

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

**CRM-A-305-MA-2012  
Date of Decision: 19.04.2024**

Shimla Rani ...Appellant  
vs.  
State of Punjab and others ...Respondents

**Coram : Hon'ble Mr. Justice N.S.Shekhawat**

**Present :** Mr. Sarthak Jindal, Advocate for  
Mr. S.P.S. Sidhu, Advocate  
for the appellant.

Mr. Deepinder Singh Brar, Senior DAG, Punjab.

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**N.S.Shekhawat J.**

1. The applicant/appellant has filed the present appeal with a prayer to grant special leave to appeal against the impugned judgment of acquittal dated 29.03.2012, passed by the Court of Additional Sessions Judge, Moga, whereby the respondents have been ordered to be acquitted of the charge under Section 306 IPC.

2. The FIR was initially registered on the basis of the statement made by Shimla Rani, applicant/complainant, who alleged that she had three sons and two daughters. On 01.05.2010, she had received a telephonic call from village Sangla that her daughter Neelam Rani had received burn injuries on account of accidental fire due to leakage of the domestic gas cylinder, while she was cooking her meals. She was under treatment at Amrit Hospital, Moga. On getting the information, the applicant/complainant and her sons, namely Satpal and Ashok Kumar rushed to the hospital and found her daughter under

treatment. She was unconscious and in the morning, her daughter succumbed to the burn injuries. She further stated that the incident had occurred due to natural and sudden leakage of domestic gas cylinder and no body was at fault in that and she did not want to take any action against anyone. After recording her statement, a DDR Entry No.19 dated 02.05.2010 was recorded and the proceedings under Section 174 Cr.P.C. were initiated on the basis of the said statement. After conducting the post-mortem on the dead body of Neelam Rani, the dead body was handed over to the legal heirs.

3. After six days i.e. on 08.05.2010, Shimla Rani along with her sons Satpal and Balbir Singh again appeared before Gopal Chand, Inspector and made a statement that she and her sons had inquired from the village at their own level and had come to know that her son-in-law Kuldeep Kumar, respondent No.2/accused had extra marital relations with Kulvir Kaur, respondent No.3/accused and her daughter Neelam Rani had told her husband to stay away from Kulvir Kaur. But Kuldeep Kumar used to visit the house of Kulvir Kaur with her consent and in the presence of her mother Manjit Kaur. On 01.05.2010, her son-in-law Kuldeep Kumar had quarreled with Neelam Rani about his extra marital relations with Kulvir Kaur and on account of said fight, her daughter Neelam Rani had poured kerosene oil on herself and set herself on fire and committed suicide due to ill-treatment by Kuldeep Kumar, Kulvir Kaur and Manjit Kaur.

4. In support of case of the prosecution and the charge under Section 306 IPC, the prosecution had examined 08 witnesses, namely PW-1 Devinder Singh, PW-2/complainant Shimla Rani, PW-3 Balvir Singh, PW-4 Dr. Harjinder

Singh Sidhu, PW-5 SI Shiv Chand, PW-6 Dr. Joginder Sahota, PW-7 Satpal and PW-8 Inspector Gopal Chand.

5. After closure of the prosecution evidence, the statement of the accused under Section 313 Cr.P.C was recorded and they had denied their involvement in the crime and pleaded false implication.

6. Learned counsel for the applicant/appellant submits that the trial Court had completely overlooked the evidence led by the prosecution and wrongly acquitted respondents No.2 and 3. The prosecution had examined PW-2 Shimla Rani, complainant and PW-7 Satpal Singh, son of the complainant. The statement of the said witnesses clearly proved that respondent No.2 was having illicit relations with respondent No.3. Learned counsel further contends that in the present case, there was sufficient evidence against the respondents that by their acts, they had instigated Neelam Rani to commit suicide and the ingredients of the offence under Section 306 IPC were fulfilled. Thus, the impugned judgment was legally unsustainable.

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

8. It has been held by the Hon'ble Supreme Court in the matter of **“Geo Varghese vs. State of Rajasthan”, 2021 SCC Online, SC 873** as follows:-

“13. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under Section 309 IPC. The abetment of suicide by anybody is also an offence under Section 306 IPC. It would be relevant to set out Section 306 of the IPC 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.”

14. Though, the IPC does not define the word ‘Suicide’ but the ordinary dictionary meaning of suicide is ‘self-killing’. The word is derived from a modern latin word ‘suicidium’, ‘sui’ means ‘oneself’ and ‘cidium’ means ‘killing’. Thus, the word suicide implies an act of ‘self-killing’. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

15. Section 306 of IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. Abetment is defined under Section 107 of IPC which reads as under:—

“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.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful 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.

Explanation 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.”

16. The ordinary dictionary meaning of the word ‘instigate’ is to bring about or initiate, incite someone to do something. This Court in the case of Ramesh Kumar v. State of Chhattisgarh has defined the word ‘instigate’ as under:—

“Instigation is to goad, urge forward, provoke, incite or encourage to do an act.”

17. The scope and ambit of Section 107 IPC and its co-relation with Section 306 IPC has been discussed repeatedly by this Court. In the case of S.S. Cheena v. Vijay Kumar Mahajan, it was observed as under:—

“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. The intention of the legislature and the ratio of the cases decided by the Supreme Court is 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 that act must have been intended to push the deceased into such a position that he committed suicide.”

14. It was further held by the Hon’ble Supreme Court as under:-

“19. In the case of M. Arjunan v. State, Represented by its Inspector of Police, a two-Judge Bench of this Court has expounded the ingredients of Section 306 IPC in the following words:—

“The essential ingredients of the offence under Section 306 I.P.C. are : (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of

suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C.'

20. At this stage, we may also refer to another recent judgment of a two-Judge Bench of this Court in the case of Ude Singh v. State of Haryana, which elucidated on the essential ingredients of the offence under Section 306 IPC in the following words: —

“16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to

induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.”

21. We may also refer to a two-Judge Bench judgment of this Court in the case of Narayan Malhari Thorat v. Vinayak Deorao Bhagat, wherein the judgment rendered by the High Court quashing the FIR under Section 482 was set aside. In the said case, an FIR was registered under Section 306 IPC stating that the son and daughter-in-law were teachers in a Zila Parishad School where the accused was also a teacher used to make frequent calls on the mobile of the daughter-in-law, and used to harass her. Despite the efforts of the son of the informant in trying to make the accused see

reason and stop calling, the accused continued with his activity. On 09.02.2015, there was a verbal altercation between the son of the informant and the accused and on 12.02.2015, he committed suicide leaving a note stating that his family life has been ruined by the accused who should not be pardoned and should be hanged. Under Section 482 Cr.PC, a petition was filed by the accused challenging the FIR, which was allowed by the High Court and thereafter, was challenged before this Court. The appeal was allowed by this Court and made the following observations:—

“We now consider the facts of the present case. There are definite allegations that the first respondent would keep on calling the wife of the victim on her mobile and keep harassing her which allegations are supported by the statements of the mother and the wife of the victim recorded during investigation. The record shows that 3-4 days prior to the suicide there was an altercation between the victim and the first respondent. In the light of these facts, coupled with the fact that the suicide note made definite allegation against first respondent, the High Court was not justified in entering into question whether the first respondent had the requisite intention to aid or instigate or abate the commission of suicide. At this juncture when the investigation was yet to be completed and charge-sheet, if any, was yet to be filed, the High Court ought not to have gone into the aspect whether there was requisite mental element or intention on part of the respondent.”

9. In the present case, the prosecution had primarily relied upon the testimony of PW-2 Shimla Rani, who stated that Balvir Singh had disclosed the fact regarding illicit relations between respondents No.2 and 3. However, while appearing as PW-3 Balvir Singh did not support the case of the prosecution and in absence of the testimony of PW-3 to that effect, the prosecution could not

prove the illicit relations between the accused. Apart from that, PW-1 Devinder Singh son of Harchand Singh also did not depose about the illicit relations and had turned hostile. Thus, the very basis of the prosecution case could not be proved by the prosecution beyond reasonable doubt.

10. Apart from that, in the present case, Dr. Harjinder Singh Sidhu had been examined as PW-4, who stated that the patient was unconscious at the time of her admission in the hospital and she remained unconscious throughout till her death. Thus, the complainant had no reason to come to know about the illicit relations between respondents No.2 and 3. Apart from that, immediately after the occurrence, the applicant/complainant herself stated that her daughter had died due to leakage of domestic gas cylinder, while she was cooking her meals and she along with her sons had clearly stated that nobody was at fault in the said occurrence and her own daughter was negligent. Apart from that, it is not understandable as to from where the complainant came to know about the illicit relations after six days of the occurrence. Apart from that, I have perused the findings recorded by the trial Court and the findings do not suffer from any material irregularity, illegality or perversity.

11. Dismissed.

19.04.2024.  
hemlata

(N.S.SHEKHAWAT)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No