

(1991) 05 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : C.A. No. 318-DBA of 1983

The State of Punjab

APPELLANT

Vs

Kirpal Singh and Others

RESPONDENT

Date of Decision : 21-05-1991

Acts Referred:

Penal Code, 1860 (IPC) — Section 306

Citation : (1992) CriLJ 2472 : (1991) 3 RCR(Criminal) 317

Hon'ble Judges : S.S. Grewal, J;A.L. Bahri, J

Bench : Division Bench

Advocate : S.K. Sharma, DAG, for the Appellant; R.S. Ahluwalia, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Grewal, J.—This appeal is directed against the order of Additional Sessions Judge, Amritsar dated 23rd of November, 1982, whereby Ajit Singh, husband Kirpal Singh and Kirpal Kaur, parents-in-law and Gurmit Kaur sister-in-law of Satinder Kaur and Gajjan Singh brother of Ajit Singh were acquitted of the charge u/s 306 of the Indian Penal Code for abetting commission of suicide by Satinder Kaur.

2. In brief facts of the prosecution case as emerge from the first information report lodged by Surinder Singh brother of the deceased are that his younger sister Satinder Kaur aged about 22 years was married to Ajit Singh on 19th November, 1980. Sometime after the said marriage, her husband, parent-in-law and Gurmit Kaur sister-in-law started maltreating her for bringing inadequate dowry and coercing her to bring more dowry from her parents. In February, 1981 the husband and father-in-law of Satinder Kaur demanded money for starting some business. In that very month Surinder Singh (first informant) went and delivered Rs. 2000/- to Ajit Singh at latter's village i.e. Algon. About 15 days prior to the lodging of the first information report i.e. in the last week of May, 1981 both Ajit Singh and Satinder Kaur went to her parental village (Attari) and

asked " the first informant to purchase a motor cycle for Ajit Singh. Surinder Singh informed them that he had no money with him to purchase the same and would purchase it after sometime. At this Ajit Singh got annoyed and returned from Attari together with his wife who was in a family way. On 10-6-1981, Kundan Singh came and informed Surinder Singh that he had gone to village Algon in connection with some domestic work there he came to know that Satinder Kaur was ill since morning. Her in-laws did not permit him to see her on the pretext that she was sleeping. Soon thereafter Surinder Singh along with his brother Balbir Singh and uncle Rup Singh went and reached village Algon at 6 p.m. in order to enquire about the health of Satinder Kaur. She was in serious condition and informed Surinder Singh that she had been harassed by Ajit Singh, Kirpal Singh Gajjan Singh, Kirpal Kaur and Gurmit Kaur accused compelling her to bring more dowry and on that account she consumed poison. As they were just making arrangements for conveyance in order to carry her to the hospital for treatment, she breathed her last. According to Surinder Singh his sister had committed suicide by consuming poison as she was compelled to do so on the demand of dowry made by all the five accused. When they (complainant party) reached village Algon, i.e. the village of the accused, all of them slipped away from their house.

3. Autopsy on the dead body of Satinder Kaur was conducted on the next day of the occurrence at 12-45 p.m. and the doctor found four needle pricks along with small haematoma 5 cm x 1 cm on the left cubital fossa and three needle pricks and bluish coloured haematoma 5.1 cm 1.5 cm on the right cubital fossa. Dark coloured clotted blood was found under her skin and fascia. Pleura, larynx, trachea were congested. Uterus was about six months pregnant and there was a brownish blue coloured male child (dead) attached to the uterus by means of umbilical cord, it was 37 cm in length and normally grown. After receipt of the report of the Chemical Examiner the doctor opined that the cause of death was due to injection of organo phosphorus insecticide.

4. After completion of the investigation, the accused were challenged, tried and acquitted as stated earlier.

5. The learned counsel for the parties were heard.

6. On behalf of the State, it was submitted that the learned trial Court has erred in not relying upon the testimony of Surinder Singh, first informant and his brother Balbir Singh concerning harassment and torture meted out to their sister Satinder Kaur by her in-laws and that there was sufficient evidence on the record to prove beyond reasonable doubt that Satinder Kaur had committed suicide at the instigation of her husband and her in-laws.

7. The argument is devoid of any merit. From the evidence of Surinder Singh, first informant and his brother Balbir Singh PW it transpires that demand for getting the money from Surinder Singh was made twice. After about three months of the marriage first demand was allegedly made by Ajit Singh husband,

Kirpal Singh, father-in-law of the deceased as they wanted to start a new business and said demand was allegedly meted out by Surinder Singh at the village of the accused in the presence of Tarlok Singh PW, who according to Balbir Singh PW was business partner of his father. Presence of Tarlok Singh at the time when Surinder Singh allegedly paid the amount of Rs. 2000/- to the accused is also conspicuous by its absence from the first information report. Surinder Singh has not even been able to tell the nature of business which was to be started with the amount allegedly demanded and paid to Ajit Singh and Kirpal Singh accused. Nor any enquiry was admittedly made by Surinder Singh in this regard.

8. The second demand allegedly was made jointly by Ajit Singh accused and Satinder Kaur deceased when latter came to her parental village and requested Surinder Singh to purchase motor cycle for them. Surinder Singh told them that he had no money with him and promised to purchase the same after sometime when they get good news about the birth of child to Satinder Kaur. Surinder Singh has made contradictory statements on this point. In his statement made before the trial Court on 15-9-1981 he deposed that Ajit Singh accused had demanded a sum of Rs. 5000/- for purchasing a motor cycle for him, whereas in his later statement in the trial Court he deposed that both Ajit Singh and Satinder Kaur had requested him to purchase a new motor cycle for them. Apart from this infirmity in the testimony of Surinder Singh PW, it is difficult to understand that both the demands had been made from Surinder Singh brother of the deceased who is separate in business from his father. Normally such a demand would be addressed to the father of the deceased and not to her brother. Even according to the prosecution Surinder Singh never refused to meet the second demand made jointly by Ajit Singh accused and the deceased.

9. No independent witness concerning alleged maltreatment meted out to Satinder Kaur by the accused has been produced on the record. Nor any letter or other communication received from the deceased has been produced. It is significant to note that about 15 days prior to her death the deceased, who was in advance stage of her pregnancy accompanied her husband to her parents house. There she could freely communicate to her parents about the alleged cruelty or maltreatment meted out to her by the accused. None of the parents of the deceased had come forward to prove any such allegation.

10. The prosecution story that Kundan Singh had conveyed Surinder Singh that his sister was lying ill since the morning of 10th June, 1981 is not worthy of reliance. Apart from the fact that Kundan Singh deposed for the first time during the trial that he had to get money from the father-in-law of his brother at Khem Karan, he had no special reason to go out of the way to meet Satinder Kaur at the house of her in-laws which is situated at a distance of 5 or 6 miles from where he had gone to get the aforesaid payment. Since the deceased was already in advance stage of pregnancy the information allegedly conveyed by Kundan Singh to her brother Surinder Singh PW normally would not be sufficient for Surinder Singh, Balbir Singh and their uncle Tarlok Singh to rush to the house

of the accused.

11. Testimony of Surinder Singh and Balbir Singh PWs about the dying declaration said to have been made by Satinder Kaur before them is also not worthy of credence. According to Balbir Singh PW his sister told that the accused had humiliated and beaten her and on that account she consumed poison and that she received such treatment because the accused were not given motor cycle and cash. On the other hand according to Surinder Singh, the deceased told him that the accused indulged in filthy language for not bringing motor cycle and on that account she had consumed poison. It is pertinent to note that Surinder Singh in his earlier statement recorded on 15-9-1981 deposed that his sister had told him that she had consumed poison because neither they had given cash nor motor cycle.

12. The duration between death and postmortem examination of Satinder Kaur given by the medical expert in this case supports the defence plea that Satinder Kaur died much before the arrival of Surinder Singh, Balbir Singh and their uncle Tarlok Singh on the evening of 10-6-1981 at the house of the accused. Thus the testimony of Surinder Singh and Balbir Singh PWs concerning dying declarational allegedly made by Satinder Kaur just before her death does not inspire confidence. Furthermore, according to Balbir Singh PW the accused left the house after 1 1/2 hours of the death of Satinder Kaur.

13. On behalf of the State reliance was placed on the authority of the apex Court in Gurbachan Singh Vs. Satpal Singh and others, , wherein after referring to the prosecution witnesses who clearly testified to the greedy and lusty nature of the accused in that they persistently taunted the deceased and tortured her for not having brought sufficient dowry from her father. It is also in evidence that they also taunted her for carrying an illegitimate child. It was further observed that all these tortures and taunts caused depression to her mind and drove her to take the extreme step of putting an end to her life by sprinkling kerosene oil on her person and setting fire. Circumstantial evidence as well as the evidence of the prosecution witnesses clearly prove beyond reasonable doubt that the accused persons instigated and abetted Ravinder Kaur deceased in the commission of the offence by committing suicide by burning herself.

14. The authority in Gurbachan Singh's case (supra) is clearly distinguishable and is not applicable to the facts and circumstances of the present case, where the suicide was committed by intake of Organo Phosphorus insecticide. There is no legal cogent or reliable evidence to prove in the instant case that the accused persistently tortured the deceased or taunted her for not having brought sufficient dowry from her parents. Nor there is any allegation much less proof that the accused levelled any insinuation concerning character of the deceased. The demand of money was allegedly made twice from the brother of the deceased and on one such occasion the deceased herself is stated to have accompanied her husband and asked her brother to give them a new motor cycle. It is also significant to note that the deceased did not complaint to her

parents that the accused had maltreated her or had acted with cruelty towards her even when she came to her parental house. Having regard to over all circumstances of the case, from the mere fact that the deceased committed suicide within few months of the solemnisation of her marriage in the instant case, no inference can reasonably be drawn against the accused that by their act and conduct they had either instigated or abetted the commission of suicide by Satinder Kaur. The prosecution has thus failed to bring home charge u/s 306 of the Indian Penal Code against the accused beyond reasonable doubt.

15. For the foregoing reasons, there is no merit in this appeal and the same is dismissed.