

Before A. P. Chowdhri & N. K. Kapoor, JJ.

STATE OF HARYANA,—Appellant.

versus

NARESH KUMAR AND OTHERS,—Respondents.

Criminal Appeal No. 76-DBA of 1984.

23rd July, 1991.

Indian Penal Code, 1860—S. 306—Wife committing suicide—Abetment—Husband and in-laws demanding dowry—Wife failing to fulfil demand—Continuous harassment, maltreatment and taunting by husband and mother-in-law—Circumstantial, oral as well as documentary evidence supporting in-laws' apathy towards wife—Sufficient to constitute abetment to commit suicide.

Held, that the life of the deceased-wife was made unbearable by constant torture inflicted by the husband and the mother-in-law. The suggestion of the accused that the accidental fire took place when deceased-wife was preparing food on a traditional *Angithi* made of iron is highly improbable as accidental fire cannot result in such extensive burns and prove fatal within less than two hours from a traditional iron *Angithi*. Moreover, accidental fire is rendered further improbable because of the history of continuous harassment, maltreatment and taunting by the husband and mother-in-law of the deceased due to non-fulfilment of demand for dowry. The oral evidence with regard to the harassment and maltreatment at the hands of husband and mother-in-law is amply corroborated by the letters which have been produced in evidence in this case. The bad treatment referred to in the letters written by the deceased clearly showed that it was continuous and lasted for a long time. We are, therefore, of the opinion that the facts established by the prosecution in this case clearly constitute abetment to the deceased to commit suicide under Section 306 of the Indian Penal Code.

(Paras 10, 11, 12, 21, 23)

Appeal from the order of the Court of Shri Gorekh Nath Addl. Sessions Judge Kurukshetra, dated 6th August, 1983 acquitting the accused.

Charge Under Section 306 IPC.

Order : Acquittal.

Sessions Case No. 3/2 of 1983.

Sessions Trial No. 2 of 1983.

FIR No. 135, dated 10th July, 1981, Under Section 306 IPC, Police Station Shahabad.

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It has been prayed in the Grounds of Appeal that the appeal may kindly be accepted, acquittal of the accused-respondents be set aside and they may be convicted and sentenced in accordance with law and further prayed that the warrants of the arrest of the accused may kindly be issued under section 390 Cr. P.C.

R. K. Gupta, AAG, Haryana, for the Appellants.

S. C. Sibal, Sr. Advocate with Miss Karen Randhawa, Advocate, for the Respondents.

JUDGMENT

A. P. Chowdhri, J.

This judgment will dispose of Criminal Appeal No. 76 DBA of 1984 (*State of Haryana v. Naresh Kumar and others*) and Criminal Revision No. 447 of 1984 (*Rajinder Parshad Gupta v. Naresh Kumar and others*) both directed against the judgment dated August 6, 1983, of the Additional Sessions Judge, Kurukshetra, acquitting Naresh Kumar (27) his brother Brij Kumar (25) and their mother Smt. Bhagwanti (45) of an offence under section 306 of the Indian Penal Code.

(2) According to the prosecution, the deceased Smt. Krishna was married to Naresh Kumar accused about seven years prior to the occurrence. She had a daughter Poonam, aged about 6 years, from the wedlock. On July 8, 1981, at about 7.30 p.m. Smt. Krishna received extensive burns on her person. Her mother-in-law Smt. Bhagwanti, her *Jethani* Kusam Lata, wife of her husband's elder brother Mohan Lal were in the house at that time. Bhagwanti removed Krishna by a cycle rickshaw to the local private nursing home of Dr. O. P. Mahindru. The doctor advised that the injured be removed to PGI Medical Institute, Chandigarh. The husband of Krishna, who is running a grossery store at Shahbad, was informed of the occurrence by a neighbour. He reached the nursing home of Dr. Mahindru. He went to arrange for a conveyance and when he returned to the nursing home, Krishna had succumbed to her injuries at 8.50 p.m. Her dead body was brought back to the house. Dr. Mahindru sent a *ruqa* to the police. ASI Raj Kumar PW 14 went to the house of Naresh Kumar accused. He prepared inquest report and arranged to send the dead body for post-mortem examination. On inspection of the spot, ASI Raj Kumar found an *Amriti* lying at some distance from the dead body. There was no

fire in the Angithi at that time. He also found a partially burnt blouse and saree of the deceased which were lying there. He took the same into possession and made them into a sealed parcel.

(3) The relations of the deceased, namely, her brothers Sat Parkash and Rajinder Parshad and brother-in-law Mehar Chand suspected foul play resulting in the death of Smt. Krishna. Rajinder Parshad made application Exhibit PE to the SHO, Police Station Shahbad on 9th July, 1981. The police having failed to take any action till late at night, Rajinder Parshad moved another application Exhibit PF to the Superintendent of Police Kurukshetra on 10th July, 1981. The Superintendent of Police sent the application to the Deputy Superintendent of Police, who in turn forwarded the same to the SHO, Police Station Shahbad, with a direction to register a case under section 306 of the Indian Penal Code. In the application Exhibit PF, which is the basis of the first information report, it was stated by Rajinder Parshad PW-3 that Naresh Kumar, his mother and brother started harassing Krishna to bring more and more dowry about one year after the marriage. The parents of Krishna continued giving something or the other from time to time to their daughter but the pressure was continued by the husband and the aforesaid relations of the husband. Smt. Krishna wrote many letters to her father, brother and sister. Rajinder Parshad enclosed photostat copies of three of those letters with the application. Sometime prior to the occurrence, Naresh Kumar and his mother demanded a scooter to be given to Naresh Kumar. In that connection, his sister came to him at Delhi, where he is serving as a Laboratory Assistant in Karori Mal College. Krishna was, however, taken back to her husband's house by Rajinder Parshad Tara Singh, Ram Pal, her brother-in-law Mehar Chand and her father Beni Parshad in the first week of June, 1981. They made a promise that they would provide a scooter to Naresh Kumar shortly. In return, Naresh Kumar and his mother etc. promised to treat Krishna well. The parents of the deceased were, however, unable to give a scooter to Naresh Kumar and the harassment of Krishna at the hands of her husband, mother-in-law etc. continued. On June 8, 1981, Rajinder Parshad came to know that his sister had been done to death. He along with some other relations went to Shahbad when he made the aforesaid application to the police.

(4) At the trial, the prosecution examined Dr. S. D. Arora, P.W. 1, who performed post-mortem on the dead body of Smt. Krishna. He found that the trunk upper and lower limbs and

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back showed redness of the affected part with the formation of blisters at various places. They were more prominent on the upper limbs. The face was spared. At a few places the skin was peeling off. Dr. Arora gave the cause of death as extensive burns, which were ante-mortem and sufficient to cause death in the ordinary course of nature. Dr. O. P. Mahindru (PW-2) to whose Private Nursing Home the injured was taken with extensive burn injuries and where the injured died was also examined. The prosecution also examined Rajinder Parshad (PW-3) brother of the deceased, Mehar Chand PW-4, brother-in-law of the deceased, Beni Parshad PW-5, father of the deceased and Sat Parkash PW-10, another brother of the deceased. The prosecution also produced various officials of the Post Office Shahbad from where the letters were posted to the parental village of the deceased, namely, Kirmich as well as Pehowa, where letter Exhibit PI was delivered and Malkaganj Post Office Delhi where letter Exhibit PJ was received, to identify the postal cancellation stamps. The police officers who investigated the case or took part in the investigation were also examined.

(5) The plea of the accused was one of denial. Bhagwanti accused in her statement under section 313 of the Code of Criminal Procedure stated that her two elder sons, Bhushan Kumar and Mohan Lal, were employed at Mohali and Nangal and were respectively living there with their families there. Brij Kumar was married in 1980. His wife was employed at Fatehabad and the only daughter-in-law living with them at Shahbad was the deceased. The chores of the house had to be carried out by the deceased and this was resented by her. She was keen that her husband should live separately from her and his younger brother Brij Kumar. This was not acceptable to her son Naresh Kumar. On the day of the occurrence, at about sun-set time, she along with her other daughter-in-law Kusam Lata, wife of Mohan Lal, was present on the terrace of the house. The deceased was preparing evening meals. She accidentally caught fire from the *Angithi* and she raised alarm. She and Kusam Lata came down. A neighbour Kaushal Kumar also came there. They tried to put off the fire. Kusam Lata had to cut open the blouse of Krishna with the help of a pair of scissors. Many persons of the neighbourhood gathered there. Krishna was taken to the Nursing Home of Dr. Mahindru but she died before they could proceed to Chandigarh for treatment. Naresh Kumar and Brij Kumar were not present at the time of the occurrence. The above plea has been adopted by the

remaining two accused. The accused examined Surinder Kumar DW-1, who deposed about the employment to Brij Kumar in DAV Higher Secondary School, Shahbad. Kaushal Kumar (DW-2) is a neighbour of the accused. He supported the statement of Bhagwanti. In cross-examination, he stated that Bhagwanti sustained some burn injuries on the palm of her hands. Kusam Lata, Jethari of the deceased, however, did not receive any such burns.

(6) On a consideration of the evidence, the trial Court held that there was no "weightly, cogent and reliable evidence on record to establish that Krishna had in fact committed suicide". It was further held that there was no direct evidence on record to establish that the accused had in fact abetted Krishna to commit suicide. It did not accept the statements of the various relations of the deceased. The trial Court translated the four letters relied on by the prosecution, in English and reproduced the same *in extenso*. It was observed that the learned counsel for the accused did not seriously dispute that letters Exhibits PG, PH and PI had been written by Krishna deceased. It was not considered necessary to record a finding whether the last letter Exhibit PJ was in the hand of Krishna deceased, as asserted by the prosecution, or it was forged and fabricated, as alleged by the accused. The various facts mentioned in the said three letters, according to the trial Court, only showed that the married life of Krishna was not happy and she was not feeling comfortable in the house of her in-laws. The letters, according to the trial Court, could not be taken to mean that the accused had been maltreating her on the question of dowry. It was held that the charge had not been brought home against the accused and they were accordingly acquitted. Hence, this appeal and revision.

(7) The contentions raised by Shri S. C. Sibal, learned counsel for the accused, are that the oral evidence on record does not merit acceptance. It consists of the testimony of interested witnesses. The letter Exhibit PJ appears to be a fabrication. In any case its authenticity is rendered open to serious doubt because it was not produced before the Investigating Officer without undue delay. It was further contended that the letters relied on by the prosecution did not constitute instigation amounting to abetment to commit suicide. It was also contended that the conduct of Smt. Bhagwanti in trying to put out the fire and taking the injured to a Nursing Home and the conduct of the husband in arranging a transport for taking the injured to the PGI, Chandigarh, clearly showed that

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this was a case of accident. It was further submitted that the trial Court having properly appraised the evidence, had taken a view and according to the settled law this Court should not interfere with the conclusion reached by the trial Court.

(8) Shri Sibal relied on a number of decisions of this Court for the proposition that the facts alleged by the prosecution do not add upto abetment to commit suicide within the meaning of section 306 of the Indian Penal Code. Reference in this connection was first made to *Raj Kumar v. State of Punjab* (1). The relevant facts were that the wife threatened to commit suicide if the husband did not resume coming to the house to live with the wife. The husband retorted that the wife was free to do anything she liked. The wife went back to the house and returned with a bucket of kerosene oil and again told the husband that if he would not accede to her request of returning to her, she would burn herself. The accused told her to go ahead with her plan and that the same would not affect his health. The wife then and there sprinkled kerosene oil upon her body and set her on fire in front of the shop. The husband did not make any effort to save her by extinguishing the fire or removing her to the hospital for medical aid. The learned Judges of the Division Bench referred to the definition of 'abetment' in section 107 of the Indian Penal Code. Clause thirdly thereof reads as under :—

“Intentionally aids, by any act or illegal omission, the doing of that thing.”

It was observed that the omission would be illegal only if what has been omitted to be done was required under the law to be done by such a person. It was pointed out that there was no law which requires a person whether a stranger or a close relation to stop a stranger or a close relation from committing a crime. In this view of the matter, it was held that the failure of the husband to prevent the deceased from committing suicide did not constitute the offence of abetment to suicide. Learned counsel relied on later decisions of this Court in which *Raj Kumar's case* (supra) was relied on. These are :

(1) *Surinder Kumar and others v. The State of Punjab* (2).

(1) 1983 (1) Recent C.R. 553.

(2) 1984 (1) Recent C.R. 593.

(2) *Jagdish Chander v. The State of Haryana* (3).

(3) *The State of Punjab v. Raj Kumar and others* (4).

(9) Lastly, it was submitted that suspicion howsoever strong can never take the place of proof.

(10) The authorities relied on by the learned counsel are inapplicable to the facts of the present case. This was not a case where the wife may have threatened to commit suicide and the prosecution may be seeking conviction of the accused on the ground that the accused failed to prevent the commission of suicide by the deceased. The facts of the present case, on the other hand, are that the life of the deceased was made unbearable by the constant torture inflicted by the husband and the mother-in-law. There was no question, in the facts of the present case, for the deceased to have declared for intention to commit suicide at any stage. The authorities relied on by the learned counsel are, therefore, of no assistance to the accused. We will have something more to say about Raj Kumar's case a little later.

(11) In *Wazir Chand and another v. State of Haryana* (5), it was held that a plain reading of section 306 of the Indian Penal Code shows that before a person can be convicted of abetting the suicide of any other person, it must be established that such other person committed suicide. This requirement assumes greater significance because the positive plea taken by the accused is that Krishna deceased received burn injuries on account of an accident while cooking food. Even though the complaint made by Rajinder Parshad to the police alleged an offence under section 302 of the Indian Penal Code, it was not pressed at any stage by the prosecution that charge be framed under section 302 of the Indian Penal Code. No such prayer has been made before us and we have, therefore, to consider whether the occurrence was on account of an accident or it was a suicide. In this connection, it is significant to remember that this is not a case of the use of a pressure kerosene stove. It is also not a case involving the use of liquified petroleum gas. The suggestion of the accused is that the accidental fire took place when Krishna deceased was preparing food

(3) 1988 (2) Recent C.R. 225.

(4) 1990 (3) Recent C.R. 107.

(5) 1989 (1) S.C.C. 244.

on a traditional *Angithi* made of iron. We consider accidental fire resulting in such extensive burns and proving fatal within less than two hours from a traditional iron *Angithi* to be highly improbable. In *Gurbachan Singh v. Satpal Singh and others* (6), their Lordships of the Supreme Court approved the reasoning adopted by the trial Court in deciding whether the case was on account of accident or suicide. The trial Court observed that if it were a case of fire by accident, the relations present near the victim must have tried to extinguish the fire and in the process must have received some burns on the tips of their fingers. These observations fully apply to the case in hand. The plea of Smt. Bhagwanti accused was that while her other daughter-in-law Smt. Kusam Lata, wife of Mohan Lal, received no burn injuries on her finger tips; she (Bhagwanti) received some burn injuries on her finger tips while trying to extinguish the fire caught by the clothes of the deceased. This was so in spite of the fact that Kusam Lata is stated to have cut out the blouse worn by the deceased with the help of a pair of scissors. Thus, according to the accused, Kusam Lata did not receive any burn injuries on her hands and beyond the bare word of Smt. Bhagwanti, no evidence was produced on record to show that she really received burn injuries on her finger tips. Moreover, accidental fire is rendered further improbable because of the history of continuous harassment, maltreatment and taunting by the husband and mother-in-law of the deceased, making life of the deceased unbearable. One would more readily lend credence to the theory of accident in the absence of such a background. We are, therefore, clearly of the view that the prosecution has established beyond reasonable doubt that this was a case of death by suicide.

(12) We now turn to determine the other material facts which have been established by the prosecution. We may first deal with the oral evidence. The prosecution examined two brothers, one brother-in-law and father of the deceased. They are Rajinder Parshad PW-3 and Sat Parkash PW-10, both brothers, Mehar Chand PW-4, brother-in-law and Beni Parshad PW-5, father of the deceased. According to these witnesses, the harassment of Krishna started about one year after the marriage. The harassment was to compel Krishna to bring more and more dowry. Krishna used to complain of this fact whenever she met her aforesaid relations. Sometime in 1979, the husband and mother-in-law of Krishna put

(6) J.T. 1989 (4) S.C. 38.

forward a demand for a scooter. The parental side of Krishna was unable to satisfy the demand. Krishna was turned out of the house. She went to her brother Rajinder Parshad PW-3, who is serving as Lab Assistant in Karori Mal College, Delhi. Rajinder Parshad did what most brothers would do. He brought back Krishna along with some other respectables and relations, namely, Tara Chand, Ram Pal, his brother-in-law Mehar Chand and father Beni Parshad to the in-laws' house of Krishna at Shahbad and in order to buy peace for Krishna they agreed to give a scooter to Naresh Kumar. The oral evidence with regard to the harassment and maltreatment at the hands of husband and mother-in-law is amply corroborated by the letters which have been produced in evidence in this case. The oral evidence on record clearly establishes that Krishna deceased was harassed on the question of dowry and on her failure to fulfil various demands put to her from time to time.

(13) This brings us to the next question regarding the letters. The prosecution has relied on four letters.

(14) Chronologically, these are Exhibits PH dated May 3, 1980, PI dated July 26, 1980, PG dated June 14, 1981 and PJ, which does not bear the date of writing but which was received in Malkaganj Post Office, Delhi, on July 11, 1981 on the third day of the death of Krishna and it was sent to Rajinder Parshad apparently by his relations to village Kirmich and it was received by him on July 13, 1981. Letters Exhibits PG and PH are addressed to the father and Exhibit PI to the sister Rukmani, wife of Mehar Chand PW-4 at Pehowa. Exhibit PJ is addressed to her brother Rajinder Parshad. Except the letter Exhibit PH, which is on a postcard, the remaining three letters are on inland letters, bearing proper postal cancellation stamps and are in the hand-writing of Krishna deceased. The hand-writing of Krishna on all these letters has been identified by Rajinder Parshad PW-3 and Sat Parkash PW-10, brothers of the deceased, who had been seeing her writing and were acquainted with her handwriting and signatures. Mehar Chand PW-4, brother-in-law of the deceased, identified the letter Exhibit PI to be in the handwriting of the deceased. The letter was addressed by the deceased to her sister, who is the wife of Mehar Chand PW-4. Beni Parshad PW-5, father of the deceased, identified handwriting of the deceased on letters Exhibits PH and PG which were received by him.

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(15) The prosecution examined Sukhour Singh PW-6, Packer at Post Office Shahbad, and he deposed that all the four letters i.e. Exhibits PG, PH, PI and PJ bore postal cancellation stamps of Post Office Shahbad. Tarloki Nath PW-7, Branch Post-Master Kirmich, identified the postal cancellation marks on letters Exhibits PH and PG. Significantly, his statement was not challenged in cross-examination at all. Jai Bhagwan PW-8, Packer Post-Office Pehowa identified the cancellation mark on the letter Exhibit PI. He was also not cross-examined. Rajinder Parshad produced photostat copies of the three letters Exhibits PG, PH and PI along with the application made by him to the Superintendent of Police on July 10, 1981. The original letters were produced by Sat Parkash PW-10 before SI Sadhu Ram at 4 a.m. on July 11, 1981. Though many more letters had been received by various relations but it is everyday experience that ordinarily people do not preserve the letters received from near and dear ones. These letters, however, escaped being lost or destroyed and were handy and were produced without any undue delay. It was stated by the trial Court in the judgment that the learned counsel for the accused did not challenge the genuineness of letters Exhibits PG, PH and PI though he challenged the last letter Exhibit PJ as a fabrication. A photostat copy of the letter Exhibit PJ was sent by Rajinder Parshad by post to the police. The MHC of the Police Station handed over the said copy to HC Bir Singh PW-11, who partly investigated the case and was seized of the investigation on July 23, 1981. HC Bir Singh then proceeded to Delhi and took into possession the original letter Exhibit PJ from Rajinder Parshad on July 26, 1981, when he also recorded the statement of Krishan Lal Gakhar PW-13, dealing employee of Post Office Malkaganj, Delhi. These letters have been produced from proper custody. They are in the handwriting of the deceased. While the genuineness of the three letters was not challenged on behalf of the accused, we are clearly of the view that the fourth letter Exhibit PJ is also written by the deceased sometime before her death and it was mailed from Shahbad and was duly received in Malkaganj Post Office at Delhi and subsequently produced before the police. We have no manner of doubt regarding the authenticity of these letters.

(16) The trial Court has translated these letters and has reproduced the same *in extenso* in its judgment. We do not propose to reproduce the whole of each letter. It will suffice to set down the lines which we consider relevant. In extracting these portions

we have taken care not to omit something which will amount to an unfair reading of the letter as a whole.

(17) The relevant part of letter dated May 3, 1980, Exhibit PH, addressed to the father, in so far as material, is as under :—

“.....I am being treated as before (reference obviously was regarding the treatment which she was getting in the house of her in-laws) and I do not know as to what I should do? I am very helpless (Majboor). When the brother comes here, I will tell him as to how I am being treated. Either I or the God knows about it. I am not feeling happy (*Yahan Dil Nehin Laqta Kahan Jaan*). My fate is such.”.

(18) The next letter Exhibit PI dated July 26, 1980, addressed to her sister, in so far as material, reads :

“.....
 My in-laws have sent a letter that I should be taken and that I was being treated in the same manner as before and that nobody talks to me in the house and Poonam's father has not talked to me for the last many days at the instance of his mother. My mother-in-law tells me that in case I will speak with anyone or I will eat anything in her house, then it would be like sucking the blood of my brothers and in case I speak in front of her, then I am given beating and I am locked in a room. I will burn myself to death as I cannot bear their taunts. I am being treated badly and that Poonam's *Tai* (husband's elder brother's wife) was bent upon getting me murdered and I have every apprehension about it. I am writing all this to you so that if ultimately anything happens, then all this could be told. If anything is lost in the house, then the blame is put on me despite the fact that the thing which is misplaced may ultimately be found out. The tops of Poonam's *Tai* had been lost and I was held responsible for it despite the fact that the same were found lying in the drain after two days. Poonam's *Tai* had become prepared to get me beaten up. She will get me murdered sometime. I am writing this letter as I am very unhappy. *Bhabi* of Kanta had come and had stated as to why I was brought and that I

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should be left at village Kirmich because I quarrel with them. I am passing my time. In case I work in the house, then I will get meals, otherwise I will not get even meals in the house. All this is being done at the instance of Poonam's father. My husband told me that he would beat me and that I could call my supporters. I am being told that I should go to Pawan (sister's husband of the deceased) who would keep me and that I should go away so that they do not see my face. I also then retort. Kanta's Bhabi had said a number of things about your two sisters. I have to hear all this. I am very unhappy. Perhaps I might get some happiness sometimes."

(19) The relevant portion of the letter Exhibit PG dated June 14, 1981 is as under :—

"..... .."

I am not feeling happy here. You should call me to your house for 10/15 days because the school of Poonam has closed on account of vacations. I am longing to meet you all. I may be called to Kirmich for one or two days, if not more, as I am taunted that I write so many letters but do not receive any reply to any of my letters. In the house of my in-laws everybody listens to each other except me. It is told that I do not know anything and that I cannot do anything. My husband does not listen to me but listens to other family members. I am living like a mad person in this house. None listens to me. My mother-in-law remains taunting me throughout the day. I am not feeling comfortable here. You must call me to see you and meet you. I will tell you my story and will know about your fare."

(20) The relevant portions of the last letter Exhibit PJ read as under :—

"Santosh (wife of elder brother of Naresh Kumar named Bhushan Kumar) stated that a sum of 50 paise belonging to Naresh had been removed. My mother-in-law stated that I have sucked the blood of my brothers and nephews. At the instance of Santosh, all the family members had given poison to me and in case you want to see me you

may see me now and subsequently you will not be able to see. Electricity is being consumed in the house by closing the electric meter. Krishna is departing from all of you.”

(21) The circumstances in which these letters came to be written speak for themselves. They are sufficient to show the unenviable position in which Krishna was putting up with her husband, mother-in-law and other relations in the house of her in-laws. The bad treatment referred to in the letters clearly showed that it was continuous and lasted for a long time. The husband of the deceased was not only indifferent, he even gave her beating from time to time. She was locked up in a room and was denied food. She was constantly taunted. The deceased entertained worst of fears to her own life at the hands of the aforesaid relations. She was accused of theft of anything which was lost or misplaced in the house. These included even a petty amount of 50 paise. The aforesaid circumstances had nearly driven her mad. On the one hand, she was made to work and on the other hand nobody talked to her in the family. While writing about her tale of woe, Krishna kept many things unsaid which she hoped to disclose on personal meeting. The accusation of theft of 50 paise belonging to her husband mentioned in letter Exhibit PJ and the taunt of her mother-in-law that by doing so, Krishna had sucked the blood of her brothers and nephews appears to have proved the proverbial last straw and the tenor of the letter Exhibit PJ shows as if it were a suicide note.

(22) Apart from the fact that the aforesaid facts were not held established by the letters produced by the prosecution, the trial Court was of the view that these facts did not constitute abetment to commit suicide. In support of this conclusion, the trial Court placed main reliance on *Prem Chand v. State of Punjab* (7). It may be pointed out at once that the decision of this Court in *Prem Chand's* case (supra) has since been reversed by the Supreme Court in *Brij Lal v. Prem Chand and another* (8), and *State of Punjab v. Prem Chand* (9). The material background has been aptly summarised in the head-note, in these words :—

“Abetment of suicide—Husband used to demand money from deceased wife—Accused quarrelling with her every

(7) 1978 C.L.R. (CrL.) 224.

(8) A.I.R. 1989 S.C. 1661.

(9) A.I.R. 1989 S.C. 1661.

day over payment of money—Deceased on fateful day reacted by saying that she preferred death to life in this world—Accused further saying that she can provide him relief quicker by dying on very same day—Deceased set fire to herself immediately thereafter—Accused could be said to have instigated her to commit suicide—Acquittal of accused by High Court—Illegal.”

(23) The trial Court further relied on *Raj Kumar v. The State* (10). This was a decision by a Division Bench of this Court and it was followed, amongst others, by a learned Single Judge of this Court in *Satpal Singh v. State of Punjab* (11). The matter in *Satpal Singh's* case (supra) was taken in appeal to the Supreme Court, which was again allowed. The decision of the Supreme Court is reported as *Gurbachan Singh v. Satpal Singh and others* (12). This was a case where the deceased was taunted by the in-laws for bringing meagre dowry and that she was carrying an illegitimate child. These were considered grave and serious provocations and acquittal ordered by the High Court was set aside and the accused convicted of abetting the commission of suicide by their Lordships of the Supreme Court. In para 31 of the report, it was laid down 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 fire by sprinkling kerosene oil on her person and setting herself afire. In view of the law enunciated by the Supreme Court in *Gurbachan Singh's* case (supra), we are of the opinion that the facts established by the prosecution in this case clearly constitute abetment to the deceased to commit suicide under section 306 of the Indian Penal Code.

(24) No doubt, the victim was taken to the hospital by the mother-in-law Smt. Bhagwanti. This conduct of hers stands explained by the fact that the cries of the deceased had attracted several persons including the neighbours and it was, therefore, not possible not to shift the victim to some hospital or nursing home. The total absence of any burn injuries on the hands of Smt. Bhagwanti goes a long way to show that the suggestion of the accused that the mother-in-law and sister-in-law (Smt. Kusam Lata) tried to save the deceased is only to be stated in order to be rejected.

(10) 1983 (1) C.L.R. 660.

(11) Cri. Appeal 434 SB-84, decided on 3rd March, 1986.

(12) J.T. 1989 (4) S.C. 38.

(25) The learned Assistant Advocate-General, Haryana, did not seriously dispute that there was no evidence in so far as Brij Kumar accused is concerned.

(26) No doubt, ordinarily this Court does not interfere in appeal against acquittal but where the judgment of the trial Court is found to be perverse and shocked to one's conscience, there is no choice except to allow the appeal and prevent injustice being done. We find the present appeal as falling in that category. For all these reasons, we allow the appeal, set aside the judgment of the Additional Sessions Judge, Kurukshetra, and convict Naresh Kumar and Smt. Bhagwanti under section 306 of the Indian Penal Code and sentence them to rigorous imprisonment for five years each and a fine of Rs. 5,000 each. In default of payment of fine, the defaulting accused shall further undergo one year's rigorous imprisonment. The accused, who are on bail, are directed to surrender before the Chief Judicial Magistrate within one month of this judgment, failing which they shall be got arrested to serve out the sentence. Appeal against Brij Kumar is dismissed.

R.N.R.

Before G. C. Mital, A.C.J. & H. S. Bedi, J.

SADHU SINGH HAMDARD TRUST, JALANDHAR.—Petitioner.

versus

THE STATE OF PUNJAB AND OTHERS.—Respondents.

Civil Writ Petition No. 4829 of 1991.

30th July, 1991.

Code of Criminal Procedure, 1973 (II of 1974)—S. 95, 96—Constitution of India, 1950—Arts. 14, 16, 19(1-A), 10(1-G), 226—Instructions issued by the State Government addressed to District Magistrates—Freedom of press—Offensive publications—State Government spelling out code of conduct by issuing guidelines addressed to District Magistrates—Such guidelines do not mandate D.Ms. to act in a particular way and to exercise powers of forfeiture and seizure under S. 95—Issued guidelines leave discretion to the officers concerned and are therefore, not violative either of S. 95 or the Constitution—However, power under S. 95 being in the nature of extraordinary power must be used with care and circumspection, therefore, the