

**Shridhar Vs. the State**

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**Court :** Himachal Pradesh

**Decided On :** May-07-1954

**Reported in :** AIR1954HP67

**Judge :** Ramabhadran, J.C.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Section 45 and 45(1); ;[Indian Penal Code \(IPC\), 1860](#) - Section 176

**Appeal No. :** Criminal Revn. No. 63 of 1953

**Appellant :** Shridhar

**Respondent :** The State

**Advocate for Def. :** L.N. Sethi, Govt. Adv.

**Advocate for Pet/Ap. :** Ved Vyas Mahajan, Adv.

**Disposition :** Revision allowed

**Judgement :**

ORDER

Ramabhadran, J.C.

1. The facts giving rise to this revision petition are that Piar Singh, son of the petitioner, committed suicide on 11th Jeth 2009 B. by shooting himself with the

gun belonging to one Jai Kishan in the field of one Baldev near village Seri. The dead body was cremated the next day without giving information to the police.

In due course, a complaint under Sections 176 and 202, I. P. C., was filed by S. H. O. Kihar against six persons, including the petitioner and Jai Kishan. The trial Magistrate convicted the petitioner and Jai Kishan under Section 202, I. P. C., and acquitted the remaining accused persons.

Shridhar (the petitioner) filed an appeal, which was heard and disposed of by the learned District Magistrate of Chamba. The learned District Magistrate altered the conviction of the petitioner from one under Section 202, I. P. C., to one under Section 176, I. P. C., but maintained the sentence. Hence, this revision petition.

2. Learned counsel for the petitioner argued that the conviction of the petitioner cannot be sustained, because the ingredients of an offence under Section 176, I. P. C., have not been established.

Before a person can be convicted under Section 176 I. P. C., the prosecution are bound to prove (a) that the accused person was legally bound to furnish a certain information to a public servant and (b) that he intentionally omitted to give such information. The trial Magistrate has expressed his opinion that it was the primary duty of the petitioner to inform the police before cremating the dead body. He has not quoted the law, which cast a duty on the petitioner to inform the police accordingly.

The learned District Magistrate, apparently, realized this difficulty, because he permitted additional evidence under Section 428, Or. P. C., to be produced on the point, whether or not, the petitioner was a land owner. He found that the petitioner owns land in village Gaglu, which is at a distance of about one mile from village Seri in the proximity of which the suicide was committed.

Thereupon, the learned District Magistrate proceeds to observe as follows:

'The occurrence was thus 'near' village Gaglu as conceived of by Sub-Clause (d) of Clause (1) of Section 45, Cr. P. C. For the rural areas, the distance one mile cannot be said to be outside the definition of 'near'. The overriding fact, however,

is that Shridhar is the father of Piar Singh deceased and had immediately come to know of the occurrence in question. Being a land owner, he was, therefore, bound to give information of the occurrence to the police, and in not doing so, has certainly committed an offence under Section 176, I. P. C.'

The petitioner has been convicted not because he was the father of Piar Singh but because being a land owner in village Gaglu, he failed to report to the police that Piar Singh had committed suicide. Therefore, the mere fact that the petitioner is the father of Piar Singh has no direct bearing to his criminal liability. The District Magistrate had to fall back upon the provisions of Section 45 (1) (d), Criminal P. C., which provide that

'every village-headman..... owner or occupier of land is bound to communicate to the nearest Magistrate or to the officer-in-charge of the nearest police station the occurrence in or near such village of a sudden or unnatural death...'

The case turns upon how we are to interpret the expression 'in or near such village'. The District Magistrate has found that the village Seri, in the fields of which the suicide was committed, is at a distance of about one mile from village Gaglu, where the petitioner owns land. My attention has been invited to the site plan, Ex.P.C, prepared by S. I. Mohan Singh. It would be seen therefrom that village Rachata intervenes between villages Gaglu and Seri and between villages Rachata and Seri, there is a 'khud'(nallah).'

The expression 'near' has been defined in the Concise Oxford Dictionary as at a short distance, in proximity in space.

I think it would be straining the scope of this expression too much, if we are to hold that the place where the suicide was committed is, under the circumstances, 'near' village Gaglu.

Obviously, the scene of suicide was 'near' village Seri and under Section 45 the duty of reporting the suicide will fall squarely on the heads of village-headmen, accountant, etc. of village Seri. The petitioner, undoubtedly, is the father of Piar Singh and morally his conduct in not reporting the matter to the police might be

open to censure. At the same time, in applying a criminal statute and before convicting a person of a criminal offence, care must be taken not to go beyond the obvious intention of the Legislature.

3. The result is: I allow this revision petition, and set aside the conviction of the petitioner. He is acquitted. Fine, if realized, from the petitioner, must be refunded without delay.

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