

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM No.A-56-MA of 2012

Date of decision : 08.05.2015

Bali Ram

... Applicant

Versus

Ajit Singh and others

... Respondents

CORAM : HON'BLE MR.JUSTICE HARI PAL VERMA

Present: Mr.Birdavinder Singh, Advocate for
Mr.K.S.Chahal, Advocate
for the applicant.
Mr.Gurinderjit Singh, DAG, Punjab.

Hari Pal Verma, J.

This is an application filed under Section 378 (4) of Cr.P.C., seeking grant of leave to appeal against the judgment dated 29.07.2011 passed by Sessions Judge, Bathinda, whereby the accused have been acquitted for the offence punishable under Section 306, IPC.

Briefly stated FIR No.83 dated 26.06.2010 under Section 306 read with Section 34 IPC, was registered against the respondents-accused at Police Station, Nathana. As per prosecution story, as coming out from the statement, Ex.PA of complainant, namely Bali Ram son of Sant Ram, resident of village Dodra, Tehsil Budhlada, his elder son Gurpreet Singh was posted as Postman in village Dodra, whose dead-body was found lying in the fields of Navtej Singh son of Bharpur Singh under suspicious circumstances.

The matter was reported to the police and the police conducted

proceedings under Section 174 Cr.P.C. The complainant kept on making enquiries about the death of Gurpreet Singh. Initially the complainant family had the suspicion, but now they firmly believed that Gurpreet Singh had illicit relations with Charanjit Kaur wife of Ranjit Singh alias Nikka son of Bhura Singh resident of village Dodra. Both used to talk on telephone on obscene matters. On coming to know about the illicit relations Ranjit Singh and his brother Ajit Singh had been giving threats to the life of Gurpreet Singh over telephone. On account of such threats, Gurpreet Singh remained under depression. Complainant brought this fact to the knowledge of the respectables of the village. On 24.03.2010, Ranjit Singh heard Gurpreet Singh and Charanjit Kaur while talking on obscene matters telephonically and on the same day, Ranjit Singh and his brother Ajit Singh threatened Gurpreet Singh on telephone. Under these compelling circumstances, Gurpreet Singh had died and his dead body was recovered from the village Chak Bakhtu. Gurpreet Singh has committed suicide after consuming some poisonous substance due to threat given by Ranjit Singh and Ajit Singh.

On the basis of the statement of complainant-Bali Ram, ASI Harjit Singh of Police Post, Bhucho Mandi took the investigation of this case in hand. He made endorsement Ex.PA/1 underneath the statement, Ex.PA of complainant-Bali Ram and sent the same to the Police Station through Constable Binder Singh, on the basis of which, formal FIR Ex.PA/2 was recorded by ASI Major Singh. Investigation was conducted and the house of the accused was

raided, but they were not found present in the house. However, on 30.6.2010, accused Ajit Singh was arrested by ASI Harjit Singh after obtaining his production warrants from the Court, who was lodged in the Jail in some other case after supplying the grounds of arrest vide memo Ex.PL. Ranjit Singh was also arrested on 19.08.2010 . On 27.8.2010, ASI Harjit Singh visited Civil Hospital, Bathinda and moved application Ex.PF before Medical Officer to know the cause of death of Gurpreet Singh. The Medical Officer vide report Ex.PF/1 opined that the cause of death was due to *organo phosphorous poison*. During investigation, ASI-Harjit Singh also collected the details of the mobile phone from the office of BSNL. He also recorded the statements of the witnesses under Section 161 Cr.P.C. and challan as provided under Section 173, Cr.P.C., was presented before the Illaqa Magistrate, who committed the case to the trial court.

The accused were charged under Section 306, IPC, to which they pleaded not guilty and claimed to face trial.

Prosecution examined as many as nine witnesses which are as under:-

PW-1	Bali Ram (complainant)
PW-2	Darshan Singh son of Karnail Singh
PW-3	Baghera Singh son of Natha Singh
PW-4	Dr.Parminder Bansal, Medical Officer.
PW-5	HC Narinder Singh No.172/BTI.
PW-6	HC Chamkaur Singh No.1017.
PW-7	ASI Harjit Singh (Investigating Officer)
PW-8	HC Jagdev Singh No.1320/BTI
PW-9	Anil Aggarwal, Junior Telecoms Officer.

Thereafter, the prosecution closed the evidence.

Statements of all the accused were recorded under Section 313 Cr.P.C., wherein all the incriminating evidence appearing against them was put to them. Accused denied the allegations levelled against them by the prosecution witnesses and pleaded their innocence and false implication.

Bali Ram, who is the complainant and also the father of the deceased, Gurpreet Singh, while appearing in the witness box as PW-1 reiterated his version as has been given by him in his statement made before ASI Harjit Singh under Section 161 Cr.P.C. He testified that his elder son Gurpreet Singh was posted as Postman. On 24.03.2010, he got a telephonic message that the dead-body of his son Gurpreet Singh was found on the land of Navtej Singh, under suspicious circumstances. He visited the police post Bhucho and identified the dead body of his son Gurpreet Singh lying there. He further testified that Gurpreet Singh had maintained illicit relations with Charanjit Kaur wife of accused Ranjit Singh. About 2-3 days prior to the death of Gurpreet Singh, he found his son going upstairs with a mobile phone. He was talking with Charanjit Kaur wife of accused Ranjit Singh. His another son, namely, Harpreet Singh told him that accused Ranjit Singh had threatened Gurpreet Singh that either he should stop maintaining illicit relations with his wife or else, either he would die or he (accused) would kill him. Thereafter, Gurpreet Singh had gone under depression. Bali Ram has further deposed that his son Harpreet Singh told him that he was threatened by accused Ranjit Singh and Ajit Singh on a mobile phone on

24.03.2010 that his brother Gurpreet Singh had been killed and now, they would destroy his shop. He further testified that his son had committed suicide for being threatened by accused Ranjit Singh and Ajit Singh.

Similarly, Darshan Singh PW-2 testified that he knows both the accused being residents of his village. A few days prior to 24.03.2010, both the accused told him that Gurpreet Singh had maintained illicit relations with the wife of Ranjit Singh and they further told him that they would do away with the life of Gurpreet Singh.

Baghera Singh, PW-3 testified that on 24.03.2010 he visited Police Station, Budhlada where Bali Ram-complainant met him. He was asked by Bali Ram to bring his son and also the son of his brother from Budhlada and when he was bringing the two boys from Budhlada to village Dodra, on the way, Harpreet Singh attended a mobile phone call given by accused Ajit Singh that they had killed his brother Gurpreet Singh and they were going to demolish his shop.

Dr.Parminder Bansal Brar who appeared as PW-4 has testified the endorsement, Ex.PB/1 for conducting the postmortem examination of the dead body.

The trial court has framed the following point for determination in the instant case:-

- “1. Whether both the accused abetted the commission of suicide by Gurpreet Singh on 24.3.2010 in the area of village Chak Bakhtu*

and as such are liable under Section 306 of the Indian Penal Code?”

On the basis of aforesaid evidence, the trial Court came to the conclusion that prosecution has not succeeded in proving its case against the accused and held that in order to bring the case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide, must have played an active role by an act or explanation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under section 306 of the Indian Penal Code.

On the basis of the aforesaid evidence, the trial court has acquitted the accused respondents for the offence punishable under Section 306, IPC.

I have heard the learned counsel for the parties.

In order to bring Section 306, IPC in motion, the prosecution is required to prove that there is abetment for the commission of suicide. It has come in the statement of PW-1-Bali Ram son of Sant Ram that on coming to know about the illicit relations of deceased Gurpreet Singh with the wife of Ranjit Singh, the accused namely Ajit Singh and his brother Ranjit Singh alias Nikka son of Bhura Singh residents of village Dodra had been giving threats to the life of Gurpreet Singh on telephone, due to which, Gurpreet Singh had gone under depression. It has also come in the

statement of this witness that accused Ranjit Singh and Ajit Singh were threatening Gurpreet Singh on telephone and compelled him to die. The dead body of Gurpreet Singh was recovered on the same very day from the fields of Navtej Singh son of Bharpur Singh in village Chak Bakhtu. Even if the statement of Bali Ram complainant PW-1 is taken in to consideration, even then offence under Section 306, IPC is not attracted in this case. The allegations levelled by the prosecution itself do not prove any offence to abet the deceased to commit suicide.

Similarly, the statement of the complainant, Bali Ram recorded on 24.3.2010 Ex.PB to the police is also relevant, wherein he has stated that his son, Gurpreet Singh used to suffer from epilepsy and earlier also he had suffered the attack of epilepsy while coming from Chak Bakhtu to Lehra Mohabbat. He has also recorded in his statement that his son had died because of the attack of epilepsy and also of heart attack and that he did not want any action to be taken against anybody for his death. However, while recording statement in the court as PW-1, he has tried to travel beyond his statement suffered to the police vide Ex.PB. He has tried to escape by saying that the police in Police Post, Bhucho has simply obtained his signatures on blank papers and that no writing was done regarding the dead body of his son. But nobody can believe it. Bali Ram, has also identified his signatures on Ex.PB, which shows that PW-1 Bali Ram has improved his statement.

Similarly, PW-2 Darshan Singh has also failed to connect

the accused with the commission of offence in any manner. He has come forward with the plea that a few days before 24.3.2010, both the accused had met him and had told him that Gurpreet Singh had illicit relations with the wife of Ranjit Singh, and therefore, they would do away with the life of Gurpreet Singh. There was no occasion or reason for the accused to approach Darshan Singh to disclose their intention to him. This witness has categorically admitted that he was not doing any work since he was handicapped for the last twenty years. He remained at his house being idle. He was not holding any respectable position in the village. It seems that he is a procured witness. Learned trial court has rightly found that the prosecution has failed to prove its case which led to acquittal of the accused.

No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the applicant.

In this view of the matter, no interference is warranted in the impugned orders. Accordingly, finding no merit in the contention of the learned counsel for the applicant, the prayer made in the application under Section 378(4) Cr.P.C. for grant of special leave to appeal is declined. The application is dismissed.

[Hari Pal Vema]
Judge

08.05.2015
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