



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

**1. CRA-S-4648-SB-2016
Reserved on : 01.05.2024
Pronounced on: 13.05.2024**

KavitaAppellant

Versus

State of HaryanaRespondent

**2. CRR-482-2017
Reserved on : 01.05.2024
Pronounced on: 13.05.2024**

Jai Singh BhardwajPetitioner

Versus

State of Haryana and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Mr. Partap S. Gill, Advocate and
Ms. Eknor Kaur Sara, Advocate
for the appellant in CRA-S-4648-SB-2016 and
for respondent No.2 in CRR-482-2017.

Mr. Vivek Singla, Advocate for the complainant/
petitioner in CRR-482-2017.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J.

1. This order shall dispose of above mentioned two cases as they both arise out of the same impugned order and similar questions of facts and law are involved in both the cases.

1(a). CRA-S-4648-SB-2016 has been filed by appellant-Kavita (hereinafter referred to as 'accused') to impugn the judgment of conviction dated 25.11.2016 and order of sentence dated 30.11.2016



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passed by learned Additional Sessions Judge, Gurgaon whereby she was sentenced to undergo RI for a period of 05 years and to pay a fine of Rs.10,000/- under Section 306 of the IPC and in default of payment of fine, to further undergo RI for 2 ½ months, in case FIR No.23 dated 07.05.2013 under Section 306 of the IPC registered at Police Station GRP, Gurgaon.

1(b). CRR-482-2017 has been preferred by, complainant Jai Singh Bhardwaj, seeking enhancement of aforementioned sentence awarded to the accused by the learned Trial Court.

Brief facts of the case

2. Before proceeding further, it would be apposite to give in brief the case as set up by the prosecution.

2(a). The aforesaid FIR (Ex.PP) was lodged at the instance of Jai Singh Bhardwaj (father of Dilbagh, hereinafter referred to as 'deceased'), after the dead body of the deceased was found near the railway lines on 07.05.2013. Prior thereto, on 28.04.2013, the deceased had telephonically informed the complainant that his wife Kavita-accused had left her matrimonial home after a dispute with him. Despite innumerable attempts by the deceased to contact his wife i.e. the accused, she remained unreachable, save for one instance, where she threatened the deceased to falsely implicate him in a dowry case and also extended threats of dire consequences to him, citing her purported connections within the Delhi Police, where she was employed. The complainant along with his relatives thereafter visited the house of the accused in village Manjri (Karala) on 04.05.2013, in an effort to



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reconcile. However, the accused rebuffed all the efforts made by the complainant party by asserting her contacts and position and further threatening to implicate the deceased in some false case. She also threatened the complainant party including the deceased that she had contacts with senior officials and would cause harm to them. The deceased left behind an undated suicide note (Ex.P8) which was found on his person wherein he blamed the accused as being responsible for his suicide. Besides, another undated suicide note was also found in the house of the deceased (Ex.P1).

2(b). Following an investigation, the accused was sent up for trial and charged under Section 306 of the IPC. The prosecution examined 15 witnesses, including complainant, Jai Singh (PW1), and Mandeep Yadav (PW6), a colleague of the deceased. All the incriminating evidence appearing against the accused was put to her under Section 313 of the Cr.P.C. but she pleaded innocence and false implication. She pleaded a history of depression and suicides in the family of the deceased and denied being in any manner responsible for the suicide of the late husband.

2(c). On the basis of the evidence led, the learned Trial Court convicted the accused and sentenced her as under:-

Offence(s) u/s	Period of sentence(s)	Fine imposed	Period of sentence in default of payment of fine
306 of the IPC	RI for 05 years	₹10000-/-	RI for 2 ½ months



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Submissions of learned counsel for the accused

3(a). Learned counsel for the accused vehemently contends that there exists no evidence, either direct or indirect, to substantiate the charge against her under Section 306 of the IPC regarding her alleged involvement in her husband's suicide. Furthermore, learned counsel has emphasised that in fact, there is complete absence of any discernible act much less *mens rea*, on the part of the accused, immediately preceding the suicide of her husband which could reasonably be construed as instigation. While referring to provisions of Sections 107 and 306 of the IPC, it has been further argued that in order to attract the ingredients of abetment of suicide there must be a deliberate or explicit act on the part of an accused, compelling the deceased to be left with no other alternative but to end his own life. However, none of the above ingredients are present in the instant case, which was totally overlooked by the learned Trial Court while passing the impugned judgment.

3(b). Moreover, it has been vehemently argued that after the accused was thrown out from her matrimonial home by her deceased husband, she had been living separately from him for a significant period of about more than 10 days, preceding the suicide in question. Additionally, the learned counsel for the accused has submitted that not only did her husband have a history of depression, but there was also a history of suicides within his family. Hence, given the mental condition of the deceased, his suicide could also be attributable to his fragile psyche; consequently, the accused could not be held responsible, let alone deemed an abettor in her husband's suicide. Rather, the



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complainant on account of strained relations between his deceased son and the accused had tried to falsely implicate her which is evident in the light of blatant improvements made by him over the initial version in the FIR, qua which he was duly confronted by the defence during trial.

3(c). That even if, for the sake of arguments, it is assumed that there were some verbal altercations between the deceased and herself after her departure from the matrimonial home, such altercations could not be deemed to be the immediate cause of his suicide. More so, since as per the prosecution's own case, the deceased, along with his parents and others, had visited the parental house of the accused for reconciliation on 04.05.2013 i.e. 3 to 4 days prior to the suicide. It was not the case of the prosecution that following his alleged humiliation on the same day i.e. 04.05.2013, or soon thereafter, the deceased had immediately proceeded to take his own life. Rather, the deceased committed suicide after 3-4 days, which clearly suggested absence of any link between the alleged verbal altercations and the suicide in question, and thus, could not be said to be the direct cause behind the suicide of the deceased;

3(d). That while further referring to the allegations of the deceased, having been poisoned by the accused, on an earlier occasion, learned counsel further argued that there was no material whatsoever on record to support the said allegation, much less any medical evidence; and even if assuming, for the sake of arguments that any such incident did take place, the occurrence strangely was not even reported to the police, and still further even as per the case of the prosecution, it had



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taken place much prior to 07.05.2013, the day of suicide, and before she left her matrimonial home on 28.04.2013. Hence, yet again, it could not be the immediate cause behind the suicide of the deceased.

Submissions of learned State counsel and the complainant:

4. The State Counsel and learned counsel for the complainant while opposing the submissions of the learned counsel for the appellant/accused have advanced the following arguments:

4(a). that the accused, a Delhi Police Constable, subjected the deceased to continuous mental and physical torture including character assassination. The suicide notes left behind by the deceased strongly suggested feelings of hopelessness because of the maltreatment by his wife i.e. the accused. Despite earnest efforts by the deceased to reconcile, the accused kept threatening and humiliating him, even poisoning him once, as also mentioned in the suicide note and in the FIR, which was lodged by the father of the deceased, after the suicide. Learned counsel have asserted that these actions clearly amounted to abetting suicide of the deceased. Furthermore, even though the accused had left her matrimonial home more than 10 days before the suicide in question, however, just a few days before the suicide, the complainant and the deceased had again unsuccessfully tried to convince the accused to return to her matrimonial home, however, instead of affecting a reconciliation, the accused again humiliated the deceased and his family, and also threatened to not only falsely implicate them in criminal cases including dowry cases as she was well connected but to get them eliminated. Additionally, the testimony of PW6 Mandeep



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Yadav, a colleague of the deceased, supported the complainant's allegations as well as the contents of the suicide notes confirming that the deceased was being meted out continuous mental and physical harassment at the hands of the accused;

4(b). that even if there were some inconsistencies or improvements in the complainant's testimony during trial, the contents of the suicide notes still offered strong evidence to connect the accused with the crime in question;

4(c). that qua the deceased suffering from depression, it was argued that though it was not so, however, even for the sake of arguments if at all it was the case, it stemmed from the mental torture inflicted upon him, by none other than the accused.

5. I have heard learned counsel for the parties and perused the relevant material on record.

FINDINGS OF THE COURT

6. Evidently, the relationship between the deceased and his wife, i.e. the accused, was strained and far from cordial. However, for determining whether the accused harbored the intention to orchestrate circumstances leading to the suicide of the deceased, it would necessitate a meticulous examination of the events preceding his suicide.

7. While scrutinizing these circumstances and weighing the evidence put forth by the prosecution, it would need to be figured out if the deceased ended his life because (i) his wife **intentionally** inflicted



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cruelty to him, and (ii) that too **soon before the suicide** in question, or, (iii) if he simply could not handle the regular stress and fights that happen in most families.

8. In the present case in order to ascertain whether the harassment endured by the deceased at the hands of the accused can be categorized as 'abetment', it would be a relevant to reproduce the provisions of Section 107 of the IPC:

“Section 107:- Abetment of a thing-

A person abets the doing of a thing, who:

(1) Instigates any person to do that thing; or

(2) 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

(3) Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanations

(1) A person who, by willful misrepresentation, or by willful 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 authorized by a warrant from a Court of Justice to apprehend Z, B, knowing that fact and also that C is not Z, willfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

(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.”

9. A close examination of the above reproduced provisions of Section 107 of the IPC leaves no manner of doubt that *mens rea*, or the



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intention to abet, is the most crucial aspect of abetment/instigation. Without such intent, it would be unjust to hold someone liable for abetment. Utterances made in a moment of anger or emotion cannot be deemed instigation. It is also important to acknowledge that individuals vary in their sensitivity and temperament. It is not solely the feelings of the deceased that would matter, but most importantly, the intention behind the act of the accused as to whether he actually intended to drive the deceased to suicide would also have to be discerned.

10. To prove culpability under Section 306 of the IPC, it is imperative to demonstrate that the accused deliberately instigated the deceased to such an extent that the latter felt compelled to take his own life. A critical ingredient under Section 306 of the IPC necessitates an overt and purposeful act on the part of the accused, transcending mere passive incitement, and instead constituting a direct and forceful inducement towards the act of suicide by the deceased.

11. Though it was vehemently argued by the learned counsel for the State and the complainant that the improvements made by the complainant PW1 Jai Singh, while stepping into the witness box did not in any manner demolish the core of the prosecution case against the accused, however, this court does not find any merit in those submissions.

12. Coming straightaway to the testimony of the complainant who while deposing as PW1, claimed to have seen the accused hastily leaving his deceased son's house, on the day of the suicide, clutching a paper and a mobile phone, undeniably and significantly undermines the



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case of the prosecution. This part of the testimony of the complainant cannot be dismissed lightly as being inconsequential or trivial. Instead, it strongly suggests an embellished narrative put forth by the complainant for reasons that are apparent, specifically, he being aware that the accused had not been living with the deceased and had left her matrimonial home many days prior to his suicide, and qua this improvement, the complainant was also duly confronted by the defence; additionally and pertinently, the deceased did not commit suicide immediately after the alleged altercation between the complainant and the accused at the latter's parental home on 04.05.2013, but instead, it admittedly happened a few days later, in Gurugram.

13. Undeniably, the deceased did leave behind suicide notes, both undated, (Ex.P1 and P8) detailing the manner in which the accused had subjected him to harassment. However, it is crucial to note that all instances of mental torture and harassment referred to, in the suicide notes, had occurred even before the deceased left her matrimonial home. While the suicide note, no doubt, did mention about the humiliation suffered by the deceased and his family, and the threats extended of false implication in cases, during a visit to the parental house of the accused a few days before his suicide, these incidents cannot be conclusively deemed as the immediate triggers for the suicide of the deceased. Importantly, the suicide notes do not indicate that the deceased experienced any further humiliation or any other untoward incident took place, after his last meeting with the accused on 04.05.2013; still further, it is not even the case of the prosecution that



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the accused followed through on her threat by falsely implicating the deceased or his family in any criminal case. This Court, therefore, is of the considered opinion that the improvements made by the complainant while stepping into the witness box as PW1, over the initial version given at the time of the lodging of the FIR, could not be termed as inconsequential. As per the admitted case of the prosecution, the accused had left her matrimonial home at least 10 days before the suicide in question. The deceased committed suicide 3-4 days after their last meeting at the parental home of the accused. The consistent case of the prosecution was that the relationship between the deceased and his wife i.e. the accused, were strained. Given this, it is highly improbable and unbelievable that the accused was seen leaving her matrimonial home in Gurugram hurriedly on the day of suicide. The complainant was confronted with this significant improvement and deviation from his initial version in the FIR, which seems to have been made to bring the case against the accused within the scope of Sections 107 and 306 of the IPC, since the requirement to attract the ingredients of these Sections is that, that the instigation to commit suicide should be in close proximity to the alleged harassment, with the immediate trigger occurring shortly before the suicide.

14. Possibility of the deceased being highly sensitive and choosing to commit suicide due to marital discord with the accused, who had admittedly been living apart from him for at least 10 days prior to the suicide, can be said to be a plausible circumstance leading to the



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suicide. The case of the prosecution thus, does not meet the criteria for abetment as defined under Section 107 of the IPC.

15. Therefore, as a sequel to the above discussion, appeal- **CRA-S-4648-SB-2016** filed by accused-Kavita is allowed. Impugned judgment of conviction and order of sentence is hereby set aside and the accused is acquitted of the offence charged with. Revision petition- **CRR-482-2017** filed by complainant-Jai Singh Bhardwaj for enhancement of sentence of accused-Kavita is accordingly dismissed.

13.05.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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