

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

**1. Crl. Revn No. 1465 of 2011 (O&M)**

**Varinder Kumar**

**.....Petitioner**

**versus**

**State of Punjab**

**...Respondents**

**2. Crl. Revn No. 1759 of 2011 (O&M)**

**Neelam Rani and others**

**.....Petitioner**

**versus**

**State of Punjab**

**...Respondents**

**Date of decision : 31.08.2012**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Rajiv Joshi, Advocate  
for the petitioner (s)

Ms. Gagan Mohini, AAG, Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest? Yes

**RITU BAHRI , J.**

This order of mine shall dispose of Crl. Revn No. 1465 of 2011 and Crl. Revn No. 1759 of 2011 as they are arising out of the same F.I.R bearing No. 213 dated 20.09.2010 u/s 306/34 IPC, registered

at Police Station Maqsudan, Jalandhar. However, the facts are being taken from Crl. Revn No. 1465 of 2011.

The present criminal revision petition is against the order dated 10.06.2011 passed by the learned Additional Sessions Judge, Jalandhar whereby charges have been framed under Section 306 IPC against the petitioners.

Brief facts of the case are that the above said F.I.R was registered on the suicide note written by Rajinder Kumar @ Rajinder Kumar @ Raja alleging therein that Rajinder Kumar @ Raja was not having cordial relations with his wife Meenu, Hans Raj (father-in-law), Neelam Rani (sister-in-law) and Varinder Kumar @ Sonu (brother-in-law). It is alleged that Sonu was threatening Rajinder Kumar @ Raja and due to that he felt helpless. Before committing suicide, Rajinder Kumar @ Raja had applied to go to Saudi Arab but the passport authorities at Jalandhar did not give him passport. He used to go to passport officer everyday as they used to call him but did not tell him anything. After being harassed by the persons of passport office, he committed suicide. He met the officer of passport office but he too did not give him any answer. The investigation was carried out by ASI Bikram Singh (P-2) and as per report under Section of the Code of Criminal Procedure (for short 'the Code'), it was submitted that ASI

Bikram Singh reached the spot on receiving an information that Rajinder Kumar alias Rajinder Kumar @ Raja is hanging from the ceiling fan with the "chunni" in his room. Thereafter, ASI Bikram Singh along with Mulakh Raj 1951 HC Balbir Singh 1159 PHG Surinder Pal 2705 reached the spot and found a suicide note of Rajinder Kumar @ Raja near the bed. Thereafter, the suicide note of the deceased along with other papers of writings diary and signatures were taken in a sealed envelope and the same was submitted to FSL Chandigarh. Subsequently, Meenu (wife of the deceased) , Hans Raj (father-in-law), Neelam Rani (sister-in-law) and Sonu (brother-in-law) were arrested after making them join the investigation. A challan was presented on 14.02.2011. Statement of Jit Ram (father of deceased) was also recorded (P-3) who stated that Rajinder Kumar @ Raja was staying with his wife and children separately. He further stated that Meena Kumari alias Meenu (wife of Rajinder Kumar @ Raja) had gone to her parental house from quite some time. On 19.09.2010, Rajinder Kumar @ Raja was alone in the house and told his father that his in-laws family were harassing him lot in which his wife, brother-in-law and his wife, father-in-law were included. They were compelling him to die. Rajinder Kumar @ Raja had earlier quarreled with his wife and her in-laws used to call him with bad names threaten him to kill. Many times the

compromise was effected, Meenu used to stay with her in-laws family and many a times used to stay in her parental house. On 20.09.2010, Rajinder Kumar @ Raja did not wake up and his Son Surinder Kumar told him that he called up many times on his phone but Rajinder Kumar @ Raja did not wake up. Thereafter, they opened the door from behind and found the dead body of Rajinder Kumar @ Raja was hanging with the fan besides his bed aside. Sarpanch of the village was then called who came to the spot and called the police. The police released the dead body of Rajinder Kumar @ Raja from the fan and recovered a notice hand written by Rajinder Kumar @ Raja. Rajinder Kumar @ Raja was not having cordial relations with his wife Meenu, Hans Raj (father-in-law), Neelam Rani (sister-in-law) and Sonu (brother-in-law) due to which he committed suicide.

Statement of Kanshi Ram Kaler, Sarpanch was also recorded u/s 161 of the Code. As per his statement, he stated that on a mobile call from Mohalla Daddu Patti that the dead body of Rajinder Kumar @ Raja was hanging from the spot, he reached the spot and told the police about the death of Rajinder Kumar @ Raja. After some time police reached the spot and released the dead body from the fan in his presence and in the presence of Jit Ram. Besides the bed was the suicide note hand written and upon search of the room a diary,

walkman and some other written papers were recovered by the police in front of him. Thereafter, the police sent the body for post mortem in Civil Hospital. He further stated that Rajinder Kumar @ Raja was having un-cordial relations with his in-laws even earlier and once or twice the compromise had happened in his presence. Rajinder Kumar @ Raja was quite unhappy with his in-laws family as they used to harass him. Rajinder Kumar @ Raja has committed suicide after being fed up from his in-laws family.

Vide order dated 10.06.2011, the Additional Sessions Judge, Jalandhar has framed the charges under Section 306 IPC against wife Meenu, Hans Raj (father-in-law), Neelam Rani (sister-in-law) and Sonu (brother-in-law).

Learned counsel for the petitioners sought quashing of this order on the ground that as per the suicide note there are no direct allegations that the petitioners had instigated or abetted Rajinder Kumar @ Raja to commit suicide. The allegations against the in-laws family of Rajinder Kumar @ Raja are general in nature. It has further been argued by learned counsel that a specific role has been attributed to the Passport authority who had not issued him passport despite the fact that he had visited the passport authorities many times. Reference has been made to the harassment caused by the

passport office. From the reading of the suicide note, one thing is clear that Rajinder Kumar @ Raja did not have cordial relations with his in-laws family but the contents of the suicide note did not make out a case of abetment as contemplated under Section 107 IPC to the extent that the in-laws had instigated Rajinder Kumar @ Raja to commit suicide. A close reading of the suicide note on the other hand makes reference to the fact that he had applied for the passport to go to Saudi Arab and the authority did not give him passport. He had visited the passport everyday and felt harassed by the officers of the passport office. The relationship between Rajinder Kumar @ Raja with his in-laws family was not cordial but it was not the immediate cause for Rajinder Kumar @ Raja to commit suicide. It is nowhere mentioned in the suicide note of Rajinder Kumar @ Raja that his in laws family had instigated him or threatened him before he committed suicide on 20.09.2010. As per the statement given by the father of Rajinder Kumar @ Raja Ram, it has been submitted that Meenu (wife of Rajinder Kumar @ Raja) had gone to her parental house for quite some time and on the date Rajinder Kumar @ Raja committed suicide, he was alone in the house since his wife along with children were not present. The allegation that her in-laws family had instigated **Rajinder Kumar @ Raja** before he committed suicide, so as to make out an

offence under Section 306 IPC. As far as the Virender Kumar @ Sonu is concerned since he was not residing or he had not visited the deceased much before he committed suicide, the allegations that he had abetted him to commit suicide did not carry any weight.

In this context, learned counsel for the petitioners has referred to a judgment passed by Hon'ble the Supreme Court in a case of **Sohan Raj Sharma vs. State of Haryana 2008 AIR SCW 3202** wherein the Supreme court while examining the facts of the case where the husband had been facing charge under Section 306 IPC as his wife had committed suicide and as per her suicide notice, she described her husband as sexual pervert. It was stated that the husband was impotent and was trying to defame her. She had clearly mentioned that she wanted to end his life. She further stated in her suicide note that she desires to kill the husband along with his two children. The details of the suicide note reads as under:-

*"I desired to kill you alongwith us but no, if you have any sense of shame you will die as a result of the sequence of events. But it do not make any difference for shameless person because these abuses will sound as correct if you realize your capacity. You have not spent even eight days in a period of eight years in peace with me. You yourself are*

*responsible for death of these children. Flowers had been prayed for from the deities of your family regarding whom you disclosed "they are not mine they are with me from my friend. (girl friend) on, you, the condemned the day children will be born as a result of co-habitation of a woman with woman, a woman will stop giving birth to man like you."*

Learned has referred to the case of ***Mahinder Singh vs. State of M.P (1995 AIR SCW 4570)*** wherein it has been held that mere fact that the husband treated the deceased-wife with cruelty is not enough to come to a conclusion that there was abetment of suicide to make out an offence under Section 306 IPC. The order of the High Court convicted the accused was set aside as the ingredients of Section 306 IPC have not been established.

Reliance has been placed on the judgment of Hon'ble the Supreme Court in a case of ***M. Mohan vs. State represented by the Deputy Superintendent of Police, 2011 3 SCC 626*** wherein Hon'ble the Supreme Court had an occasion to examine a case where High Court had declined to quash the proceedings under Section 306 IPC. The wife had committed a suicide. She alleged that she had been asked to bring a car from her family members. She along with her



children were deprived to use the family car of the in-laws family to go to a theme park. She was denied to use of the said family car on 14.01.2005 and she committed suicide on 18.01.2005. It was held that there was no proximate link between the incident of 14.01.2005 when the deceased was denied permission to use the Qualis car with the factum of suicide which had taken place on 18.01.2005. Undoubtedly, the deceased had died because of hanging. The deceased was hypersensitive to ordinary petulance, discord and differences which happen in out day-to-day life. In a joint family, instances of this kind are not very uncommon. The appellants are not even remotely connected with the offence under Section 306 IPC. Hon'ble the Supreme Court considered the law laid down in ***R.P. Kapur vs. State of Punjab, AIR 1960 SC 866, Nagawwa vs. Veeranna Shivalingappa Konjalgi, 1976 3 SCC 736, State of Karnataka vs. L. Muniswamy 1977 2 SCC 699, Madhu Limaye vs. State of Maharashtra, 1977 4 SCC 551 and Madhavrao Jiwajirao Scindia vs. Sambhajirao Chandrojirao Angre, 1988 1 SCC 692,***

The aforesaid issue has been dealt by the recent judgments of Hon'ble the Supreme Court in the cases of ***Zandu Pharmaceutical Works Ltd. vs. Mohd Sharaful Haque, 2005 1 SCC 122, Devendra vs. State of U.P., 2009 7 SCC 495 and State of A.P vs. Gourishetty***

**Mahesh, 2010 1 11 SCC 226** where Hon'ble the Supreme Court has held that if the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, the High Court by exercising the power under Section 482 of the Court can quash the proceedings. In the case of **M. Mohan (supra)** where the deceased wife had been denied to use the family care and was told to bring a car from his family by her in-laws, no offence under Section 306 IPC was made out. The deceased treated was a hypersensitive person and the appellants were not found remotely connected with the offence for which they have been charged to face the trial. The incident had taken place on 14.01.2005 and she had committed suicide on 18.01.2005. The charges framed against the appellants under Section 306 IPC were quashed by Hon'ble the Supreme Court.

In **Sanju alias Sanjay Singh Sengar vs. State of M.P., 2002 5 SCC 371**, Hon'ble the Supreme Court has held that a quarrel had taken place between appellant and deceased in which appellant was said to have told the deceased to "go and die". Deceased was found dead two days later. It was held that suicide was not proximate to the quarrel though the deceased was named in the suicide note.

Hence suicide was not the direct result of the quarrel when the appellant used abusive language and told the deceased to go and die. Even though the appellant was named specifically in the suicide note, the proceedings under Section 306 IPC were quashed. On the same issue, Hon'ble the Supreme Court has passed another judgment in a case of ***Bhagwan Das vs. Kartar Singh and others, 2007 11 SCC 205*** wherein it has been held that mere harassment of wife by her husband or in-laws, due to some dispute and differences without anything more, pursuant to which if wife commits suicide, it will not attract S. 306 read with Section 107 IPC.

In a case of ***S.S. Cheena vs. Vijay Kumar Mahajan and another, 2010 (12) SCC 190***, Hon'ble the Supreme Court had an occasion to examine a case under Section 306 IPC where deceased was a University student. A fellow student filed a complaint against the deceased that deceased had stolen his mobile telephone. Enquiry was entrusted to the accused who was a Security Officer. Deceased committed suicide and charge against accused that deceased committed suicide due to harassment caused by the accused. Charges were quashed and it was held that conviction merely on basis of allegation of harassment of deceased is unsustainable in law.

Learned State counsel, on the other hand has argued that

after framing of the charge , the petitioners are at liberty to take all the pleas before the trial Court. A suicide note clearly states that he was constantly harassed by her in-laws family . He had even applied for the passport to go to Saudi Arab. Due to his unhappy family life, he had committed suicide. Statement of father of the deceased as well as of Sarpanch of the village has also been recorded. Both in their statements have submitted that Rajinder Kumar @ Raja (deceased) has uncordial relations with his in-laws family. The compromise was also effected in the presence of Sarpanch but he was quite unhappy with his in-laws family as they used to harass him.

I have heard learned counsel for the parties and has gone through the record.

`Abetment of a thing' has been defined under section 107 of the Code, which reads as under:-

*"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 places in pursuance of that conspiracy, and in order to the doing of that thing; or Thirdly-Intentionally aides, by any act or illegal omission, the doing of that thing. Explanation 2 which has been inserted along with section 107 reads as under:-*

*"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 facilitate the commission thereof, is said to aid the doing of that act."*

In the facts of the present case, as per the suicide note, the deceased was having uncordial relations with his in-laws family. He felt harassed and in that background, he had applied for the passport to go to Saudi Arab. As per explanation 2 of Section 107, the Court has to examine before he committed suicide nothing was done by the accused nor facilitate the commission of that act or said something to him. Since the relations were not cordial with his in-laws family as per the suicide note, it had to be a case of committing an act jointly by her wife and her in-laws family members. As per the statement given by Jit Ram, the wife of deceased Rajinder Kumar @ Raja was staying in her parental house for quite sometime. On the date of committing suicide on 20.09.2010, Rajinder Kumar @ Raja was alone at home. This fact has been stated by Sarpanch of the village in his statement. Sarpanch was not aware of the fact that he had approached the passport office for issuance of passport and was being harassed by the passport office. As per the statement given by ASI Bikram Singh, Investigating Officer, he stated that he investigated from the passport office and they too did not given him any answer. In cross examination

while appearing as P.W.4, he stated that after going through the suicide note, no fault was found by him of any of the employee of the Passport Office. He has further submitted that parents of the deceased had been giving complaint against deceased that he was very violent and had been hitting them. However, he did not investigate as to whether with home, deceased had a talk on telephone prior to his death.

As per Section 107 IPC, there is no such Act which instigated him to commit suicide. Had there been any instigation before he committed suicide by the in-laws family, the circumstances could have been different. Apart from being harassed by her in-laws family, the deceased in his suicide note has referred to the harassment caused by the officer of the passport office. The Investigation carried out by the Police with the passport office is that no one in that office was responsible and therefore no fault with the investigation can be found.

In ***M. Mohan case (supra)***, the Supreme Court has held abetment involves mental process of instigating, intentionally aiding a person in doing of a thing. There should be a clear mens rea to commit offence under Section 306 IPC. It requires commission of direct or active act by accused which lead deceased to commit suicide

seeing no other option and such act must be intended to push victim into a position that he commits suicide.

***In Sohan Raj Sharma's case (supra)***, Hon'ble the Supreme Court has examined a suicide note left by the deceased-wife where she had poisoned her two children and thereafter committed suicide levelling allegation against her husband that her husband is a sexual pervert. Reference has been made to a judgment of ***Mahinder Singh's case (supra)***. In paragraph 10 of the judgment, while examining Section 107 IPC, it has been held as under:-

*10. Section 107 IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in the Act as an offence. 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."*

The conviction was set aside by holding that the husband had not committed an offence under Section 306 IPC and had not instigated his wife to commit a suicide as per Section 107 IPC.

In ***Sanju alias Sanjay Singh Sengar's case (supra)***, it was a case where the appellant (brother-in-law) during quarrel had told deceased (sister's husband) to go and die, it was held that the suicide was not a direct result of that quarrel despite the fact that the accused had harassed and used abusive language and told the deceased to go and die. In this case, the appellant was charged with having abetted commission of suicide by his brother-in-law (sister's husband). The prosecution story was that there were strained relations between the deceased and his wife who at the material time was staying with the appellant. On 25.07.1998, the deceased went to the appellant to bring



back his wife. There was a quarrel between the appellant and the deceased who came back alone. The deceased told his brothers and other acquaintances that the appellant had threatened and abused him by using filthy words. On 27.07.1998, the deceased was found dead. The deceased also left a suicide note which showed his disturbed state of mind but otherwise he blamed the appellant for suicide. The appellant's proceeding for quashing of charge sheet was dismissed by the High Court. However, the Supreme Court set aside the order of the High Court and allowed the appeal of the appellant.

In ***Bhagwan Das case (supra)***, it has been held that mere harassment of wife by her husband or in-laws, due to dispute and differences without anything more, pursuant to which if wife commits suicide, it will not attract S. 306 read with Section 107 IPC. In this case, the High Court had quashed the charge sheet under Section 307 IPC and had remanded the case back to the trial Court to reframe the charge under Section 498-A/34 IPC. In paragraph 15 and 16, it has been held as under:-

*“15. In our opinion the view taken by the High Court is correct. It often happens that there are disputes and discords in the matrimonial home and a wife is often harassed by the husband or her in-laws. This, however, in*

*our opinion would not by itself and without something more attract Section 306 IPC read with Section 107 IPC.*

16. *However, in our opinion mere harassment of wife by husband due to differences per se does not attract Section 306 read with Section 107 IPC, if the wife commits suicide. Hence, we agree with the view taken by the High Court. We, however, make it clear that if the suicide was due to demand of dowry soon before her death then Section 304B IPC may be attracted, whether it is a case of homicide or suicide. Vide Kans Raj vs. State of Punjab & Ors. 2000(5) SCC 207, Satvir Singh & Ors. vs. State of Punjab & Anr. 2001(8) SCC 633, Smt. Shanti & Anr. vs. State of Haryana AIR 1991 SC 1261”.*

While dismissing the appeal filed by the father of the deceased has observed that dowry demand soon before death of wife would attract Section 304-B irrespective of whether death was homicidal or suicidal. Since no charge under Section 304 IPC had been framed, the accused cannot be convicted under that provision.

In ***S.S. Cheena vs. Vijay Kumar Mahajan and another***, 2010 (12) SCC 190, Hon'ble the Supreme Court had an occasion to examine a case under Section 306 IPC where deceased was a

University student. A fellow student filed a complaint against the deceased that deceased had stolen his mobile telephone. Enquiry was entrusted to the accused who was a Security Officer. Deceased committed suicide and charge against accused that deceased committed suicide due to harassment caused by the accused. In paragraph 28, it has been held as under:-

*“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. 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 IPC 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 that act must have been intended to push the deceased into such a position that he committed suicide.”*

In the facts of the present case, the wife of the deceased Rajinder Kumar @ Raja had gone to her parental house 15 days prior to the date of the suicide of her husband. As per statement of father of the deceased, his son was frustrated and wanted to go to Saudi Arab and was feeling harassed by the Passport office who had not

issued him his passport.

ASI Bikram Singh while appearing as P.W.4 has stated that after going through the suicide note, no fault was found by him of any of the employee of the Passport Office. He has further submitted that parents of the deceased had been giving complaint against deceased that he was very violent and had been hitting them. No enquiry was conducted on the said complaints.

From the reading of suicide note, reference has been made to the officer of the Passport office who had not issued him passport office. He had stated about his uncordial relations with his in-laws family but that has not instigated him to commit suicidal as his wife was not staying with him for the last 15 days. There was no instigation before he committed suicide which can be attributed to the present petitioners so as to frame a charge under Section 306 IPC. The deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day to day life. Human sensitivity of each individual differs from each person to the other. He is responsible for his own death.

In the light of the settled legal position, the conclusion becomes obvious that no conviction can be legally sustained without any credible evidence or material on record against the petitioners.

The order of framing charge under Section 306 IPC against the petitioners is palpably erroneous and unsustainable. It would be a travesty of justice to compel the petitioners to face a criminal trial without any credible material whatsoever. Consequently, the order of framing charge under Section 306 IPC against the petitioners is quashed and all the proceeding pending against them are also set aside.

As a result, the present petitions are allowed and impugned order of framing charge dated 10.06.2011 passed by the Additional Sessions Judge, Jalandhar is set aside.

**(RITU BAHRI)  
JUDGE**

31.08.2012

G.Arora

सत्यमेव जयते

