **CRM-A-1908-MA-2015** titled as “**State of Haryana Vs. Hoshiar Singh and others**”, as the same arise out of the common impugned judgment and order dated 21.08.2003 passed by the Additional District and Sessions Judge (Adhoc) Jhajjar, whereby, the four accused namely, Hoshiar Singh, Lala Ram, Ved Singh and Jai Singh were convicted for the commission of the offences punishable under Section 306 IPC and were ordered to be released on probation on their furnishing probation bonds in the sum of Rs. 5,000/- each with one surety in the like amount to keep peace and be of good behaviour for a period of two years and to appear and receive sentence as and when called upon during said period. They were also ordered to pay Rs. 3,000/- each as compensation amount to the widow the deceased.

2. State of Haryana (appellant in **CRM-A-1908-MA-2015**) as well as Ram Phal (complainant/petitioner in **CRR-243-2004**) had prayed for setting aside the impugned judgment and order and to convict and sentence the respondents/accused under Section 302 IPC whereas in **CRA-S-1963-SB of 2003**, the four appellants/accused have prayed for their acquittal of the charge under Section 306 IPC.

3. The FIR Ex.PA/1 was registered on the basis of the complaint Ex.PA, which was filed by Ram Phal son of Nand Ram. The statement Ex.PA has been reproduced below:-

“Statement of Ramphal S/o Nand Ram caste Harijan Chamar R/o Ismailpur aged about 33 years. Stated that I am resident of above mentioned address and do the labour work. We were three brothers. Lal Singh was the eldest, I am younger to him and Ram Kumar was the youngest. My brother Lal Singh used to live separate from us. Yesterday on 12-12-2K, at 4 o'clock in the evening, Hoshiar Singh son of Phool Singh caste Harijan (Chamar); Sarpanch of our village; was fixing pipe for water supply with the wall of my house. My brother Lal Singh asked to install the water tap at a little distance from the wall so that water is not absorbed into the wall of our house. For this Hoshiar Singh Sarpanch said that I am the Sarpanch of the village. The water tap will be installed at this place only. The assault took place between my brother Lal Singh and Sarpanch Hoshiar Singh for this reason. Hearing the noise of the assault I and my wife Nirmala Devi came out of our house. In the meantime, Bhana and Ved Singh sons of Phool Singh, brothers of Sarpanch and Bablu, son of Sarpanch, caste Harijan residents of Ismailpur came there. Immediately on arrival they caught hold of my brother Lal Singh. Then Mannu S/o Ved Singh and Chand and Chand Ram S/o Bhama, Jai Singh son of Sadasukh and Madho Devi Wo Hoshiar Singh caste Harijan residents of Ishmailpur also arrived at the spot. They started beating my brother Lal Singh with leg and

fist blows. I and my wife Nirmala Devi started rescuing him. Then Bhana and Ved sons of Phool Singh caught hold of me and my wife and made my brother Lal Singh fell to the ground. Sarpanch Hoshier Singh said that let us burm them. As result, Madho Devi, wife of Hoshier Singh rushed and brought Kerosene Oil container from her house and handed over in the hands of her son Bablu. In our presence, Bablu sprayed kerosene oil on my brother and Sarpanch Hoshier set on fire with a match stick. We raised the cry of “Mar Diya Mar Diya”. The people of the village arrived at the spot. On seeing the village people approaching Hoshier Sarpanch, Ved, Lala, Jai Singh, Mannu Chand Ram, Bablu, Madho Devi dragged my buming brother Lal Singh, dropped in the courtyard of Lal Singh and fled from the place of occurrence. I arranged for a private vehicle in the village and got admitted my brother Lal Singh at Civil Hospital Gurgaon for treatment. Due to deep burns and deteriorating condition, the doctor referred my brother Lal Singh to Safdarjung Hospital Delhi. Yesterday on 12-12-2K, I took my brother Lal Singh to Safdarjung Hospital Delhi and admitted him for treatment. After some time my brother Lal Singh died. I went to the in-laws house Mudsa to give information about this. Today on 13-12-2K with my brother-in-law I have come to the hospital. I have got my statement recorded to you, heard. It is correct.

*Sd/- in Hindi Ramphal
Attested
Sd/- in Enhlish
P.S. Sadar B.Garh
Dt. 12.12.2000.”*

4. After the registration of the FIR, the investigation formally commenced. After completion of the necessary investigation, the final report under Section 173 Cr.P.C. was presented against eight accused, including the four appellants in CRA-S-1963-SB of 2003. After perusal of the documents appended with the challan, the Court framed the charge under Sections 148, 302/149 IPC against all the accused in the present case.

5. To prove the charge against the accused in the present case, the prosecution examined 14 witnesses. PW1 SI Virender Singh had registered the FIR Ex.PA/1 on receipts of the statement of Ram Phal Ex.PA. PW2 Jai Chand constable had prepared the site plans Ex.PB and Ex.PC with correct marginal notes after inspecting the spot. PW3 S.I. Ramesh Chander had prepared the inquest report Ex.PD in respect of death of Lal Singh. After the inquest report Ex.PD, he made application Ex.PE to the medical officer for the postmortem examination on the dead body and after PMR, the dead body was handed over to his relatives.

6. The prosecution further examined PW4 HC Randhir Singh who collected the MLR of Lal Singh from General Hospital, Gurugram. The prosecution examined PW5 Dr. R.K.Sachdev, Medical Officer, General Hospital, Gurugram. He had medico legally examined Lal Singh, injured on 12.12.2000. As per him, the patient was brought at 05.00 p.m. by Ram Phal. The patient was semi

conscious and the pulse was 92 p.m. On examination, there were superficial burns on head, face, chest, back, both upper limbs, both thighs and part of legs. The total burns were approximately 90% and the duration was within 12 hours. He exhibited the original MLR of Lal Singh as Ex.PF. In his cross-examination, he admitted that he had not recorded in the MLR the brief history of circumstances, in which, the injuries were inflicted upon Lal Singh.

7. The prosecution further examined PW6 Dr. Alexander, who conducted the postmortem examination on the dead body of Lal Singh on 14.12.2000. As per him, all the body had burnt and singed. The smell of kerosene was present all over the body. In his opinion, the cause of death was due to the shock caused by antemortem thermal burn injuries. The time in death was approximately 1 ½ days and he proved on record the postmortem report Ex.PH. The statement of PW7 UGC Daya Chand was formal in nature.

8. The prosecution further examined PW8 Ram Phal, who reiterated the version as mentioned in the FIR Ex.PA/1. As per him, his brother was beaten up by all the accused and when he and his wife Nirmala Devi PW11 tried to save his brother Lal Singh, he was caught by Lala accused and his wife was caught by Ved, accused. Hoshiar Singh, accused, then directed his co-accused to bring kerosene and burn Lal Singh. Mago Devi accused brought a container containing kerosene oil. She handed over the container to her son

Bablu and Bablu poured kerosene on Lal Singh. Hoshiar Singh accused then set Lal Singh on fire by using a stick from the match box. They raised alarm and all the accused fled away after throwing his brother Lal Singh in the courtyard of their house. After shifting Lal Singh to Civil Hospital, Gurugram, where he was provided the treatment. However, in cross-examination, he stated that Hoshiar Singh alone was installing the water tap and he was not accompanied by a plumber or any labourer. When they raised alarm, it attracted some villagers and on seeing the villagers coming towards them, the accused fled away. He further stated that house of Ranjit was situated at a distance of one acre from their house. When kerosene had been poured on Lal Singh, he fled away and took shelter in the room of his house. Lal Singh bolted the door of that room from inside and all the accused had broken open the door of the room and Hoshiar Singh set his brother Lal Singh on fire in the room. While clothes of Lal Singh were on fire, Bablu, Mannu, Chand Ram, Jai Singh and Hoshiar caught hold of him and brought his brother from the room to the courtyard of house of Lal Singh. He admitted that in his statement Ex.PA, he had not mentioned such facts. He further stated that the police had collected a semi burnt quilt from the house of Lal Singh.

9. The prosecution further examined PW9 HC Karan Singh and PW10 Constable Narender, whose testimonies were formal in nature. PW11 Nirmala Devi also supported the statement made by

PW8 Ram Phal, complainant. Even, she also presented a contradictory version in her cross-examination, as stated by PW8 Ram Phal. The prosecution further examined PW12 Shiv Singh, Retired Sub-Inspector, who had conducted a part of the investigation. In his cross-examination, he admitted that Nirmala Devi told him that the occurrence had taken place in the street and the kerosene oil was poured upon the deceased in the street. She also told that after Lal Singh was set ablaze, he was taken to the courtyard of his house. The half burnt quilt was lying near the gate of the room in the courtyard. Even, Shiv Dayal, DSP, also checked the investigation of the case and DSP recommended that the offence was under Section 306 IPC and accordingly, the challan was also prepared under Section 306 IPC.

10. The prosecution further examined PW13 Dr. G. Bardoloi, who had prepared the death summary regarding the death of Lal Singh. As per him, the patient was declared dead at about 08.50 p.m. on 12.12.2000 due to the burns, which were 85%. The prosecution further examined PW14 SI Hari Singh, who was posted as Investigating Officer on 12.12.2000.

11. After closer of the prosecution evidence, the statement of all the accused were recorded under Section 313 Cr.P.C. and the incriminating evidence was put them. Hoshiar Singh, accused stated that they were innocent and had been falsely implicated in the case. Lal Singh, deceased, got himself bolted inside the room of his

residential house and then he sprinkled kerosene oil over his body. Thereafter, he set himself on fire. The relatives of deceased, i.e. Nirmala Devi wife of Ram Phal, Savitri wife of Mahabir and Sughan wife of Ram Parkash opened the door of the house and extinguished the fire. However, he died in the hospital. Similar defence had been taken by the other accused as well.

12. To prove the defence, the accused examined DW1 Karambir, who stated that at about 03.00 p.m. on 12.12.2000, he came to his house for taking his meal and heard the noise of quarrel coming from the backside of his house. So, he climbed on the roof of his house and saw that Lal Singh came running in the street and entered his house. He was abusing some person. He entered a room of his house and bolted it from inside. There was smoke, which I noticed after a while. Savitri, Nirmala Devi and Sughan broke open the door and took out Lal Singh. He had burn injuries over his body and was alive at that time. Nirmala Devi and Sughan arranged a tempo and took Lal Singh to the hospital and he died in the hospital. None of the accused was seen in the house of the accused nor anyone had any role in setting Lal Singh on fire. His statement Ex.DA was recorded by the DSP on 09.01.2000. DW2 Phool Kumar and DW3 Banwari Lal also supported the statement of DW1 Karambir and made similar statements. The defence further examined DW4 Shiv Dayal, DSP, who had verified the investigation made by the IO in this case. In his

verification, Hoshiar Singh, Sarpanch, Mago Devi, Sanjay, Jai Singh and Mannu were found innocent as they were not at fault. On his verification, the offence under Section 302 IPC was not made out and he recommended that the offence could fall only under Section 306 IPC. On his verification, he found that Lal Singh, deceased, committed suicide by sprinkling kerosene oil upon himself and set himself on fire in his house.

13. Learned counsel for Ram Phal as well as learned State counsel vehemently argued that at about 04.00 p.m. on 12.12.2000, all the accused had set Lal Singh on fire by sprinkling kerosene oil on him. In fact, the prosecution had led sufficient evidence to convict all the accused under Section 302 read with Section 148/149 IPC. The prosecution had examined PW8 Ram Phal, brother of deceased and his wife PW11 Nirmala Devi, who were present in the house at the time of occurrence. Both the witnesses had witnessed the occurrence and had made their respective statements before the trial Court. Learned counsel further contended that the trial Court committed error in not convicting the accused under Section 302 IPC and the impugned judgment is liable to be set aside.

14. On the other hand, learned counsel appearing on behalf of the appellants in CRA-S-1963-SB of 2003 and the respondents in CRM-A-1908-MA of 2015 and CRR No. 243 of 2004 vehemently argued that the trial Court had wrongly convicted Hoshiar Singh, Lala

Ram, Ved Singh and Jai Singh in the present case. In fact, the ingredients of the offence under Section 306 IPC were completely missing and the accused had been convicted only on the basis of presumptions. Learned counsel further contended that the accused had not in any manner abetted or instigated Lal Singh to commit suicide and the findings recorded by the trial Court are apparently unsustainable.

15. We have heard learned counsel for the parties and perused the record.

16. The main substantial question of law, which arises in the present appeal is whether the conviction of appellants under Section 306 IPC was sustainable. Another question, which arises for consideration is whether the appellants were wrongly acquitted of the charge under Section 302 IPC. First of all, we would like to deal with the concept “abetment”. Section 306 of IPC deals with “abetment of suicide”, which reads as under:-

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”.

17. “Abetment of a thing” has been defined under Section 107 of IPC and we deem it appropriate to reproduce Section 107 IPC,

which read as under:-

"107. 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 willful misrepresentation, or by willful 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."

18. The intention of Legislature and the ratio of the cases decided by the Hon'ble Supreme Court and this Court are clear that in order to convict a person under Section 306 IPC, there has to be clear *mens rea* to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no other option and this act must have been intended to push the deceased in such a position that he committed suicide. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

19. While discussing the ingredients of Section 306 IPC, the Hon'ble Supreme Court had held in the matter of **Gurcharan Singh**

Vs. State of Punjab, 2017(1) R.C.R. (Criminal) 118: 2017 AIR (SC)

74 as follows:-

*28. The pith and purport of Section 306 I.P.C. has since been enunciated by this Court in **Randhir Singh v. State of Punjab 2004(4) RCR (Criminal) 740 : (2004)13 SCC 129**, and the relevant excerpts therefrom are set out hereunder.*

"12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 I.P.C.

*13. In **State of W.B. v. Orilal Jaiswal, 1994(3) RCR (Criminal) 186 : (1994) 1 SCC 73**, this Court has observed that the courts should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of*

abetting the offence of suicide should be found guilty."

29. Significantly, this Court underlined by referring to its earlier pronouncement in *Orilal Jaiswal (supra)* that courts have to be extremely careful in assessing the facts and circumstances of each case to ascertain as to whether cruelty had been meted out to the victim and that the same had induced the person to end his/her life by committing suicide, with the caveat that if the victim committing suicide appears to be hypersensitive to ordinary petulance, discord and differences in domestic life, quite common to the society to which he or she belonged and such factors were not expected to induce a similarly circumstanced individual to resort to such step, the accused charged with abetment could not be held guilty. The above view was reiterated in ***Amalendu Pal @ Jhantu v. State of West Bengal 2010(1) RCR (Criminal) 643 : 2010(1) Recent Apex Judgments (R.A.J.) 184 : (2010) 1 SCC 707.***

30. That the intention of the legislature is that in order to convict a person under Section 306 I.P.C., there has to be a clear mens rea to commit an offence and that there ought to be an active or direct act leading the deceased to commit suicide, being left with no option, had been propounded by this Court in ***S.S. Chheena v. Vijay Kumar Mahajan 2010(4) RCR (Criminal) 66: 2010(4) Recent Apex Judgments (R.A.J.) 629 : (2010) 12 SCC 190***".

20. Still further, the Hon'ble Supreme Court had held in the matter of ***Kashibai and others Vs. The State of Karnataka, 2023(2) Criminal Court Cases 794*** that the mere fact of commission of

suicide by itself would not be sufficient for the Court to hold the accused guilty of abetment of suicide and held as follows:-

“9. In M. Mohan v. State Represented by the Deputy Superintendent of Police (2011) 3 SCC 626, this Court has elaborately dealt with the provisions contained in Section 306 read with Section 107 IPC, and after discussing various earlier decisions has observed as under: -

"41. This Court in SCC para 20 of Ramesh Kumar [(2001) 9 SCC 618 : 2002 SCC (Cri) 1088] has examined different shades of the meaning of "instigation". Para 20 reads as under : (SCC p. 629)

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do `an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation." In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide

by Seema (the appellant's wife therein) may necessarily be drawn.

42. In **State of W.B. v. Orilal Jaiswal [(1994) 1 SCC 73 : 1994 SCC (Cri) 107]** this Court has cautioned that (SCC p. 90, para 17) the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

43. This Court in **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367]** had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide."

10. In view of the above, it is quite clear that in order to bring the case within the purview of 'Abetment' under Section 107 IPC, there has to be an evidence with regard to the instigation, conspiracy or intentional aid on the part of the accused. For the purpose proving the charge under Section 306 IPC, also there has to be an evidence with regard to the positive act on the part of the accused to instigate or aid to drive a person to commit suicide".

21. Now advertent to the facts of the present case, evidence led by the parties and the settled law, this Court has no hesitation to hold that the offence under Section 302 IPC is not made out against any of the accused and the findings recorded are based on correct appreciation of evidence. In fact, the entire prosecution evidence was based on the testimonies of PW8 Ram Phal and PW11 Nirmala Devi, his wife. Both the witnesses were closely related to Ram Lal, since

deceased. From a perusal of their testimonies, it was apparent that in their cross-examination, both the witnesses had twisted the facts completely and the witnesses were correctly held to be untrustworthy. The occurrence had taken place at about 03.00 p.m. in the area of a village and many villagers and persons from the neighbourhood must have reached at the place of the occurrence. However, the prosecution only examined PW8 Ram Phal, real brother of the deceased and his wife PW11 Nirmala Devi. Still further, at every stage of investigation and trial, both the witnesses had changed their statements. In the first part of the statements, both the witnesses clearly stated that all the accused had beaten up Lal Singh. Hoshiar Singh directed his co-accused to bring kerosene oil and burn Lal Singh. Mago Devi brought container having kerosene and she handed over the cane to her son Bablu who poured kerosene oil on Lal Singh. Hoshiar Singh then set Lal Singh on fire using a match stick. When the complainant raised alarm, all the accused threw his brother in the courtyard of their house. However, in the cross-examination, the witness had completely changed the occurrence, wherein, he stated that when kerosene oil was poured on his brother Lal Singh, he fled away and took shelter in the room of his house. Lal Singh bolted the room from inside and all the accused had broke open the door and set Lal Singh on fire in the room. While Lal Singh had caught fire, these persons had dragged Lal Singh from the room and thrown in the courtyard of

the house. Apart from that, even during the course of investigation, it was found that Lal Singh had committed suicide on his own and the challan was even presented against the accused under Section 306 IPC. Still further, the entire story projected by PW8 Ram Phal and PW11 Nirmala Devi was found to be unbelievable and the trial Court had correctly held that no offence under Section 302 IPC was made out against the accused in the present case.

22. Apart from that, the alleged occurrence had taken place at about 08.50 p.m. on 12.12.2000, however, the complainant got his statement recorded at 03.00 p.m. on 13.12.2000 after the unexplained delay of 18 hours. PW8 Ram Phal tried to cover up the delay by stating that he had gone to the house of the in-laws of Lal Singh to inform them about his death. In fact, such an explanation was correctly disbelieved by the trial Court.

23. We have also considered the submissions made by both the sides regarding the commission of the offence under Section 306 IPC. Even, the trial Court had held that Lal Singh was not compelled to commit suicide nor there was any such goading, but his helplessness, insult and abetting faced by him instigated him to commit the suicide. In fact, the findings recorded by the trial Court are apparently unsustainable. In fact, applying the ratio of the law laid down by the Hon'ble Supreme Court to the facts of the present case, it is apparent that no overt act or illegal omission is seen from

the side of the appellants. No overt act has been attributed to all the appellants and there was no evidence to conclude that the deceased was driven to commit suicide by the circumstances or atmosphere created by the appellants. Rather, the trial Court has also held that Lal Singh, was not compelled to commit suicide by the present appellants. Still further, in the present case, there was no evidence with regard to the instigation, conspiracy or intentional aid on the part of the accused. For the purpose of proving charge under Section 306 IPC, there has to be an evidence with regard to the positive act on the part of the accused to instigate or aid to drive a person to commit suicide. In the present case, the prosecution had examined only two private witnesses, namely, PW8 Ram Phal and PW11 Nirmala Devi, who never stated that the accused had instigated Lal Singh in any manner to commit suicide. Thus, there was no material on record to convict the accused under Section 306 IPC in the present case.

24. Thus, in view of the above discussion, this Court has no hesitation to hold that the prosecution had completely failed to prove the ingredients of offence under Section 306 IPC and the appellants had not aided or instigated in committing the suicide and the impugned judgment is legally unsustainable.

25. As a result, the impugned judgment and order dated 21.08.2003 passed by the Additional District and Sessions Judge (Adhoc) Jhajjar is set-aside and all the appellants in **CRA-S-1963-SB**

of 2003 are hereby ordered to be acquitted.

26. In view of the findings recorded above, there is no substance in the appeal, i.e. CRM-A-19808-MA of 2015 (earlier CRR 465 of 2004) filed by the State of Haryana as well as revision petition, i.e., CRR 243 of 2004 filed by the petitioner/complainant and the same are hereby ordered to be dismissed.

27. All pending applications, if any, are disposed off, accordingly.

28. Trial Court record be sent back to the trial Court.

29. All concerned may be intimated.

(GURVINDER SINGH GILL)
JUDGE

(N.S.SHEKHAWAT)
JUDGE

26.07.2024
amit rana

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