

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.431 OF 2009

BIKKAR SINGH **APPELLANT**

VERSUS

THE STATE OF PUNJAB **RESPONDENTS**

O R D E R

The impugned judgment dated 30.05.2008 passed by the High Court of Punjab and Haryana upholds the conviction of the appellant - Bikkar Singh under Section 306 of the Indian Penal Code, 1860¹ for abetting his wife, Harbans Kaur, to commit suicide. He has been sentenced to undergo rigorous imprisonment for six years along with a fine of Rs. 1,000/- and in default to undergo rigorous imprisonment for one year. The other co-accused family members of the appellant - Bikkar Singh were acquitted from the charge under Section 306 of IPC.

The evidence on record, in our opinion, does not make out a case for abetment under Section 306 of IPC. This is a case in which there was a family dispute, and the deceased - Harbans Kaur was insisting that the present appellant - Bikkar Singh, her husband, should ask for separation and partition of the jointly held family properties. The appellant - Bikkar Singh was reluctant and had

¹ For short 'IPC'.

stated that till the marriage of his sister, he would not seek separation. This version given by the appellant - Bikkar Singh in his statement under Section 313 of the Code of Criminal Procedure, 1973, is in fact admitted by Major Singh (PW-3), who is none other than the brother of the deceased - Harbans Kaur. He had accepted that the deceased - Harbans Kaur wanted to separate from the family. However, he has also alleged that the appellant - Bikkar Singh used to beat her, and had teased her by stating that she should take poison so that they could get rid of her. Karam Singh (PW-4), who is the father of the deceased - Harbans Kaur, has similarly testified that the deceased - Harbans Kaur wanted to get separated from the family, and he has also alleged that the appellant - Bikkar Singh had quarrelled with the deceased - Harbans Kaur, given her beatings and told her that she should die by taking some poison. Mukhtiar Singh (PW-5), the father-in-law of Shanti, sister of Major Singh (PW-3), who, while accepting that the deceased - Harbans Kaur and the appellant - Bikkar Singh used to quarrel as the deceased - Harbans Kaur wanted to separate from the family, has testified that the co-villagers were trying to reconcile the dispute. Mukhtiar Singh (PW-5) claims that he had visited the house of the appellant - Bikkar Singh on the date of occurrence itself, at about 8:00-9:00 pm and at that time, the deceased - Harbans Kaur had not said anything about taking poison. Further, at that time, the appellant - Bikkar Singh was also not present.

The appellant - Bikkar Singh had examined Chand Singh, who had deposed as DW-1, a member of the Panchayat, whose house was located at a short distance from the house of the appellant - Bikkar Singh and the deceased - Harbans Kaur. He has testified that the deceased wanted to live separately from the family. An identical assertion has been made by Mithu Singh, who had deposed as DW-2.

We are in agreement with the contention raised on behalf of the appellant - Bikkar Singh that the depositions of Major Singh (PW-3) and Karam Singh (PW-4), when they had testified that the appellant - Bikkar Singh had asked the deceased - Harbans Kaur to die by taking poison, in the factual background could be an exaggeration predicated on account of the fact that the deceased - Harbans Kaur had taken poison and died. Major Singh (PW-3) had testified that on the day of Diwali, he had visited the house of the appellant - Bikkar Singh and the deceased - Harbans Kaur with some sweets and had seen the deceased - Harbans Kaur was beaten up. However, the post mortem report does not refer to any injuries to the deceased - Harbans Kaur. Karam Singh (PW-4) had not visited the house of the appellant - Bikaar Singh and the deceased - Harbans Kaur for days before her death. On the other hand, Mukhtiar Singh (PW-5) has not deposed about the deceased - Harbans Kaur being told to consume poison, rather he testified that attempts were made to reconcile the differences between the deceased - Harbans Kaur and the appellant - Bikaar Singh by the villagers. No suicide note was found. In the circumstance and given the divergence in evidence, we

do not think that a case for abetment under Section 306 of IPC has been proved beyond reasonable doubt. It is apparent that the deceased - Harbans Kaur was insisting that the appellant - Bikkar Singh should separate and divide the joint family property. This was not acceptable to the appellant - Bikkar Singh. The refusal by the appellant - Bikkar Singh would not constitute as abetment as defined under Section 107² of IPC, which requires a person to intentionally aid or instigate a person.

The assertion as to the beating made by Major Singh (PW-3) and Karam Singh (PW-4) would constitute an offence under Section 323 of IPC is again not fully established. There is no medical evidence. Post mortem report does not support the assertion.

Further, we are informed that the appellant - Bikkar Singh had already suffered incarceration for over three years. In view of the said position, we are not inclined to pass any order against the appellant - Bikkar Singh even for the offence under Section 323 of the IPC.

Recording the aforesaid, the impugned judgment is set aside

2 **Section 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 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.

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.

XXXX XXXX XXXX

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.

XXXX XXXX XXXX

and the appeal is allowed. The appellant - Bikkar Singh is acquitted of the charge under Section 306 of the IPC. The appellant is already on bail. His bail bonds stand discharged.

Pending application(s), if any, stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(M.M. SUNDRESH)

NEW DELHI;
JANUARY 18, 2023.
ps

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(S). 431/2009

BIKKAR SINGH

APPELLANT(S)

VERSUS

THE STATE OF PUNJAB

RESPONDENT(S)

Date : 18-01-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s) Mr. Harikesh Singh, Adv.
Mr. Sandeep Sinhmar, Adv.
Mr. Satish Hooda, Adv.
Mr. Yash Pal Dhingra, AOR

For Respondent(s)
Ms. Nupur Kumar, AOR
Mr. Divyansh Tiwari, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file.)