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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-1729-2010 (O&M)
Date of decision : 27.03.2025****VINEET KUNDU****... Petitioner****Versus****STATE OF HARYANA & ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Ms. Garima Dikshit, Advocate for
Mr. Vishal Malik, Advocate
for the petitioner.

Mr. Vinay Phogat, Asstt. A.G., Haryana.

None for respondent No.2.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the judgment of acquittal dated 03.11.2009 passed by the Addl. Sessions Judge, (FTC), Karnal.

2. The FIR was registered on 26.10.2008, the judgment of acquittal passed by the Addl. Sessions Judge, (FTC), Karnal is dated 03.11.2009, the revision petition was filed on 21.04.2010 and the matter is being taken up for hearing now after a period of more than 16 years of the registration of the FIR.

3. The prosecution case is that on 26.10.2008 a medical ruqqa was received from the doctor in the Police Station, Assandh regarding the death of Krishan son of Ram Phal resident of village Ballah. On this, Inspector Gorakh Pal along with other Police Officials reached Community Health

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Centre, Assandh for conducting necessary proceedings. Vineet Kundu met him near the mortuary and got recorded his statement to the effect that he hailed from village Ballah, Police Station, Assandh and was an agriculturist. They were two brothers. As they were not having any maternal uncle, therefore, they along with their parents had left their village Bitana, District Sonipat and were residing in village Ballah for the last 20-22 years at the house of their maternal grand parents. His elder brother Krishan Kundu was running a finance business under the name and style of Krishna Kundu Finance for the last two years in Assandh. About one year ago Subhash son of Churia Ram resident of Ward No.1 Assandh had borrowed Rs.25,000/- from his brother Krishan Kundu on interest at the rate of 3% but he had refused to make the repayment thereof despite repeated demands of his brother whenever his brother Krishan Kundu demanded back the said amount Subhash used to threaten to kill him. On 25.10.2008 at about 7/7.30 p.m. Subhash and Krishan Kundu quarreled with each other in Assandh. In the evening, Krishan had told him that Subhash was not making the repayment of his money and had also harassed him at his shop. The next morning at about 7 a.m., Krishan had taken some poisonous substance and on his asking he (Krishan) had told that he had taken some poisonous substance because Subhash had not returned his money and was also harassing him. While he was taking Krishan to Karnal in Car NO.HR-10-0477 for treatment his brother died on the way near village Barota. Therefore, he had taken the dead body of his brother Krishan in the said car for post mortem examination. His

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brother Krishan Kundu committed suicide by consuming some poisonous substance as Subhash had failed to repay the loan to him and had also harassed him on that account. A request for taking necessary action was made.

4. On the basis of the statement, the case under Section 306 Indian Penal Code was registered. The investigation was set in motion. During investigation a suicide note was recovered from the pocket of Krishan which was taken into Police possession vide recovery memo. On 22.10.2008 the complainant produced a pocket diary which was taken into possession by the police vide recovery memo. The suicide note and the pocket diary were sent to FSL, Madhuban for examination. Statements of the witnesses were recorded. Rough Site plan of the place of occurrence was prepared. The post mortem examination on the dead body of deceased Krishan was conducted. Proceedings under section 174 Cr.P.C. were carried out. The accused was arrested.

5. After completion of investigation the accused was sent up to face trial. From the perusal of the report under Section 173 of the Code of Criminal Procedure and other material on file, a prima facie case for the commission of the offence punishable under section 306 of the Indian Penal Code was made out against the accused. Therefore, he was charge sheeted accordingly. He pleaded not guilty to the charge and claimed trial. The case was accordingly fixed for prosecution evidence.

6. In order to substantiate its case, the prosecution examined as



many as 7 witnesses namely Dr. Jai Pal Chahal Medical Officer, CHC, Assandh as PW1, Vineet Kundu son of Ram Phal Singh Kundu as PW2, Kuldeep Singh EASI No.115 posted at Police Station Sadar Karnal as PW3, EHC Dharambir Singh No. 942 posted at Bus Stand Police Post, Karnal as PW4, EIASI Suraj Bhan No. 655, posted Assandh as PW5, as MM EASI Police Station Sub inspector Sube Singh, Madhuban as PW6 and Gorak Pal, Inspector/SHO Police Station Sadar Karnal as PW7. The Public Prosecutor for the State gave up Director FSL, Jagbir Singh and HC Jagbir Singh as unnecessary and after tendering report of SL Ex.P13 closed the prosecution evidence.

7. The gist of the prosecution evidence is as under:-

Dr. Jai Pal Chahal Medical officer, Community health Centre, Assandh was examined as PW1. He tendered his affidavit Ex. P-1/A in prosecution evidence, wherein it is stated that to 26.10.2008 at about 3.40 p.m. he had conducted the post mortem examination on the dead body of Krishan son of Ramphal caste Jat, resident of VPO Bitana now at Ballah aged 30 years, male, identified by Vineet Kumar son of Ramphal and Jagbir sons of Vasta Ram residents of Village and Post Office Ballah. As per the information furnished by the police it was a case of suspected poisoning. He observed as follows:-

	On External Examination
1	A well built male of 5' 4"
2	NI ligature mark was seen on neck and healthy



3	Rigor mortis was present all over the body. Cyanosis present all over the body. Clothes as per Police papers	
4	No bruises seen on body. Bleeding from left nostril was present.	
	Cranium and spinal	
5	Scalp, skull and vertebrae-	
6	Membrances-Brain, Spinal cord-Nil Thorax	
1	Wall, ribs and cartilages	Healthy
2	Pleurae	Do
3	Larynx and Tracheas	Do
4	Right Lung	Healthy and congested sent for chemical examination
5	Left lung	Do
6	Pericardium heart large vessels	Healthy Sample of blood from heart sent for chemical examination
	Abdomen	
1	Pulse	Absent
2	Peritoneum	Healthy
3	Mouth Pharynx and Esophagus	Healthy & congested.
4	Stomach and its contents	Contained air and watery fluid with smell of suspected poisonous material sent for chemical examination
5	Small intestines and their contents	Contained digested food particles sent for chemical examination.
6	Large intestines and their contents	Contains focal matter
7	Liver	Healthy & congested sent for chemical examination
8	Spleen	Do
9	Kidneys	Do
10	Bladder	Contains small out of urine approximately 60 mls
11	Organs of general external and internal	Healthy
	Muscles, bones, joints	
1	Injury	Nil
2	Diseases of Deformity	Nil



3	Fracture	Nil
4	Dislocation	Nil
	Remarks by Medical Officer	
1	Probable time that elapsed	Variable
	a) Between injury and death	Few minutes to few hours.
	Between death and postmortem	Within 24 hours.
	Abstract of chemical examiner’s report handed over to the police.	
1	A well stitched dead body	
2	Original police papers signed by him bearing no.1 to 11.	
3	Wooden box containing Jars of viscera Bearing 12 Seals	
4	Sealed Shirt.	
5	PMR Report	
6	Sample Seal	
7	Sealed Envelope with 5 seals	

He has also proved the copy of the postmortem report Ex.P1 and stated that after examining the FSL report, in his opinion the cause of death in this case was due to endosulfan.

Vineet Kumar, complainant, appeared as PW2 and testified on oath that they were two brothers. The name of his elder brother was Krishan. Originally they were from village Bitana. They had come to village Ballah because they had no maternal uncle to occupy his land. His brother Krishan was running a finance business some two years prior to his death under the name of M/s Krishna Finance. Accused Subhash had borrowed Rs.5000/ from Krishan on interest at the rate of 3% per month but he had failed to return the amount despite demand. When his brother used to demand back the money he used to extend threat of life and harassed him. He further

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deposed that on 25.10.2008 at about 7/7.30 p.m. Subhash had an altercation with his brother Krishan at Assandh. His brother told him in the evening about the altercation. He had also told him that Subhash was continuously harassing and was threatening him to death. On 26.10.2008 at about 7/7.30 a.m. his brother consumed poison. After consuming poison he had told him that he had consumed poison due to the continuous harassment by Subhash and that he was not returning his money. Thereafter, while he was taking his brother Krishan to the Hospital at Karnal in his Car No.HR10-0477 he died in the car due to poisoning. He brought him back to CHC, Assandh. His brother Krishan had committed suicide due to the harassment caused by accused Subhash as he did not return money. The police had come to the hospital and had recorded his statement Ex.P3. The Post mortem on the dead body of his brother was conducted. Suicide note Ex.P4 was recovered from the left pocket of his brother's shirt. He identified the handwriting of his brother in the main suicide note. Suicide note Ex.P4 was in his brother's handwriting. The suicide note was taken into possession by the police vide recovery memo Ex. PW5/A. He had handed over one diary Ex.P7 to the police on 22.11.2008 which was taken into possession by the police vide separate recovery memo Ex. P6.

EASI Kuldeep Singh No.115, police Station, Sadar Karnal appeared as PW3 and stated that on 28.11.2008 while posted in Police Station, Assandh, MMHC Suraj Bhan had handed over to him four parcels to deposit the same in the FSL and the receipt issued by the FSL was handed

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over to the MMHC. He had neither tampered with the samples till those remained in his possession nor had he allowed anyone to tamper with the same.

PW4 EHC Dharambir Singh No. 942 posted at Police Post, Bus Stand, Karnal stated that on 26.10.2008 while posted at Police Station, Assandh, ASI Sunder Singh handed over to him three envelopes containing the special report of this case to deliver the same to the Illaqa Magistrate and higher police officers. The same were delivered by him on the same day.

PW5 EASI Suraj Bhan No. 655 MM EASI, Station, Assandh stated that on Police 26.10.2008 while posted in Police Station, Assandh, Inspector SHO Gorakh Pal Singh had handed over to him one parcel containing the viscera of deceased Krishan, one pocket diary, suicide note, along with the sample seal to deposit the same in the Malkhana. On 28.11.2008 he had handed over the said parcel to EASI Kuldeep Singh to deposit the same in the FSL, Madhuban vide R.C.NO.136. After depositing the same in the FSL, Madhuban, the receipt was handed over to him by EASI Kuldeep Singh on the same day.

Sub Inspector Subey Singh, HAP Madhuban appeared as PW6 and stated that on 22.11.2008 while posted as Sub Inspector, In-charge, Police Post, Ballah, investigation of this case was entrusted to him. Vineet Kundu brother of the deceased Krishan produced one diary Ex. P7, before him which was taken into possession vide memo Ex. P6. He had stated that the said diary had been written by his brother deceased Knishan. The diary

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was comprised of 30 pages. Before taking into possession, the same was converted into a parcel. The parcel was sealed with the seal of SS and the seal after use was handed over to PW Vineet Kundu. On reaching the Police Station, the case property was deposited with MM EASI Police Static, Assandh. He recorded the statement of MM EASI Suraj Bhan and Kuldeep Singh EASI.

Inspector Gorakh Pal, SHO, Police Station Sadar Karnal appeared as PW7 and deposed on oath that on 26.10.2008 while posted as Inspector, SHO, Police Station, Assandh, a ruqqa was received in the Police Station. Thereafter, he reached the mortuary at Community Health Centre, Assandh where Vineet Kumar brother of the deceased Krishan met him outside. He recorded his statement Ex.P3. He made his endorsement Ex.P9 on the said statement and sent the same to the Police station for registration of the case through Head Constable Ram Phal upon which formal FIR Ex. P10 was recorded by Shri Surinder Singh, ASI who made his endorsement Ex. P1 on the ruqqa. He inspected the dead body of Krishan and completed formalities under Section 174 of the Code of Criminal Procedure, vide Ex. P12, From the search of deceased Krishan a suicide note Ex. P4 was recovered. The said suicide note was taken into possession vide memo Ex.P5/A. The recovery memo was witnessed by Vineet Kundu. The statements of Vineet Kundu and Jagbir were recorded. On 2.11.2008 accused Subhash arrested. Thereafter, the investigation was entrusted to ASI Subey Singh. After completion of investigation the challan was prepared by him.



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8. The statement recorded under Section 313 of the Code of Criminal Procedure, the accused denied the allegations against him and pleaded innocence. The accused was afforded opportunity to lead evidence in his defence. However, he did not lead any evidence and the same was closed.

9. Based on the evidence led, accused/respondent No.2 was acquitted by the Court of Addl. Sessions Judge (FTC), Karnal vide judgment dated 03.11.2009.

10. It is the aforementioned judgment of acquittal which is under challenge in the present revision petition.

11. The learned counsel for the complainant/petitioner contends that the the judgment of acquittal is based on conjectures and surmises. The evidence has not been properly appreciated. The suicide note categorically names the accused/respondent. She therefore, contends that the impugned judgment is liable to be set aside.

12. The learned State counsel while supporting the case of the complainant/petitioner contends that the suicide note establishes the guilt of the accused. The witnesses have deposed consistently as to why the deceased had committed suicide. He thus contends that the impugned judgment was liable to be set aside.

13. None has put in appearance on behalf of accused/respondent No.2.

14. I have heard the learned counsel for the parties.



15. Section 306 Indian penal Code deals with abetment of suicide. The said provisions read as follows:

"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."

16. Section 107 IPC defines abetment. A person, abets the doing of a thing when (1) he instigates any person to do that thing, or (2) engages with one or more other persons in any conspiracy for the doing of that thing or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original offence. 'Abetted' in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.

17. In case of abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. The mere fact that the borrower harassed the financier is not enough. 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 out whether the harassment meted out to the victim had in fact induced him to end his 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.

18. Now coming to the facts of the present case, the deceased Krishan allegedly advanced a loan of Rs.25,000/ to accused Subhash. The accused, thereafter refused to pay the said amount and some altercation took place between them. It is further alleged that the accused also threatened to kill the deceased and the deceased, therefore, allegedly committed suicide by taking some poisonous substance due to the harassment meted out to him by the accused. Thus, if for the sake of argument, it is admitted to be correct that the accused had refused to repay the loan deceased Krishan had advanced and then some altercation had taken place, no case for abetment to commit suicide is made out. The deceased had remedy to recover the said amount by the procedure prescribed by law and it does not mean that if the payment had not been made and some altercation took place between them and the deceased committed suicide only on the ground of non-payment of loan

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amount, the same would amount to abetment. Even otherwise, as per the prosecution version the altercation took place on 25.10.2008 and the deceased Krishan committed suicide on 26.10.2008 at 7/7.30 a.m. Thus, there was no direct nexus between the alleged abetment by the accused and the commission of suicide by deceased Krishan and he had sufficient time to calm down even if he was agitated.

19. It is also pertinent to mention here that although the prosecution alleged that the deceased was running a finance company under the name and style of Krishna Kundu Finance and he advanced a loan of Rs.25,000/- to accused Subhash but there is absolutely no document on the file to prove that any finance Company was run by the deceased and he ever advanced any money to the accused. It is alleged that the accused instead of repayment of the said loan amount threatened the deceased to kill him and involve him in a false case but no such document has been placed on file to prove that the deceased was ever involved by the accused in any false case. In the suicide note the deceased had mentioned that he was committing suicide due to the harassment meted out to him by the police and Subhash tailor. From the said suicide note Ex.P4 the name of the police officer and the Police Station cannot be ascertained. The prosecution has not collected any evidence with regard to the nature, conduct and character of the deceased to prove the temperament which could assist the prosecution to prove that the deceased was a prudent man and he was humiliated and harassed to such an extent that he was left with no alternative but to commit suicide. Thus, if the deceased

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himself was of such temperament and reacted abnormally, the accused cannot be held guilty for the abetment to suicide. In fact, there is no evidence of direct or indirect acts of incitement of the commission of suicide. Thus, it cannot be said that the ingredients of Section 306 IPC have been established.

20. In view of the above discussion, I find no merit in the present petition and the same stands dismissed.

27.03.2025

JITESH

**(JASJIT SINGH BEDI)
JUDGE**

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