

CASE NO.:
Appeal (crl.) 151 of 1997

PETITIONER:
Wattan Singh & Ors.

RESPONDENT:
State of Punjab

DATE OF JUDGMENT: 04/02/2004

BENCH:
Y.K. Sabharwal & S.B. Sinha

JUDGMENT:
J U D G M E N T
[With Criminal Appeal No.227 of 1997]

Y.K. Sabharwal, J.

These appeals by special leave challenge the judgment of the High Court by which the conviction of the appellants for offence under Section 201 of the Indian Penal Code has been upheld.

The appellants in Criminal Appeal No.151 of 1997 are family members of Baldev Singh. Appellant Nos. 3 and 5 are brothers of Baldev Singh and appellant No.4 is wife of appellant No.3 whereas appellant No.6 is wife of appellant No.5. Appellant No.7 is sister of Baldev Singh. Baldev Singh is son of appellant No.2 who has since died and, therefore, the appeal in so far as the said appellant is concerned has abetted. The sole appellant, Harjap Singh, in Criminal Appellant No.227 is family friend of Baldev Singh.

The case of the prosecution in brief is as under :

Baldev Singh was married with Manmohan Kaur in the year 1979. It is alleged that Baldev Singh was harassing Manmohan Kaur for not bringing sufficient amount of dowry. She visited house of her father in village Nangal Thindal on 21st June, 1985 and told him that a demand of Rs.30,000/- was still continuing from her husband and she has been told to return to her husband's house only with the said amount and in case the amount is not arranged, she need not return to her matrimonial house. Her father, PW4 (Harbans Singh), however, sent back his daughter to her matrimonial house with assurance that he would soon visit the house of her in-laws and settle the matter there. Manmohan Kaur left behind her three years old daughter at her parents house. On 22nd June at about 2.35 p.m., Baldev Singh came to the house of his father-in-law and informed him that Manmohan Kaur was missing from the house since early morning that day. Harbans Singh told his son-in-law that she had come to him only a day before and was complaining about her harassment on account of the demand of Rs.30,000/- made by him, his parents, sisters, sisters-in-law and brothers as dowry and asked his son-in-law to have a thorough search of Manmohan Kaur. Harbans Singh also asked his son-in-law to send information to him immediately when she is found and on his own he went out along with his relatives to search his daughter. He could not succeed in his attempt and on his return to his village on 23rd June, he learnt that dead body of Manmohan Kaur had been traced by her in-laws. Immediately, Harbans Singh rushed to the house of the in-laws of Manmohan Kaur. On reaching there, he saw the dead body of Manmohan Kaur being consigned to flames at the cremation ground. On enquiry from Baldev Singh and his parents as to why they did not wait for his arrival, Harbans Singh was told that dead body was cremated by them after informing the Police and after completing the necessary formalities and also that it was getting decomposed and they could not have waited any longer for his arrival for cremation. On 24th June, Harbans Singh filed a written application (Exhibit PD) with the Senior Superintendent of Police, Hoshiarpur expressing his doubt that his daughter has been murdered by her in-laws for not bringing sufficient dowry. It was mentioned therein that he

was suspecting the appellants besides Baldev Singh and his father. The complaint of Harbans Singh was sent to the SHO with the endorsement dated 4th July, 1985 to the effect that prima facie case falls under Section 306 IPC and that the case should be registered. The formal FIR under Section 306 was registered on 4th July and investigation conducted whereafter challan was filed and case committed by Magistrate to Court of Sessions for trial under Section 306/201 IPC.

Harbans Singh, not satisfied with the investigation, also filed a criminal complaint against the appellants and others under Section 302/201/149 IPC. The complaint case was also committed to Court of Sessions and was directed to be tried with the aforesaid Police case. Both the cases were consolidated.

The Sessions Court acquitted all the accused of offence under Section 302 as also of offence under Section 302/149 IPC. For offence under Section 306, Baldev Singh was held guilty. The appellants were acquitted of charge under Section 306. They were, however, found guilty of offence punishable under Section 201 IPC and Rigorous Imprisonment for one year was imposed on each of them besides fine.

The appeal filed by the State and also by Harbans Singh challenging judgment of acquittal and the appeal filed by the appellants challenging their conviction for offence under Section 201 were disposed of by impugned common judgment of the High Court. All the appeals have been dismissed. Thus, the acquittal of the appellants for offence under Section 306 has been confirmed. The acquittal of the appellants for offence under Section 306 IPC has attained finality. The conviction of Baldev Singh for offence under Section 306 IPC has also attained finality as he has been refused leave to appeal against the impugned judgment of the High Court.

The sole issue that remains to be examined in these appeals is regarding the correctness of the conviction of the appellants for offence under Section 201 IPC.

The Sessions Court has found that when Harbans Singh with PW8 (Darshan Singh) reached the cremation ground, pyre of Manmohan Kaur was burning and all the accused along with many other persons were present there and according to the accused persons, dead body was in their house before it was taken to the cremation ground and cremated and also that no autopsy on the dead body of Manmohan Kaur was conducted. On these findings only, the conclusion reached by the Sessions Court is that the body was cremated in a haste without informing the parents of the deceased and the Police and these circumstances indicate that all the accused persons being close relations and being in the same house had the knowledge or were having reasons to believe that offence in relation to the death of Manmohan Kaur had been committed and, thus, they caused the disappearance of the evidence of the crime of offence by cremating the dead body of Manmohan Kaur.

The reasons for confirming the conviction of the appellants stated by the High Court are that the accused persons, except Harjap Singh who was a close friend of Baldev Singh, are family members of Baldev Singh and they knew about not only the death of Manmohan Kaur but also the fact that she was missing from the house of Baldev Singh. It has been further noticed that from the statement of Harbans Singh (PW4), Kulwaran Singh (PW5) and Darshan Singh (PW8), it appears that all the accused were present at the cremation ground when dead body of Manmohan Kaur was cremated and, thus, they were responsible for eliminating the evidence by getting the dead body cremated without informing the police as also Harbans Singh. They all acted in prosecution of common object in getting the evidence of the offence eliminated and in screening Baldev Singh of offence punishable under Section 306 IPC.

Baldev Singh has been convicted and the appellants acquitted of offence under Section 306 IPC, namely, "abetment of suicide". The appellants have been found guilty of offence under Section 201 IPC. For conviction under the said offence, the prosecution was required to prove that the appellants had knowledge or had reason to believe that an offence under Section 306 had been committed by Baldev Singh and with such knowledge or belief they caused evidence of commission of the offence to disappear either with the intention of screening the offender from legal punishment or with that intention gave any information respecting the offence which they knew or believed to be false.

The only finding recorded against the appellants is that they are family members of Baldev Singh. In respect of Harpal Singh, only finding is that he was a family friend. Further finding recorded is that they were present at the house where the body of Manmohan Kaur had been kept and also at the cremation

ground. The mere presence of the accused at the house or at the cremation ground or their relationship with her husband would not attract the provision of Section 201 IPC.

Presumption that the appellants had the knowledge of commission of offence cannot be drawn from their mere presence at the house or cremation ground or on account of relationship. There is no other finding except above noticed against the appellants. We have also perused the record. There is no evidence to prove the guilt of the appellants for offence under Section 201 IPC. It cannot be held that the appellants knew or had reason to believe that offence had been committed and participated in cremation to conceal and dispose of the dead body.

In absence of evidence, it cannot be assumed on suspicion alone that the appellants must have known or must have reason to believe that Baldev Singh abetted in commission of offence and, by being present at the cremation ground, they caused the evidence of commission of the offence to disappear with intention to screen Baldev Singh from legal punishment.

This Court in *Palvinder Kaur v. The State of Punjab* [(1953) 4 SCR 94] has held that in order to establish the charge under Section 201 IPC, it is essential to prove that an offence has been committed & mere suspicion that it has been committed is not sufficient. It has to be proved that the accused knew or had reason to believe that such offence had been committed, and with the requisite knowledge and with the intent to screen the offender from legal punishment caused the evidence thereof to disappear or gave false information respecting such offence knowing or having reason to believe the same to be false. *Palvinder Kaur's* decision has been followed in various later decisions {*Suleman Rahiman Mulani & Anr. v. State of Maharashtra* [AIR 1968 SC 829]; *Nathu & Anr. v. State of Uttar Pradesh* [(1979) 3 SCC 574]; and *V.L. Tresa v. State of Kerala* [(2001) 3 SCC 549]}.

For the aforesaid reasons, the conviction of the appellants cannot be sustained. Therefore, the impugned judgment, to the extent it confirms the conviction of the appellants for offence under Section 201 IPC, is set aside and appeals allowed.