

SUDARSHAN KUMAR

v.

STATE OF HARYANA

(Criminal Appeal No. 1201 of 2007)

JULY 28, 2011

**[MARKANDEY KATJU AND CHANDAMAULI KR.
PRASAD, JJ.]**

Penal Code, 1860: s.302 – Abetment to suicide – Allegation that wife of the appellant committed suicide on the ground that she was harassed, maltreated and beaten by the appellant as she could not conceive and bear a child – On an earlier occasion she was sent to father's house where she stayed for one and half years but due to intervention of the panchayat members and the promise of the appellant that he would not harass her again and his request for pardon, she came back but was again harassed and tormented and she committed suicide – Courts below convicted and ordered sentence of seven years rigorous imprisonment – On appeal, held: The facts disclosed that the deceased was harassed and beaten because she could not bear a child – Interference with the conviction not called for – Appellant has already undergone five years rigorous imprisonment – Sentence is reduced to the period already undergone.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1201 of 2007.

From the Judgment & Order dated 12.05.2006 of the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 71-SB of 1992.

Rajesh Tyagi (for Atishi Dipankar) for the Appellant.

Manjit Singh, AAG (for Naresh Bakshi) for the Respondent.

A The following order of the Court was delivered

O R D E R

Heard learned counsel for the appellant.

B This Appeal has been filed against the impugned judgment and order dated 12th May, 2006 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 71-SB of 1992.

C The facts have been set out in the impugned judgment and hence we are not repeating the same here except wherever necessary.

D The appellant was married to one Sudesh who is said to have committed suicide on 23rd February, 1989. According to the prosecution Sudesh was married to the appellant in April/May, 1980 but she could not conceive. The appellant had been maltreating and beating Sudesh and saying that if she dies, he will be re-married. She was physically assaulted and sent to her father's house where she stayed for one and half years but
E due to the intervention of the panchayat members and the promise of the appellant that he would not harass her again and his request for pardon, she came back. However, it appears that she was again harassed and tormented and ultimately driven to suicide.

F The appellant was convicted by the trial Court for abetting the suicide under Section 306 IPC, and his conviction was upheld by the High Court and he was given sentence of seven years rigorous imprisonment.

G Having heard learned counsel for the appellant and having carefully perused the record of the case, we are not inclined to interfere with the conviction of the appellant and the same is hereby confirmed. From the facts disclosed, it is evident that Sudesh was harassed and beaten because she could not have
H a child.

It is natural that everyone wants children, but if a woman does not have a child, that does not mean that she should be insulted or harassed. In such a situation, the best course would be to take medical help, and if that fails, to adopt a child. Experience has shown that an adopted child gives as much happiness to the adoptive parents as any natural child does. Hence, we see no justification to condone such an act of harassing or tormenting a woman just because she did not give birth to a child. It may not be the fault of the wife that she did not have a child. At any event, that is no justification for tormenting or beating her, and this reveals a feudal, backward mentality.

Accordingly, we uphold the conviction of the appellant recorded by the courts below but keeping in view the fact that the appellant has already undergone about five years rigorous imprisonment out of seven years, as submitted by the learned counsel for the appellant, we deem it appropriate to reduce the sentence to the period already undergone by him.

The Appeal is disposed of accordingly.

By an interim order of this Court dated 15th May, 2008, the appellant was enlarged on bail. His bail bonds shall stand discharged since we have reduce the period of sentence to the sentence already undergone by him.

D.G.

Appeal disposed of.