



CRA-S-2556-SB-2008(O&M) and one more case

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

Reserved on: 17.03.2025

Pronounced on: 24.03.2025

(i) CRA-S-2556-SB-2008(O&M)

Gulzar Mohd. and others

...Appellants

versus

State of Punjab

...Respondent

(ii) CRR-2043-2009(O&M)

Ruldu Khan

...Petitioner

versus

State of Punjab and others

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harpreet S. Rakhra, Advocate
for the appellants in CRA-S-2556-SB-2008

Ms. Arzoo Modi, Advocate and
Mr. Mohd. Yousaf, Advocate
for the petitioner in CRR-2043-2009.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J.

1. This judgment shall dispose of both the abovementioned appeal and revision petition as they arise from identical factual matrix and pertain to the case stemming from FIR No.176 dated 24.09.2006 registered under Sections 306, 34 IPC at Police Station Malerkotla. The following reliefs are prayed for, respectively:

(i) CRA-S-2556-SB-2008

The present appeal is preferred against judgment of conviction and order of sentence dated 12.12.2008 passed by learned Additional Sessions Judge(A), Fast Track Court, Sangrur, whereby each of the appellants herein have been sentenced as under:

Offence under	Sentence
Section 306 IPC	Rigorous imprisonment for 03 years each and a fine of Rs.1000/- each, in default of which further rigorous imprisonment for 15 days.

(ii) CRR-2043-2009

The present revision petition is preferred against order of sentence dated 12.12.2008 passed by learned Additional Sessions Judge(A), Fast Track Court, Sangrur, seeking enhancement of sentence awarded to the private respondents herein.

2. However, for the sake of brevity, the facts are taken from CRA-S-2556-SB-2008. The case of the prosecution is that Nasreen(deceased), daughter of complainant- Ruldu Khan was married to appellant No.1 according to Muslim rites and rituals. On 22.09.2006, the complainant had visited their home to invite them for a family function, when the deceased informed him that her mother-in-law i.e. appellant No.2 used to pressurize her to touch the feet of appellant No.3, when he visited their home, which is against their religious practices. Thereafter, on 24.09.2006, the complainant received a phone call that his daughter had died by suicide by hanging herself from the ceiling fan.

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3. Learned counsel for the appellants *inter alia* contends that the marriage between appellant No.1 and the deceased was solemnized in the year 2003 whereas the occurrence took place in the year 2006, i.e. after 03 years of marriage. There is no evidence on record that would indicate that the appellants used to abuse or maltreat the deceased. The only allegation against the appellants is that they allegedly forced the deceased to touch the feet of appellant No.3, which cannot be reasonably construed as abetment. Further, the complainant, who appeared as PW3, was declared hostile during the course of the trial as he stated that he was made the statement before the police when he was not fully conscious.

4. On the other hand, learned counsel for the petitioner-complainant in CRR-2043-2009, submits that the daughter of the petitioner- Nasreen died by suicide due to the harassment meted out to her by her in-laws. The learned trial Court has fallen into grave error by treating the same leniently and awarding imprisonment of only 03 years to them, which is not proportional to the offence. As such, the sentence deserves to be enhanced.

5. Learned State counsel submits that the impugned judgment of conviction and order of sentence have been passed by the learned trial Court based on correct appreciation of facts and the law, which warrants no interference.

6. Having heard the learned counsel for the parties and perused the record of the case with their able assistance, it transpires that the only allegation against the appellants is that they pressurized the deceased to touch feet of appellant No.3, which is not customary in Islam. While it is true that

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the deceased died by suicide, as indicated by the post mortem report which states asphyxiation of be the cause of death, the same cannot be considered to be instigated by the appellants. There is nothing on the record that indicates that the deceased was maltreated during 03 years of marriage that subsisted between her and appellant No.1. Moreover, the prosecution witnesses only proved the marriage between the parties and that the deceased was asked to touch feet of appellant No.3, which does not breach the threshold of abetment, as laid down in Section 107 IPC.

7. In order to attract the offence under Section 306 IPC, the instigation requires active participation of the accused and thereby, necessitates direct action attributable to the accused. In the case at hand, there is no proximity between any act of the accused-respondent and suicide of the deceased. 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"

8. Recently, a two Judge bench of the Hon'ble Supreme Court in ***Mohit Singhal and Another vs. State of Uttarakhand and others (2024)1 SCC 417***, speaking through Justice Abhay S. Oka, made the following observations:

"9...Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.

10. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide."

9. In view of the discussion above, the following is held:

- (i) The appeal bearing No.**CRA-S-2556-SB-2008** is **allowed** and the appellants are acquitted of the charges framed against them. Their bail/surety bonds stand discharged.



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(ii) The revision petition bearing No. **CRR-2043-2009** is **dismissed** being bereft of any merit.

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

11. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

24.03.2025

Ajay Goswami

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