

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.A-1386-MA of 2015 (O&M)

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Date of decision:16.9.2015

State of Haryana

...Appellant

v.

Raj Kumar and others

...Respondents

....

(2) Criminal Appeal No.S-1755-SB of 2015 (O&M)

.....

Deepak

...Appellant

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Anmol Malik, Assistant Advocate General, Haryana for
the respondent-applicant in Cr. Misc. No.A-1386-MA of 2015.

Mr. Sanjeev Kodan, Advocate for the appellant in Cr. Appeal
No.S-1755-SB of 2015.

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Inderjit Singh, J.

This order will dispose of the above mentioned two cases i.e.

Criminal Misc. No.A-1386-MA of 2015 filed by the State of Haryana and

Criminal Appeal No.S-1755-SB of 2015 filed by Deepak.

Criminal Appeal No.S-1755-SB of 2015 has been filed by

Deepak-victim under Section 372 Cr.P.C. against the acquittal of the

respondents by the learned Additional Sessions Judge (Exclusive Court), Jhajjar vide impugned judgement dated 6.1.2015 passed in case FIR No. 271 dated 28.5.2013 registered for the offences under Sections 306 read with Section 34 IPC at Police Station City Bahadurgarh.

The other Criminal Miscellaneous No.A-1386-MA of 2015 has been filed by the State of Haryana against Raj Kumar and others-respondents under Section 378 (3) Cr.P.C. for grant of leave to file appeal against the same judgement of acquittal dated 6.1.2015. As both the appeal and criminal miscellaneous application filed by the State as well as the appeal filed by the victim are against the same judgement, therefore, these cases are taken together for decision.

I have heard learned counsel for the State as well as learned counsel for the appellant/victim and have gone through the record.

The brief facts of the case are that the statement of Deepak-complainant was recorded on 28.05.2013, who made the statement that he is son of deceased Savitri, who was living with them. His mother had been instrumental in giving of cash amount of ₹5 Lacs by Suso wife of Narender about two years ago on interest to her acquaintance i.e. Raj Kumar accused. The complainant's mother Savitri (since deceased) herself had given ₹8,65,000/- to aforesaid Raj Kumar on interest. When Suso repeatedly asked her mother to return borrowed amount of ₹5 Lacs, her mother called upon Raj Kumar again and again to return the amount, but Raj Kumar used to make excuses on one pretext or another and kept asking for time. Ultimately, her mother was forced to return the borrowed amount of ₹5

Lacs to Suso by selling her own plot. Panchayat of the respectables and relatives was convened several times, in which Raj Kumar admitted to pay the amount of ₹10 Lacs in total to Savitri against the outstanding dues. Despite settlement, Raj Kumar, Krishna and Darshna failed to honour the panchayati settlement and did not repay the agreed amount on time and Raj Kumar continued to make excuses. The complainant also stated that his mother Savitri had committed suicide on 27.05.2013 being fed-up on account of the conduct of Raj Kumar, Krishna and Darshna, who had failed to return the borrowed amount in time. A suicide note written by his mother Savitri was found at home which was being enclosed.

After the presentation of challan, the trial Court finding *prima facie* case against the accused, framed charge for the offence under Section 306 IPC, to which the accused pleaded not guilty and claimed trial. Charges were also framed against Krishna and Darshna as they were also summoned.

In support of its case, the prosecution examined PW-1 Constable Satyawar, PW-2 Constable Pradeep, PW-3 EHC Devender Singh, PW-4 Mehtab Singh, PW-5 ASI Satbir Singh, PW-6 Deepak, PW-7 Mahabir, PW-8 Dr. Pansi Gupta, Resident, Department of Pathology, PGIMS, Rohtak, PW-9 SI Randhir Singh, PW-10 SI Dalbir Singh, PW-11 SI Sethi Malik , PW-12 Dr. Parteek Raj, Medical Officer, P.H.C. and PW-13 Gulshan Rao, Director, forensic Science Laboratory, Madhuban. The Public Prosecutor for the State tendered report of FSL Ex.PW.12/C in evidence and closed the prosecution evidence.

At the close of the prosecution evidence, the accused were

examined under Section 313 Cr.P.C. and were confronted with the evidence of the prosecution, but they denied the correctness of the evidence and pleaded themselves as innocent.

In defence, the accused examine DW-1 Ram Bhagat, Sarpanch and Maman as DW-2.

After going through the evidence on record, the learned trial Court vide impugned judgement dated 06.01.2015 acquitted the accused of the charges as framed against them.

At the time of arguments, learned State Counsel argued that the findings given by the Court below are not as per evidence. The case has been duly proved by the prosecution and the accused has been wrongly acquitted by the Court.

After hearing the learned counsel for the parties and after going through the record, I find that nothing has been pointed out at the time of arguments which material evidence has been misread by the Court below and which material evidence has not been considered by the Court. Nothing has been pointed out as to how the judgement and the reasoning given by the Court below are preverse. The learned Additional Sessions Judge after minutely discussing the evidence and the law has correctly reached at the conclusion that firstly, there is nothing on the record regarding selling of the plot. No sale deed has been placed on the record. The learned Additional Sessions Judge while discussing the evidence in minute detail also reached to the conclusion correctly that there is no particular regarding any harassment given by the accused to such an extent that the deceased was

compelled to commit suicide. The learned Additional Sessions Judge also discussed that the PW-6 complainant, who is the son of the deceased admitted in cross-examination that he came to know regarding giving the loan of ₹5 Lacs by Suso, which was given in the year 2011 and stated to be at the instance of Savitri, in December 2012. He also admitted that he came to know regarding the loan amounting to ₹8,65,000/- given by Savitri to Raj Kumar which was given in the year 2011, but he came to know in the year 2013. This statement itself shows that there was no harassment or maltreatment to Savitri by the accused i.e. why the complainant could not come to know regarding these transactions. Furthermore, PW-7 states that he was in the panchayat, but there is no document on record to prove this compromise in the panchayat. Otherwise also, even if it is taken that the loan was given to accused Raj Kumar and he had not paid the same despite demands, even it will not amount to abetment to commit suicide. There is nothing on the record to show when Savitri lastly met Raj Kumar. There is also nothing in the evidence to show that Raj Kumar ever refused to pay the amount. There is also nothing in the evidence on which date and month these loans were paid. The statements of PW-6 and PW-7 are more like of hearsay evidence. No security document had been taken or got executed from Raj Kumar. The mere suicide note holding responsible Raj Kumar, Darshna and Krishna alone is insufficient to convict the accused. The prosecution is to prove its case beyond reasonable doubt by leading cogent evidence. The mere fact that Raj Kumar would not pay the loan amount and made excuses or in other words could not pay the amount on the agreed date

itself will not amount to abetment to commit suicide. As already discussed, there is no cogent evidence on record that Raj Kumar was having resources to pay that amount nor there is any evidence that he was intentionally not paying the same. As already discussed, there is neither cogent evidence on record nor even particulars have been given regarding any harassment or maltreatment or torture to the deceased nor there is anything that he ever abetted the commission of suicide muchless immediate before the occurrence.

Therefore, in view of the findings given by the Court below, in no way, it can be held that these findings are perverse or evidence has been misread etc.

Therefore, from the above, finding no merit in the application filed under section 378 (3) Cr.P.C. as filed by the State of Haryana and finding no merit in the criminal appeal filed by the victim-Deepak, the same are dismissed.

September 16, 2015.

(Inderjit Singh)
Judge

hsp