



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

230

CRA-S-3778-SB-2015
Date of decision: 05.05.2026

CHOTTA SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Sahil Koul, Advocate
for the appellant.

Mr. Mohit Kapoor, Senior DAG, Punjab.

Mr. Gaurav, Advocate for
Mr. Rajbir Singh, Advocate for the respondent(s).

VINOD S. BHARDWAJ, J. (Oral)

The present appeal has been preferred by the complainant against the judgment dated 28.01.2014 passed by the Additional Sessions Judge, Sangrur in Sessions case No. 78 dated 13.09.2010 arising out of FIR No. 153 dated 13.11.2008 registered under Sections 306 and 201 of the IPC at Police Station Dirbha, District Sangrur, whereby the respondent-accused were acquitted.

2. Briefly stated, the prosecution case is that Chhota Singh son of Sadhu Singh submitted an application before the Director General of Police, Punjab alleging therein that his son, namely Happy, had gone to the house of his in-laws situated in Village Samuran, Tehsil Dirba, on 09.08.2006 at about 6:00 P.M. on a motorcycle bearing registration No. PB-11C-9025, but thereafter he did not return home. It was alleged that Kuldeep Kaur, wife of Happy, had contacted him telephonically, whereupon Happy called her back at about 9:00 P.M. and informed that he had safely reached the house of his in-laws and would return on the following morning. It was further alleged that on 10.08.2006 at about 8:00 A.M., Kamla, the mother-in-law of Happy, made a telephone call enquiring as to whether Happy had reached his residence at Village Gajewas, as according to her he had left the in-laws' house at about 11:00 P.M. the previous night. Upon hearing the same, the complainant became apprehensive and deputed Balkar Singh and Bhag Singh to Village Samuran to ascertain the whereabouts of Happy. However, upon reaching there, they found the house of the in-laws locked, while Kamla was sitting in the house of a neighbour. On enquiry, Kamla informed them that Kuldeep Kaur was unwell and had gone to somebody's house. Despite making efforts to locate Happy, no information regarding his whereabouts could be gathered. The complainant thereafter conducted his own enquiries and came to know that Kuldeep Kaur was maintaining illicit relations with one Raj Kumar @ Raju, a photographer resident of Village Roglan. It was alleged that Happy had become an obstacle in their relationship and that both Kuldeep Kaur and Raj Kumar suspectedly conspired to murder him and dispose of his body. It was further alleged that Happy was aware of the said relationship, the same

had resulted in marital discord between him and his wife. The prosecution case further records that Raj Kumar @ Raju used to frequently communicate with Kuldeep Kaur over telephone and that such facts were admitted before the police during the course of investigation.

3. During investigation, the motorcycle belonging to the deceased was recovered from Bakhra Canal on 21.08.2006, following which further investigation was carried out by the police authorities and on completion thereof, final report was filed.

4. On finding a *prima facie* case to be made out charge was framed to which accused pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined the following witnesses:

PW No.	Name & Designation
PW1	Bhag Singh
PW2	ASI Gurjant Singh
PW3	Jagatpreet Singh DSP
PW4	Chotta Singh
PW5	Balkar Singh
PW6	Insp. Gurdev Singh
PW7	HC Varinder Kumar
PW8	Hardev Singh
PW9	Naurang Singh

PW10	Gurjit Singh
PW11	SI Massa Singh
PW12	Ashish Kapoor DSP
PW13	SI Rulda Singh
PW14	ASI Karminder Singh
PW15	ASI Jarnail Singh

6. Thereafter, learned Additional Public Prosecutor closed the prosecution case after tendering copy of DDR Ex. P2 and verification report by the registration authority Ex. PW2/1.

7. The entire incriminating material was put to the respondent-accused persons and their statements were recorded under Section 313 Cr. P.C. The accused persons denied all the allegations levelled against them, pleaded false implication and asserted their innocence. Accused Kuldeep Kaur, in particular, specifically stated that she did not even know Raj Kumar @ Raju and denied having any connection or association with him whatsoever. In defence, the accused examined Darshan Singh son of Saun Singh as DW-1. Thereafter, the defence evidence stood concluded and was accordingly closed.

8. Upon hearing learned counsel for the parties and upon appreciation of the evidence adduced on record, the trial Court came to the conclusion that the prosecution had failed to establish its case beyond reasonable doubt against the respondent-accused persons. It was specifically recorded by the trial Court that the entire prosecution case rested upon

circumstantial evidence and largely on the allegation that Kuldeep Kaur was maintaining illicit relations with Raj Kumar @ Raju. The Court observed that the evidence led by the complainant was, at best, founded upon suspicion and assumption and that there was no connecting evidence on record to substantiate or establish the aforesaid allegations. The trial Court further noticed that although the respondents had been charged under Section 306 IPC, there was no material available on record which could satisfy the essential ingredients constituting “abetment” within the meaning of Section 107 IPC to attract the offence punishable under Section 306 IPC. It was also observed that even the dead body of the deceased had not been recovered and, therefore, there was no definitive basis to conclusively presume or establish his death. The Court further held that even assuming, for the sake of argument, that the deceased had died, the actual cause of death could still not be ascertained, in the absence of a postmortem examination report and other foundational evidence necessary to establish the nature and circumstances of death.

9. The trial Court thereafter reiterated the settled principles governing cases based on circumstantial evidence and observed that where an inference of guilt is to be drawn against an accused person, the incriminating circumstances relied upon by the prosecution must be cogently and firmly established. Such circumstances must form a complete and unbroken chain which, when taken cumulatively, should unerringly point towards the guilt of the accused and rule out every hypothesis consistent with innocence, leading only to the conclusion that in all human probability the offence had been committed by the accused persons and none else.

10. Applying the aforesaid settled test to the facts of the present case, the trial Court held that the prosecution failed to satisfy the said standard and consequently the respondent-accused persons were acquitted of the charges levelled against them.

11. Learned counsel appearing on behalf of the petitioner contended that the respondent-accused persons had failed to discharge the burden cast upon them to explain the circumstances demonstrating their non-involvement in the occurrence in question. It was argued that the respondents had failed to establish that they had neither caused the death of Happy nor instigated or abetted him in any manner. Placing reliance upon Section 106 of the Indian Evidence Act, learned counsel submitted that since the relevant facts and circumstances were especially within the knowledge of the respondent-accused persons, the burden squarely lay upon them to furnish a plausible explanation regarding their claimed non-involvement, which they had failed to do.

12. Learned counsel appearing on behalf of the respondent-accused persons, on the other hand, contended that the findings and reasons recorded by the learned trial Court are sound, well-reasoned and founded upon proper appreciation of the evidence adduced on record as well as the settled legal principles and precedents on the subject. It is submitted that during the course of investigation, the police had only recovered the motorcycle belonging to the deceased from near the canal; however, the dead body of the deceased had never been recovered. Learned counsel thus submitted that in the absence of recovery of the dead body and any cogent evidence establishing either the death of the deceased or the involvement of the respondents therein, the

prosecution case remained founded upon mere suspicion and conjectures, which could not form the basis for conviction.

13. Learned counsel appearing on behalf of the respondent-accused persons further contended that the appellant as well as the prosecution merely seek to draw an inference that deceased Happy may have committed suicide; however, such a conclusion cannot be arrived at on the basis of conjectures or surmises and in the absence of cogent and reliable evidence. It is submitted that the prosecution is under a bounden obligation to first establish the factum of death of Happy and further to prove whether such death was homicidal or suicidal in nature and only thereafter the ingredients of Section 306 IPC read with Section 107 IPC are to be ascertained. Learned counsel contended that unless the foundational fact regarding the suicidal death of the deceased is conclusively established, the question of invoking or proving an offence under Section 306 IPC relating to abetment of suicide would not even arise.

14. It is further submitted that the reliance on Section 106 of the Indian Evidence Act is misconceived. The reliance on the above provision would arise only where the prosecution had firstly placed on record cogent, credible and unflinching evidence pointing towards the commission of the offence and the potential involvement of the accused persons therein. By way of illustration, learned counsel submitted that had the dead body of deceased Happy been recovered from the premises or exclusive possession of the respondent-accused persons, a corresponding burden may have arisen upon them to explain the circumstances under which the body came to be found there. However, in the present case, no such incriminating circumstance

existed against the respondents. There is nothing on record to show that there is an exclusive fact or circumstance to their knowledge alone.

15. Learned counsel further submitted that the entire prosecution case rested solely upon an uncorroborated statement to the effect that Happy had reached the house of his in-laws and had telephonically informed his family at about 9:00 P.M. that he would return the next morning. It was pointed out that Kamla the mother-in-law of Happy had herself telephonically called the complainant's family on the following morning to enquire whether Happy had returned home. The said aspect too could not be ignored. It was thus contended that the findings recorded by the trial Court were based upon a proper and cogent appreciation of the evidence available on record and that no patent illegality, perversity or error apparent on the face of the record existed in the impugned judgment so as to warrant interference by this Court.

16. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present petition.

17. Upon consideration of the matter, the following circumstances emerge from the undisputed facts of the case:-

- i) That the dead body of Happy Singh has admittedly not been recovered till date and consequently the very factum of his death remains shrouded in uncertainty, making it doubtful as to whether he is actually dead or had otherwise gone missing under unexplained circumstances. There is also nothing on record to show if the death was accidental, homicidal or suicidal.

- ii) That there is no evidence available on record to suggest that the relationship inter se between the deceased Happy Singh and his wife Kuldeep Kaur was strained or marred by any serious marital discord as may reasonably give rise to an inference leading towards commission of suicide.
- iii) There is nothing on record on the basis whereof it may be assumed that any act, conduct or incident had occurred in the house of the respondent-accused persons which may satisfy the essential ingredients constituting “abetment” within the meaning of Section 107 IPC or amount to instigation for the commission of suicide punishable under Section 306 IPC.
- iv) That the entire motive sought to be attributed to the respondent-accused persons rests solely upon the allegation that Kuldeep Kaur was maintaining an illicit relationship with one Raj Kumar @ Raju; however, the said allegation is founded merely upon hearsay assertions and remains wholly unsubstantiated by any independent or corroborative evidence available on record.
- v) That the prosecution case is based entirely upon circumstantial evidence; however, the circumstances relied upon by the prosecution neither form a complete and unbroken chain nor do they unerringly point towards the guilt of the respondent-accused persons so as to irresistibly establish that the alleged offence had been committed in the manner projected by the prosecution.

18. In the said background, it would be essential to make a reference also to the statutory provision under consideration herein:-

Indian Penal Code, 1860***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.

Illustration

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.*

Evidence Act:-

106. Burden of proving fact especially within knowledge.

-- When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations (a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him. (b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

19. It is evident from the above that for an abetment, the person accused should have:-

- i) Instigated any person to do that thing; or
- ii) Intentionally and, by act or illegal omission, the doing of that thing, or
- iii) Engages with other person in conspiracy for doing of that thing. Engages

20. The word 'Instigate' is not defined in I.P.C. It was considered by the Supreme Court in the matter of "*Ramesh Kumar versus State of Chattisgarh*" reported as (2001) 9 SCC 618 and held that "Instigation is to goad, urge forward, provoke, incite or encourage to do an or act". Hence, the persons alleged to instigate has to provoke the other into doing of the act by another.

21. Abetment by conspiracy involves more than one person while aiding shows an active role into such provocation.

22. While Section 113-A of Evidence Act raises a statutory presumption against husband and members of his family on the wife committing suicide, under the circumstances mentioned therein, however, there is no such presumption against the wife.

23. Besides, it also needs to seen as to whether a mere suspicion of illicit relationship is sufficient to assume abetment. In my considered opinion, mere existence of an illicit relationship may not be sufficient to constitute abetment. In the present case, even that relationship has not been established.

There can be no presumption of an illicit relationship and it, again is a fact required to be proved.

24. Besides, merely because the deceased came to know of an illicit relationship of his wife and he committed suicide on such awareness would not lead to an assumption of 'abetment' against the wife. Merely because a fact is disturbing or depressing for an individual, would not be sufficient to hold a charge against the spouse till such time that the illicit relationship is used as an instrument of inciting suicide i.e. the requisite *mens-rea* behind the relationship, its continuance and its disclosure, in the facts of a specific case. Adverting to Section 106 of the Evidence Act. The same is in the nature of an exception to the burden of proof and the general rule fastening the onus on the prosecution or a party pleading a fact. In circumstances where the fact/allegation lies particularly within knowledge of that party, the said party must prove it. The knowledge has to be peculiar and rather exclusively as to the circumstances/fact(s).

25. There exists no such fact in the present case except that deceased had visited the house of his in laws. The rest of the story is a version and cross-version. While the petitioner alleges that his son told him to start in the morning, the mother-in-law told that he had left at night. The Motor-Cycle was found at some third place i.e. near the Canal. There may be innumerable possibilities in between other than an unescapable conclusion of guilt against the respondents only.

26. I am of the opinion that the facts and circumstances emerging in the present case do not leave scope for this Court to arrive at a definitive conclusion regarding the very factum of death of Happy Singh. Admittedly,

the dead body of the said person has not been recovered and there exists no direct or scientific evidence on record conclusively establishing either his death or the nature and cause thereof. In the absence of such foundational facts, any assumption regarding his demise would rest purely upon conjectures and surmises, which may not be sufficient to constitute the basis for fastening criminal liability upon the respondent-accused persons.

27. I am further of the considered opinion that the material available on record falls woefully short of satisfying the essential ingredients constituting an offence punishable under Section 306 IPC. There is no cogent evidence to indicate any act of instigation, intentional aid, provocation or active participation on the part of the respondent-accused persons which may reasonably be construed as abetment within the meaning of Section 107 IPC. The prosecution has failed to establish any proximate or live link between the alleged conduct of the accused persons and the purported act of suicide sought to be inferred by it.

28. It is a settled and time-honoured principle of criminal jurisprudence that suspicion, however grave or compelling it may appear, can never take the place of legal proof. Criminal courts are required to adjudicate upon evidence and not upon assumptions or moral conjectures. The burden squarely lies upon the prosecution to establish the charges levelled against the accused persons beyond reasonable doubt by leading cogent, reliable and legally admissible evidence. Until such time as the prosecution succeeds in placing on record a complete chain of incriminating circumstances which unerringly points only towards the guilt of the accused and excludes every

other possible hypothesis consistent with innocence, no presumption of culpability or criminal involvement can be drawn against an accused person.

29. In the present case, the circumstances relied upon by the prosecution are neither conclusive in nature nor do they form a complete and unbroken chain capable of leading to the sole irresistible conclusion that the offence had been committed by the respondent-accused persons. The findings recorded by the learned trial Court, therefore, cannot be said to suffer from any perversity or patent illegality warranting interference by this Court.

30. Since the conclusions arrived at by the trial Court constitute a plausible and reasonable view emerging from the evidence adduced before it, this Court, while exercising appellate jurisdiction, would not substitute its own opinion merely because another possible view may also be capable of being formed on the basis of the same material on record. It is a settled principle of criminal jurisprudence that where two views are reasonably possible from the evidence available and the trial Court has adopted one such permissible view leading to acquittal, the appellate Court ought not to interfere lightly with the said findings.

31. The power of the appellate Court to reappraise evidence undoubtedly exists; however, such power is required to be exercised with circumspection and restraint, particularly in cases where the order under challenge is one of acquittal. Interference would be justified only where the findings recorded by the trial Court are manifestly perverse, wholly contrary to the evidence on record, based upon misreading of material evidence or suffer from such grave errors in appreciation of facts and law that the conclusions drawn become unsustainable in the eyes of law. Mere possibility

of a different interpretation or an alternative view would not, by itself, furnish a valid ground for overturning a well-reasoned judgment of acquittal.

32. In the present case, this Court does not find that the appreciation of evidence undertaken by the trial Court suffers from any patent illegality, perversity or miscarriage of justice warranting interference. The conclusions drawn by the trial Court are founded upon a proper evaluation of the material available on record and cannot be said to be either arbitrary or implausible. Consequently, substitution of the opinion formed by the learned trial Court with another possible view by this Court would not be justified in the facts and circumstances of the present case.

33. Finding no merit in the present appeal, the same is **dismissed**.

MAY 05, 2026
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No