

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

243

CRR-951-2020 (O&M)

Date of order: 12.03.2024

Harjeet Kaur

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Jigerjeet Singh, Advocate for
Mr. Ashish Aggarwal, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG Punjab.

Nidhi Gupta, J.

Challenge in the present petition is to order dated 20.12.2019 passed by learned Additional Sessions Judge, Tarn Taran, whereby respondent No.2 has been discharged from the offence punishable under Sections 306 and 34 IPC in case FIR No.218 dated 01.08.2018 registered under Sections 306 and 34 IPC at Police Station City Tarn Taran.

2. Brief facts of the case are that on 01.08.2018, daughter of the petitioner namely Ravinder Kaur (since deceased) consumed some poisonous substance after feeling offended and annoyed on account of alleged illicit relation of her father Hardev Singh with respondent No.2/Jaswinder Kaur. The daughter of the petitioner was immediately taken to Guru Nanak Dev Super-Speciality Hospital, where her statement under Section 164 Cr.P.C. was recorded by Chief Judicial Magistrate, Tarn Taran. She stated in her dying declaration dated 01.08.2018 (Annexure P1)

that she had consumed poisonous tablets after getting fed up of her father and respondent No.2/Jaswinder Kaur, who were in an illicit relationship with each other. Subsequently, Ravinder Kaur died on the very same day as a result of poisonous substance consumed by her. On the basis of the dying declaration made by the deceased, FIR No.218, dated 01.08.2018 (Annexure P2) was registered under Sections 306 and 34 of IPC against Hardev Singh and respondent No.2/Jaswinder Kaur.

3. Ld. counsel for the petitioner inter alia submits that petitioner's daughter had left a suicide note (Annexure P3) wherein she had stated that on account of illicit relationship of her father with respondent No.2, she felt ashamed in the society and had therefore, decided to commit suicide by consuming poisonous substance. Thereafter, even the investigating agency after completing the investigation of the case presented the final report before the competent court of jurisdiction against Hardev Singh and respondent No.2/Jaswinder Kaur to face the trial for offences punishable under Sections 306 and 34 IPC, wherein the prosecution has placed on record substantial evidence to prove the guilt of both the accused persons. It is submitted that however, despite that, accused/respondent No.2 herein has been discharged from the charges without adducing material evidence placed on record by the Investigating Agency in the final report in order to constitute an offence under S. 306 IPC.

4. It is further submitted that the learned trial Court has committed a grave error in not appreciating the fact that the deceased Ravinder Kaur had specifically stated in her suicide note as well as in her

dying declaration made before the learned Chief Judicial Magistrate, Tarn Taran that she had to bear insult from the society on account of illicit relation of her father Hardev Singh with respondent No.2/Jaswinder Kaur, which abetted her to commit suicide and that, as such, prima facie case is made out against the accused/respondent No.2 Jaswinder Kaur as well to face the trial for an offence punishable under Section 306 IPC along with another accused Hardev Singh, whose case is identical to respondent No.2/Jaswinder Kaur.

5. It is further contended that the Ld. Trial Court had rightly reached to the conclusion that the ingredients of the offence under Section 306 are found to have been made out against Hardev Singh from the fact that a telephonic conversation between Hardev Singh and deceased Ravinder Kaur revealed that Hardev Singh had openly asked the deceased to commit suicide if she wanted to do so, however, learned trial Court had failed to consider the fact in proper manner qua the private respondent and resultantly discharged her from the offence under Section 306 of IPC.

6. Learned State Counsel informs that father of the victim/deceased is facing trial. Out of 22 prosecution witnesses, 3 have been examined so far and next date of hearing before the learned trial Court is 05.04.2024.

7. No other argument is made on behalf of the petitioner.

8. I have heard learned counsel for the petitioner and perused the case file in detail.

9. Perusal of record of the case shows that FIR in the present case was registered on the basis of dying declaration made by the deceased. Challan was filed against father of the deceased and respondent No.2 herein. However, vide impugned order dated 20.12.2019, at the stage of framing of charges, respondent No.2 has been discharged.

10. Relevant findings given by learned Additional Sessions Judge, Tarn Taran vide impugned order dated 20.12.2019, are reproduced hereinbelow:-

'I have heard the learned APP, the learned defence counsel and have gone through the records of the case carefully. The only allegation against accused Jaswinder Kaur is that she has developed illicit, relationship with accused Hardev Singh who is father of the deceased and it is on account of such relationship between the accused that the deceased is claimed to have committed suicide. There is however, nothing on the record to show that accused Jaswinder Kaur ever even met the deceased or uttered even a word towards her. The accused being adult human beings are at liberty to carry on their life in the manner they like and if someone felt annoyed or offended because of the relationship between the two, it cannot per-se be said to be an act of abetment on the part of the accused to make the deceased commit suicide. However, from the telephonic conversation between the deceased Ravinder Kaur and accused Hardev Singh, it is prima facie shown that the said accused had openly uttered the words asking the deceased to commit suicide if she wanted to do so and thus it is only this act of accused Hardev Singh which can be said to be the one amounting to exhorting and abetting the deceased Ravinder Kaur to commit suicide, but no case worth framing of charge is made out against accused Jaswinder Kaur in her capacity being simply and allegedly the paramour of father of the deceased.'

(Emphasis added)

11. I am in agreement with the above said reasoning of the learned Additional Sessions Judge, Tarn Taran.

12. Moreover, to constitute an offence under Section 306 IPC, the following ingredients are required to be satisfied. Section 306 IPC is reproduced hereinbelow:-

*"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."*

13. The term 'abet' has been defined by the Hon'ble Supreme Court in the case of "**Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh**" **Law Finder Doc ID # 9495**, as meaning to aid, assist or to give command, to procure, to counsel, to countenance, to encourage. Only a person who has helped the criminal or provided him with any assistance in any form can be held to be liable for abetment. In the present case, it has been found by the learned Court below that there is nothing on record to suggest that respondent no.2 had even ever spoken to the deceased. Needless to say, even alleged illicit relationship between Hardev Singh and respondent no. 2 is yet to be established on record. As such, in my clear view, abetment as required under law, is not made out against the respondent no.2. Thus, she has been rightly discharged vide the impugned order. On the parameters required to bring an act or omission by the person within the purview of the offence under Section 306 of the IPC, reference may be made to elaborations in "**Netai Dutta Vs. State of W.B.**", **(2005) 2 SCC 659** and "**M. Mohan v. State**", **(2011) 3 SCC 626**. Reference may also be made to judgment of the Hon'ble Supreme Court in "**Prabhat Kumar Mishra v. State of U.P. & Anr.**", **2024 SCC OnLine SC 232, Decided**

on: 05-03-2024.

14. Learned counsel for the petitioner is unable to dispute the above said factual and legal position. Accordingly, I find no merit in the present petition and the same is hereby **dismissed**.

15. Pending application(s) if any also stand(s) disposed of.

12.03.2024
Sunena

(Nidhi Gupta)
Judge

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