
(1994) 09 SHI CK 0002
In the High Court Of Himachal Pradesh
Case No : Criminal Revi. No. 26 of 1994

Sumitra and etc.	Vs	APPELLANT
Sewak Ram and Another		RESPONDENT

Date of Decision : 23-09-1994

Acts Referred:

Penal Code, 1860 (IPC) — Section 107, 306

Citation : (1995) CriLJ 3141

Hon'ble Judges : D.P. Sood, J

Bench : Single Bench

Advocate : H.L. Karwa, Asstt. A.G. and Jagdish Vats, for the Appellant; B.S. Attri and H.L. Karwa, Asstt. A.G., for the Respondent

Final Decision : Dismissed

Judgement

D.P. Sood, J.—These two revision petitions arise out of the common order dated 3-12-1993 passed by the learned Sessions Judge, Shimla directing the discharge of the respondent Sewak Ram in Criminal Case No. 49-S/ 7 of 1993 u/s 306, I.P.C. The State of Himachal Pradesh, as also Smt. Sumitra Devi the mother of the deceased have assailed the aforesaid order and prayed for its reversion through the instant proceedings.

2. Shortly stated the facts are as under:-

Seema since deceased was married to Ram Swarup more than seven years back. Respondent-Sewak Ram is the father-in-law of the deceased. Deceased Seema Devi consumed poison on 23-11-1991 and committed suicide. On January 27, 1992 Smt. Sumitra, the mother of the deceased lodged a report in Police Station, Dhali regarding the aforesaid incident alleging that the respondent Sewak Ram abetted the commission of suicide by his daughter-in-law. According to the version of the complainant Smt. Sumitra, her son-in-law namely Ram Swarup had apprised her that respondent Sewak Ram used to maltreat the deceased Seema Devi since long. The prosecution case further is that during the married

life of the deceased consequent to the continuous harassment meted out to her at the hands of her father-in-law Sewak Ram, respondent, she had to disclose the facts to her husband and to her mother and other relations which resulted in the shifting of the family from native place of the respondent to that of the residence of her mother and thereafter tenanted premises near Kaliwari at Shimla. After residing there for sufficiently long time for a period of more than three years, respondent again took the family to his native place. The case of the prosecution is that respondent Sewak Ram again started harassing/mal-treating the deceased. On 23rd of November, 1991 which was Saturday her husband who is daily wage employee in Fruit Canning Unit, Nav Bahar, Shimla had come to home; that she along with her husband and two children namely Manoj Kumar and Sandip Kumar were enjoying movie; that during interval she came out and after consuming poison stated to Ram Sawrup, her husband that her relations with him were only up to that time and had now come to an end. The prosecution case further is that continuous harassment by respondent ultimately resulted into the commission of suicide by the deceased.

3. Investigation commenced on the report lodged by Smt. Sumitra, aforesaid, police recorded the statements of Manoj Kumar, Ram Sawrup and other persons. The deceased having been hospitalised. Her viscera was also sent to Chemical Examiner and report was also sought therefrom. Post-mortem report was also obtained.

4. On completion of the Investigation, challan was filed against the accused. As the offence in question was exclusively triable by the Court of Sessions it took cognizance thereof. On consideration of the material collected by the police, order of discharge vide impugned order was recorded, which has been assailed now in these proceedings.

5. Sh. H. L. Karwa, learned Assistant Advocate General appearing on behalf of the State, as also Sh. Vats, learned counsel appearing on behalf of Smt. Sumitra have taken me through the entire record. According to them continuous harassment by respondent has been alleged not only by the complainant but also by Ram Sawrup and Manoj Kumar, son and grand son of the respondent. It is urged that such continuous harassment leading to commission of suicide amounts abetment as envisaged u/s 306 of Indian Penal Code read with Section 107, I.P.C.

6. At the very outset, I may point out that the learned Sessions Judge has appreciated the material collected by the police in its right perspective in having directed the discharge of the respondent by the impugned order. For the commission of an offence u/s 306, I.P.C. the prosecution is obliged to establish :

- (i) the commission of suicide by a person;
- (ii) that the accused abetted the commission thereof.

Now, abetment as per Section 107 of the Indian Penal Code envisages intentional

aiding and active complicity of the accused.

7. In the instant case, the material collected by the police in the form of statement of Smt. Sumitra, Manoj Kumar, and Ram Sawrup merely shows the harassment in general terms by respondent Sewak Ram. No instances of cruelty have been alleged nor any specific allegation as to the mode in which deceased Seema used to be mal-treated or harassed has been disclosed by either of the witnesses. No doubt, facts disclose that Ram Sawrup, husband of the deceased being a daily waged government employee, used to reside at Shimla for five days in a week and he used to visit his home on Saturday and Sunday only. However, on the relevant date and time, he was at home and according to his own statement, respondent Sewak Ram had reached home from Koti after deceased Seema had consumed poison. The statement of Ram Sawrup husband of Seema deceased, by itself shows that Sewak Ram, respondent was not present in the home on the, date when Seema deceased committed suicide Rather the act of consuming poison by her was during interval of the movie, which she was enjoying along with her husband and two children. Whether it was consequent to the impact of the scene of the movie being enjoyed by her coupled with other circumstances or merely consequent to the continuous previous alleged harassment of respondent, which led to the commission of her suicide is not specifically disclosed by either of the witnesses or other material collected by the prosecution.

8. It is well established that at the time of framing the charge a detailed or meticulous examination of the evidence is not necessary nor it is to be weighed for the purpose of seeing whether it would end into conviction. The only consideration is whether a prima facie case is made out or not. In the instant case, in case the entire material is perused, it does not in any way establish a remote connection with the respondent's behaviour towards his daughter-in-law Smt. Seema deceased which can be said to have abetted the offence by the latter. In that view of the matter, the learned Court below had rightly directed the discharge of the respondent. There is. no merit in the revision petitions, and, as such, both are ordered to be dismissed. Let a copy of this order be placed on the other file (Criminal Revision No. 41 of 1994).