

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.S-2123-SB of 2003

Date of Decision : January 14, 2015

Indera

....Appellant

VERSUS

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. P.S. Ahluwalia, Advocate
for the appellant.

Mr. Munish Dev Sharma, Assistant Advocate General, Haryana.

Mr. N.S. Shekhawat, Advocate
for the complainant.

T.P.S. MANN, J.

Appellant Indera, daughter of Laxmi Narayan, alongwith her brother Rajesh and father Laxmi Narayan was tried for committing offence punishable under Section 306 IPC. Vide judgment and order dated 10/11.11.2003, learned Additional Sessions Judge, Rewari convicted them for the aforementioned offence. While the appellant was sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for six months, Rajesh and Laxmi Narayan were sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for six months.

Aggrieved of their conviction and sentence, Indera preferred

the present appeal, whereas Laxmi Narayan and Rajesh preferred Criminal Appeal No.S-2167-SB of 2008. Complainant Bharat Singh also filed Criminal Revision No.62 of 2004 seeking enhancement of sentences of imprisonment of the three convicts. As both the appeals and the revision arise out of one and the same judgment of conviction and sentence passed by the trial Court, they are being disposed of by a common judgment.

The case of the prosecution, in nutshell, is that Arvind, since deceased, son of complainant Bharat Singh, was married to Manju, daughter of Laxmi Narayan on 7.11.2000. Arvind committed suicide on 23.2.2002 by consuming sulfas tablets. DDR Ex.PE was recorded at the instance of one Ranbir s/o Jagdish on 24.2.2002 stating therein that Arvind was under depression due to unemployment and, accordingly, he had committed suicide. After conducting inquest proceedings, the police sent the dead body of Arvind for post-mortem on 24.2.2002.

On 1.3.2002, suicide note Ex.PA was produced by Sudesh Kumar, brother of Arvind deceased. However, as he could not produce any proof in order to show that it was in handwriting of his deceased brother, no FIR was registered. On 27.3.2002, Bharat Singh, father of the deceased submitted complaint Ex.PB stating therein that his son had committed suicide due to cruel behaviour of the three accused, who had made false allegations against the deceased regarding demand of dowry. It was further alleged that the accused had brought Panchayat in the village, wherein accused Rajesh had even slapped Arvind and threatened to see him in future. Rajesh and Indera accused also used to extend threats to Arvind on telephone at the instance of their father Laxmi Narayan and for that reason

Arvind had committed suicide. Accordingly, on the basis of complaint Ex.PB, FIR Ex.PF came to be registered against the appellants under Sections 306/34 IPC on 27.3.2002 at Police Station Ruhrai.

During the investigation of the case, some letters written by deceased were taken into possession and the handwriting of the same was got compared with the handwriting of the suicide note, which were found to match. Statement of the witnesses were recorded under Section 161 Cr.P.C. The accused were arrested and after completion of the investigation, challan was presented against them. This was followed by commitment of the case and framing of the charge under Section 306 IPC, to which all the three accused pleaded not guilty and claimed trial.

In support of its case, the prosecution examined twelve witnesses.

PW1 Bharat Singh deposed about the circumstances leading to commission of suicide by his son Arvind. According to him, the accused used to make false allegations against him regarding demand of dowry and maltreating Manju. He further deposed about bringing of Panchayat by the accused in the month of September, 2001 wherein they also made false allegations and Rajesh even slapped Arvind. Indera and Rajesh used to extend threats to Arvind on telephone at the instigation of accused Laxmi Narayan. He further deposed that in order to save the honour of his family and to avoid any possible jail to his parents, his son Arvind committed suicide on 23.2.2002. He also deposed that on 1.3.2002 when they went to the room of Arvind to sprinkle Gangajal, they found suicide note on the bed of the deceased. He identified the handwriting of suicide note Ex.PA to be

that of his deceased son. He also proved complaint Ex.PB submitted by him before the police.

PW2 Raghubir corroborated the testimony of PW1 Bharat Singh and also stated about the incident of bringing of Panchayat by the accused.

PW3 Manoj, neighbour of the deceased deposed about threats given by the accused to the deceased on telephone from time to time.

PW5 Sudesh, corroborated the testimony of his father Bharat Singh. He also stated that he, alongwith Manoj, identified the dead body of his brother Arvind on 24.2.2002. On that day, the police had come to the hospital and recorded his statement Ex.PD. He also identified the handwriting of his deceased brother on suicide note Ex.PA, which was taken into possession by the police vide recovery memo. Ex.PD/1 on 1.3.2002. He further deposed that Arvind had a car which met with an accident and the insurance company had not given adequate claim to him and, accordingly, he had made applications Ex.PD/2 and Ex.PD/3 for enhancement of the claim.

PW4 Dr. T.C. Tanwar testified that on 24.2.2002, he conducted postmortem on the dead body of Arvind. He proved copy of postmortem report as Ex.PC. He also deposed about handing over to the police sealed parcels containing viscera and blood of the deceased for chemical analysis. After going through the report of the Chemical Examiner, he had given opinion Ex.PC/1 to the effect that the cause of death was poisoning.

PW6 Head Constable Munshi Ram proved DDR Ex.PE recorded on 24.2.2002 at the instance of Ranbir s/o Jagdish. He also proved inquest

proceedings conducted by him under Section 174 Cr.P.C. He also proved application Ex.PC/3 for conducting postmortem on the dead body of Arvind. He further deposed that on 1.3.2002, suicide note Ex.PA of Arvind was handed over to him by Sudesh Kumar, which was taken into possession vide recovery memo. Ex.PD/1.

PW7 HC Radhey Sham proved FIR Ex.PF recorded by him on 27.3.2002. He also deposed about the deposit of viscera.

PW8 Constable Dharampal, Draftsman proved scaled site plan Ex.PG of the spot.

PW9 SI Magan Singh testified that he had recorded statement of certain witnesses. He proved application Ex.PH made by him to the Manager of the insurance company and taking into possession letters/applications Ex.PD/2 and Ex.PD/3. He also deposed about sending the said letters/applications and the suicide note to the Forensic Science Laboratory, Madhuban for comparison.

PW11 Shri Virender Goyal, Divisional Manager, United India Insurance Company brought accident claim file pertaining to vehicle in the name of deceased Arvind. He deposed about receiving of applications Ex.PD/2 and Ex.PD/3 by way of registered post in his office which were handed over by him to the police on 26.3.2002.

PW12 Shri Gulshan Rai, Assistant Director (Documents), FSL, Haryana testified that he had compared handwriting of applications Ex.PD/2 and Ex.PD/3 with the suicide note Ex.PA and given his report Ex.PE that all the handwritings were of the same person.

When examined under Section 313 Cr.P.C., all the accused denied the incriminating circumstances appearing in the evidence produced by the prosecution and pleaded that they were innocent. All of them stated that deceased Arvind was unemployed due to which he was in bad financial position. He remained under depression and even taken loan of Rs.1,70,000/- against the car, which was given to him in marriage.

In their defence, the accused examined Manju Yadav, wife of deceased Arvind as DW1, who testified that due to his poor financial position and unemployment her deceased husband was not getting proper regard from his family members and, accordingly, due to depression he had committed suicide. None of the accused had any role to play in the suicide of Arvind. She denied that suicide note Ex.PA was in the handwriting of her deceased husband. She also stated that she had made a complaint at Police Station Behror regarding ill behaviour of her in-laws. Copy of that FIR was placed by her on record as mark 'DX'.

After hearing learned counsel for the parties and on going through the evidence brought on the record, the trial Court after holding that the accused had created such circumstances and atmosphere for the deceased that he committed suicide in order to save the honour of his family as he did not want to face the day when his family members would be implicated in a false dowry case and the prosecution had, thus, successfully established its charge against the accused, convicted and sentenced them, as mentioned above.

Having heard learned counsel for the parties and on going through the evidence with their able assistance, this Court finds that from

the statements of PW1 Bharat Singh and PW5 Sudesh Kumar, father and brother, respectively of deceased Arvind, it is made out that Arvind had consumed sulfas tablets on 23.2.2002 and he was immediately rushed to a private hospital by his family members and then shifted to Civil Hospital, Rewari where he died after half an hour. The dead body was subjected to postmortem by PW4 Dr. T.C. Tanwar on 24.2.2002, who after going through the report of the Chemical Examiner regarding viscera and blood of the deceased had opined that the cause of death was poisoning.

Both PW1 Bharat Singh and PW5 Sudesh Kumar had testified that the accused used to make allegations that Arvind and his family members were demanding dowry and did not treat Manju well in the Panchayat brought by them. In the said Panchayat, Rajesh accused even slapped Arvind. This fact is also corroborated by PW2 Reghubir, who was the go-between in the marriage of Arvind and Manju. It has also come in the evidence that the accused were calling the deceased every other day on phone and extending threats to him. PW3 Manoj, neighbour of the deceased, where the calls used to be made as a family of the deceased have not any telephone facility at their place, also corroborated the version of PW1 Bharat Singh and PW5 Sudesh Kumar in this respect.

In order to bolster the charge of abetment to commission of suicide, the prosecution relied upon suicide note Ex.PA left behind by the deceased. Initially when the suicide note was produced before the police, no action was taken upon the same as the prosecution did not produce any material which could have contain the admitted handwriting of the deceased. Accordingly, only DDR Ex.PE was recorded. Subsequently, when

two letters/applications written by the deceased which were proved on record by PW11 Shri Varinder Goyal, the investigating agency got handwriting of those letters/applications compared with the handwriting as contained on the suicide note Ex.PA. PW12 Shri Gulshan Rai, Assistant Director (Documents), FSL, Haryana vide his report Ex.P1 opined that Ex.PA had been written by the same person who had written Ex.PD/2 and Ex.PD/3.

The suicide note Ex.PA consisted of seven pages. In the first four pages, which were addressed to his parents, the deceased had stated that the three accused, who were his father-in-law, brother-in-law and sister-in-law were responsible for his death and because of torture committed by them, he was committing suicide in order to save the honour of his family. However, no specific allegation was levelled against anyone of them. Only omnibus allegations were levelled therein against them.

At the same time, it may be noticed that PW1 Bharat Singh and PW5 Sudesh Kumar had testified about the convening of Panchayat by the accused in the month of September, 2001, wherein also false allegations had been levelled. In that Panchayat, Rajesh accused slapped Arvind. As regards extending of threats, again general allegations were levelled. Under these circumstances, it cannot be said that Indera and Laxmi Narayan accused had played any direct role in creating circumstances and atmosphere for the deceased that he had no other option but to commit suicide to save the honour of his family. Only Rajesh accused can be held liable for committing the offence of abetment to commission of suicide as

specific role of slapping Arvind during the Panchayat gathering was attributed to him.

In view of the above, both Indera and Laxmi Narayan are entitled to the relief of acquittal of the charge under Section 306 IPC. At the same time, the conviction of Rajesh appellant is well merited.

Coming to the quantum of sentence in respect of Rajesh appellant, it may be noticed that though he is facing the agony of criminal prosecution for the last about thirteen years and has been sentenced to undergo imprisonment for five years yet, taking into consideration the totality of the circumstances, no case is made out for any interference in the sentence of imprisonment and fine imposed upon him.

Resultantly, Indera and Laxmi Narayan appellants are acquitted of the charge under Section 306 IPC. The conviction of Rajesh appellant under Section 306 IPC and his sentence of imprisonment and fine are upheld.

Criminal Appeal No.S-2123-SB of 2003, Criminal Appeal No.S-2167-SB of 2003 and Criminal Revision No.62 of 2004 are, accordingly, disposed of.

January 14, 2015
satish

(T.P.S. MANN)
JUDGE