



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

CRR-50-2024(O&M)
Reserved on: 28.03.2025
Pronounced on: 08.04.2025

Mukhtiar Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.S. Randhawa, Advocate for the petitioners.
Mr. S.S. Swaich, Advocate for respondent No.2.
Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J.(Oral)

1. The present revision petition has been preferred against impugned order dated 18.12.2023 whereby the learned trial Court has framed charges under Sections 306 read with Section 34 IPC, against the petitioners as well as the chargesheet, in the case stemming from FIR No.237 dated 25.12.2021 registered under Sections 306, 34 IPC at Police Station Fatehgarh Sahib.
2. Briefly, the facts of the case, as alleged, are that petitioner No.1 and the husband of respondent No.2- the deceased, were brothers. They had been living separately since a long time. The land held by the brothers was only partitioned orally in the year 1992. However, the petitioners used to harass the deceased regarding distribution of land. They grabbed the deceased's share of land in the year 2004 and gave him land of an inferior quality. They also encroached other chunks of land that belonged to the deceased and forbade him from cultivating. Aggrieved by the same, on 24.12.2021, the deceased consumed some poisonous substance in front of the



house of the petitioners and consequently, passed away on 25.12.2021.

3. Learned counsel for the petitioners *inter alia* contends that the land in question was jointly held by the deceased and petitioner No.1, and subsequently, orally partitioned by their father. Consequently, both parties received 18 acres of land and their father had kept 6 acres for himself and no dispute has been raised qua it since his death. During inquiry, no *mens rea* could be discovered between the parties. It was also submitted that no dispute persisted between them. Moreover, petitioners No.2 to 4 are not even owners of the disputed land therefore, it was concluded that final report should be presented against petitioner No.1 only. Further, it is the case of the prosecution that the petitioners had illegally usurped the land of the deceased in the year 2004. However, no civil litigation to this effect was initiated by the complainant party. Regardless, there is no evidence of abetment to attract the offence under Section 306 IPC. In fact, the land was allegedly grabbed in the year 2004 but the deceased dies by suicide in the year 2021, about 17 years later. Reliance in this regard is placed upon the judgments rendered by the Hon'ble Supreme Court in *Mohit Singh vs. State of Uttarakhand 2024(1) R.C.R.(Criminal) 72*, *Ayyub vs. State of Uttar Pradesh 2025 INSC 168*, *Mahendra Awasti vs. State of Madhya Pradesh 2025(1) R.C.R.(Criminal) 768*, *Prakash vs. State of Maharashtra 2025(1) R.C.R.(Criminal) 244*, *M. Mohan vs. State through Deputy Superintendent of Police (2011) 3 SCC 625*, *Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh (2002) 5 SCC 371* and this Court in *Harbhajan Singh vs. State of Punjab 2022(2) R.C.R.(Criminal) 317*. Finally, the learned trial Court framed charges without



even providing a date and time for any occurrence that could be considered as abetment. There exists no proximity between the actions of the petitioners and the decision of the deceased to die by suicide. Learned counsel relies on the judgment rendered by this Court in ***Karamjit Singh Bhullar vs. State of Punjab 2020(4) R.C.R.(Criminal) 414*** and ***Suresh Kumar vs. State of Haryana 2005(14) R.C.R.(Criminal) 212***.

4. *Per contra* learned counsel for respondent No.2 submits that the Chemical Report dated 21.03.2022 clearly illustrates that the deceased died due to consumption of aluminium phosphide. Further, the suicide note has been analysed by the FSL and vide report dated 30.09.2022, it was concluded that the handwriting on the same was that of the deceased. Since a *prima facie* case was made out against the petitioners, the learned trial Court has correctly framed charge against them. It was due to the prolonged harassment meted out to the deceased at the hands of the petitioners that caused him to take the extreme step of suicide. Learned counsel places reliance on the judgments rendered by the Hon'ble Supreme Court in ***Chitresh Kumar Chopra vs. State (Govt. NCT of Delhi) (2009) 16 SCC 605***, ***State of Bihar vs. Ramesh Singh (1997) 4 SCC 39*** and ***Amit Kapoor vs. Ramesh Chander and another (2012) 9 SCC 460***.

5. Learned State counsel submits that the learned trial Court has correctly framed charge against the petitioners based on the evidence acquired during investigation, as such the impugned order does not warrant any interference.

6. Having heard learned counsel for the parties and after perusing



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the record of the case, it transpires that neither the FIR(supra) nor the impugned order mentions any recent incident that involves instigation on the part of the petitioners. It is unclear as to how the allegations levelled against the petitioners result in formation of a prima facie belief that they could have abetted the suicide in terms of Sections 107 and 306 of the IPC, which read as follows:

Section 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 or 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 the 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.

Section 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.

8. A two Judge bench of the Hon'ble Supreme Court in ***Gangula Mohan Reddy vs. State of Andhra Pradesh 2010(1) SCC 750***, speaking through Justice Dalveer Bhandari, held as follows:

"19. This court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), 2009(4) RCR (Criminal) 196 : 2009(5) RAJ 278 : 2009(11) SCALE 24 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 straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

20. 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.

21. The intention of the Legislature and the ratio of the cases decided by this court is clear that in order to convict a person under section 306 Indian Penal Code 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 committed suicide" (emphasis added)

9. Further, the deceased died by suicide on 25.12.2021 after consuming aluminium phosphide laden poisonous substance on 24.12.2021, due to a property dispute with his brother- petitioner No.1. However, the property was orally partitioned between the brothers, by their father, in the year 1994. The alleged encroachment took place in the year 2004, while the suicide occurred about 17 years later in the year 2021. In the absence of any immediate and proximate incident, the petitioners cannot reasonably be tried for abetting suicide of the deceased by referring to occurrences from decades ago. A two Judge bench of the Hon'ble Supreme Court in ***Prakash and others vs. State of Maharashtra and another*** 2024 SCC OnLine SC 3835, speaking through Justice B.R. Gavai, observed as follows:

"31. In the case of Sanju @ Sanjay Singh Sengar (supra), this Court, under similar circumstances, had quashed the chargesheet under Section 306 of the IPC against the accused-



*appellant. A factor that had weighed with the Court in the said case was that there was a time gap of 48 hours being the alleged instigation and the commission of suicide. **This Court held that the deceased was a victim of his own conduct, unconnected with the quarrel that had ensued between him and the appellant, 48 hours prior to the commission of his suicide.***

32. In the case at hand, taking the allegations in the FIR at face value, the incident at the mahalokadalat had occurred on 17th February 2015, while the deceased had committed suicide on 20th March 2015. There is a clear gap of over a month between the incident at the mahalokadalat and the commission of suicide. We therefore find that the courts below have erroneously accepted the prosecution story that the act of suicide by the deceased was a direct result of the words uttered by the appellants at the mahalokadalat.

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*34. However, we do not wish to go into that issue. Even if we take the date of the mahalokadalat to be 17th February 2015 to be the factually correct one, there is enough gap between the two incidents to render the instigation or incitement by the appellants, nugatory. **The cardinal principle of the subject-matter at hand is that there must be a close proximity between the positive act of instigation by the accused person and the commission of suicide by the victim. The close proximity should be such as to create a clear nexus between the act of instigation and the act of suicide.** As was held in the case of Sanju @ Sanjay Singh Sengar (*supra*), if the deceased had taken the words of the appellants seriously, a time gap between the two incidents would have given enough time to the deceased to think over and reflect on the matter. **As such, a gap of over a month would be sufficient time to dissolve the nexus or the proximate link between the two acts.**"(emphasis added)*

10. Further still, in the absence of the details regarding time and place of the alleged offence, this Court finds it all the more difficult to conceive the reason for arraignment of the petitioners. The prosecution has solely relied on the alleged property dispute that dates back to the year 2004, to justify the charge of Section 306 IPC. At this juncture, it would be beneficial to make a



reference to Section 212 Cr.P.C., which reads as follows:

Section 212. Particulars as to time, place and person.—

(1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

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11. A bare perusal of the abovementioned provision mandates that the charge must contain the date and time of the alleged occurrence so as to inform the accused of the incident he will be tried for. It is a fundamental principle of criminal jurisprudence that the accused must be informed, with certainty and accuracy, of the exact time and place of the offence allegedly committed by him. Otherwise, the lack of exactitude qua the same has the potential to cause serious prejudice to the accused and hampers his ability to defend himself. Moreover, the very purpose of prescribed procedure will stand defeated if the accused remains unaware of the incident itself that has resulted in his arraignment. This provision also causes the trial Court to apply its judicial mind and frame charges only in respect of a specific incident, which avoids prosecution initiated merely to harass the opposite party. Additionally, when the genesis of the event is unclear, it would be rather difficult to impute guilt onto any accused especially when there is. Therefore, it comes as no surprise that this Court in ***Bhagwant Singh vs. State of Punjab 1989(2) R.C.R.(Criminal) 484*** and ***Onkar Nath and others vs. State of Punjab and another 1993(3) R.C.R.(Criminal) 728*** had held contravention of the provision of Section 212 Cr.P.C. to be fatal to the case of the prosecution.



12. Further, the law on the issue with regard to the nature and degree of evaluation of the evidence presented by the investigating agency before the trial Court at the time of framing of charge is well settled. The trial Court at this stage is only to form a presumptive opinion with regard to the existence of the factual ingredients breaching the threshold of the offence alleged. At the stage of formation of opinion under Sections 227, 239 and 240 of Cr.P.C, the trial Court is not required to weigh the probative value of the material brought on record in the golden scale or to presume the prosecution story as gospel truth. The nature and degree of evaluation at this stage is limited to determine whether a *prima facie* case exists depending upon the facts of each case and as such, there is no requirement to go deep into the probative value of material on record. The trial Court is only required to evaluate whether there is a ground for presuming that the accused has committed the offence. The adequacy and sufficiency of the evidence is not to be considered at this stage. The veracity of the evidence can only be evaluated during the trial. In view of the legal literature and judgmental law on this issue, it could be safely concluded that at the stage of forming an opinion under Sections 227, 239 and 240 of Cr.P.C, the learned trial Court is required to evaluate the material only with a purpose to ascertain whether the facts emerging from the record if taken at their face value disclose the existence of all the ingredients constituting the offence. The discharge of the accused is only permissible when the case set up by the investigating agency in the final report filed before the trial Court under 173 of Cr.P.C. has no basis or foundation. The trial Court cannot consider the probable defence of the accused in the case at this stage.



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13. Merely because the prosecution has presented its version couched in verisimilitude, the trial Court is not supposed to act like a postmaster. If the allegations are so absurd and explicitly implausible that no prudent man would entertain any suspicion regarding the commission of the offence, the trial Court must apply its judicial mind and ascertain the existence of factual ingredients breaching the threshold of the alleged offence for the purpose of framing charges. The assessment of the trial Court, in such a scenario, must satisfy the objective standard of reason and prudence. (Emphasis added)

14. In view of the discussion above and keeping in view the peculiar facts and circumstances of the case, this Court has no hesitation to hold that *prima facie*, a case under Section 306 IPC is not made out against the petitioners. Accordingly, the present petition is allowed. Consequently, impugned order dated 18.12.2023 framing charges against the petitioners as well as the charge-sheet are hereby set aside qua the petitioners. The petitioners stand discharged and their bail/surety bonds also stand discharged.

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

(HARPREET SINGH BRAR)
JUDGE

Reserved on : 28.03.2025

Pronounced on : 08.04.2025

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No