

CRA-AS No.248 of 2023 (O&M)

2024:PHHC:022067

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-AS No.248 of 2023 (O&M)

Date of Decision: 08.02.2024

KARAMJEET KAUR

.....Appellant

Vs

STATE OF PUNJAB AND OTHERS

...Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. J.K. Singla, Advocate
for the appellant.

Mr. Gurlal Singh Dhillon, Asstt. A.G., Punjab.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to the Judgment dated 02.03.2023 passed by the Sessions Judge, Mansa (hereinafter referred to as "Trial Court") acquitting the private respondents in a case arising out of FIR No.235 dated 11.10.2020 registered under Sections 306 & 34 of IPC at Police Station Bhikhi, District Mansa.

[2]. Brief facts of the case are that marriage of Respondent No.3 i.e. XXXXXXXXXX and Satnam Singh (deceased), son of appellant was solemnized on 28.11.2019. Marital relation between the couple were not good due to alleged cruel behavior on the part of deceased husband who demanded unnatural carnal intercourse from wife to which she resisted and even got an FIR lodged in this regard against her husband as FIR No.211 dated 11.09.2020 under Sections 377, 323, 506 of IPC at Police Station Bhikhi, District Mansa. Thereafter, on fateful day of 01.10.2020 Satnam Singh consumed some poisonous substance and died as a

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result thereof on 10.10.2020, resulting into registration of the FIR in question against the private respondents.

[3]. Upon trial, the private respondents were acquitted of the charges by the Trial Court vide order dated 02.03.2023, while holding that the instigation of the deceased to commit suicide by the private respondents was not proved on record.

[4.1]. Impugning the said order dated 02.03.2023, learned Counsel for the appellant submits that it was due to actions/instigation on part of private respondents and the false implication in FIR No.211 dated 11.09.2020, the son of the appellant deceased Satnam Singh, consumed poisonous substance and died as a result thereof and the Trial Court wrongly acquitted the private respondents in the present case having failed to appreciate the fact that Satnam Singh was forced to take such a drastic step due to utter shame and embarrassment caused to him as a result of accusations levelled in FIR No.211 dated 11.09.2020 (supra).

[4.2]. Learned counsel further submits that Satnam Singh (deceased) had a stable job as a Punjab Police Constable and there was no apparent reason for him to suddenly take his life other than being allegedly pressurized at the behest of respondents for gold and money besides, his false implication in FIR No.211 of 11.09.2020. He contends that Trial Court has wrongly confused the allegations levelled against the deceased (Satnam Singh) the aforesaid FIR No.211 dated 11.09.2020 while deciding the present case and mistakenly treated respondent no 3 as a victim of torture at the hands of her husband. He further submits that the Court below erred in treating the drastic step taken by the deceased as a result of his own guilt over his condemnable actions/torture towards his wife.

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[5]. Learned State Counsel on the other hand vehemently opposes the prayer made by learned counsel for the appellant and while supporting the judgment passed by the Trial Court submits that the Trial Court rightfully appreciated the evidence brought before it and after careful consideration of facts and circumstances of the present case concluded that respondent No.3 is far away from being an instigator.

[6]. I have heard the counsel for both the parties and gone through the paper-book. I am unable to find substance in the submissions made on behalf of the appellant.

[7]. A perusal of record shows that in the present case the primary question for determination is that whether the deceased committed suicide due to instigation/abetment on part of the respondents and whether lodging of a complaint/FIR against deceased by respondent No.3, could be construed as an instigation/abetment under the ambit of Sections 306 and 107 of IPC.

Before delving into the question of alleged abetment at the hands of private respondents, let us examine Section 306 and 107 of IPC which are reproduced as under: -

“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 of which may extend to ten years, and shall also be liable to fine.

Section 107 – Abetment of a Thing -A person abets the doing of a thing, who—

*Firstly—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.

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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

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

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.”

A conjoint and meaningful reading of the aforementioned statutory provisions make it reasonably clear that in order to bring home penal consequences of Section 306 there should be positive evidence on record to prove that the accused, by way of his conduct or spoken words, overtly or covertly, actually aided and abetted or instigated the deceased in such a manner that it leaves no other option for the deceased but to commit suicide. And also, to ascertain that whether there was any act of instigation it has to be gathered from the circumstances of the case which clearly portrays the guilty mind of the accused conspiring to instigate the deceased to the verge of committing suicide.

[8]. In the present case, respondent No.3 upon being subjected to repeated acts of cruelty at the hands of her husband she still remained hopeful that her husband would mend his ways and tried to salvage her marriage for a period of more than 11 months post her marriage on 28.11.2019. But on 08.09.2020, when her husband crossed his limits, gave beatings to her on refusal to comply with request on unnatural carnal intercourse while she was pregnant, respondent No.3

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lost her patience and left her matrimonial home. On the same day she got her medical examination conducted which clearly mentioned injuries on her ear, abdomen and mandibular area. The relevant part of medical examination conducted by Dr Ritika Maurya on 08.09.2020 as recorded in Trial court's judgment is reproduced as under: -

“Following injuries were noticed on her person:-

- 1. Complained of pain in left ear. Redness over left ear pinna seen. Kept under observation, ENT opinion.*
- 2. Reddish bruise of 2.5 cm x 1 cm over left side of abdomen lateral aspect. Kept under observation, Surgeon opinion.*
- 3. Complained of pain in lower abdomen. No external injury mark over lower mid abdomen seen. Kept under observation, gynae opinion.*
- 4. Complained of pain in left mandibular area. Redness present.
Kept under observation, Surgeon opinion.”*

[9]. The Medical report dated 27.10.2020, furnished by one Dr. Baljit Kaur, relied upon by learned counsel for appellant which records no sign of unnatural offence or unnatural assault upon respondent no 3 has rightly been denounced by the Trial court as the medical examination by Dr Baljit Kaur was done after a lapse of more than one month of the incident. Relevant part of Trial Court's judgment is reproduced as under: -

“The reason being that Khajan Kaur had complained of the incident of 08.09.2020. Her MLR recorded on 08.09.2020 depicted 4 injuries on her person. If the opinion of Dr. Baljit Kaur was sought by SI Gurpreet Kaur on 27.10.2020, then of course it was not possible for the doctor to have detected any sign of unnatural offence or sexual assault after an elapse of more than one month of the occurrence.”

[10]. Now coming to the question of alleged instigation/abetment of suicide by the private respondents, in the humble opinion of this court, they cannot be said

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to be actively conniving to force the deceased to commit suicide on 10.10.2020 as respondent No.3 left her matrimonial home on 08.09.2020 and there was lack of evidence to the effect that she ever remained in touch with deceased thereafter.

[11]. The contention raised by learned counsel for the appellant that deceased committed suicide due to his false implication in FIR No.211 of 11.09.2020 cannot by any means said to be an instigation/abetment on the part of respondent no 3. Trial Court while dealing with this question has rightly held that when the battered wife took recourse to legal action against her husband then the deceased husband being a police official himself realized that he will have to face the consequences of his degenerate actions, took this drastic step and not due to his wife's recourse to legal action. Also, it cannot be accepted that when a person suffering from cruelty makes a complaint and later on the alleged accused commits suicide then the victim becomes responsible for the extreme step. Even the Hon'ble Supreme Court while expounding the law under Section 306 of IPC in case of **Randhir Singh vs State of Punjab, (2004) 13 SCC 129** held that for an offence of abetment for suicide active mental involvement of instigation is a must factor.

Relevant paragraphs are reproduced as under: -

“12. Abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. In cases of conspiracy also it would involve that mental process of entering into conspiracy for the doing of that thing. More active role which can be described as instigating or aiding the doing of a thing is required before a person can be said to be abetting the commission of offence under Section 306 IPC.

13. In State of W.B. v. Orilal Jaiswal [State of W.B. v.Orilal Jaiswal, (1994) 1 SCC 73 : 1994 SCC (Cri)107], the Hon'ble Supreme Court has observed that the courts 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 whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it

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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 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.”

[12]. The last contention raised by Id Counsel for appellant to discredit the case of respondents that respondent no 3 at first filed a false complaint under Section 498-A, 323, 406, 34 of IPC and later chose not to prosecute the same, also does not hold any weight. For lack of evidence to the contrary, the reason of respondent No.3 for not choosing to appear in that complaint case might infer that she intends to go forward in life and does not want to press any kind of litigation which may re-agitate her mental trauma.

[13]. In view of the discussion made hereinabove, finding no illegality or perversity in the impugned Judgment dated 02.03.2023 passed by the Sessions Judge, Mansa, the present appeal is dismissed.

February 08, 2024

Atik

(HARKESH MANUJA)
JUDGEWhether speaking/reasoned
Whether reportableYes/No
Yes/No