

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.A-137-MA of 2012 (O&M)

Date of decision: August 03, 2016

Vipin Kumar

...Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.P.S.Tung, Advocate
for the applicant.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Applicant-Vipin Kumar has filed this application under Section 378 Cr.P.C. seeking permission for leave to appeal against respondents State of Punjab and Manoj Kumar, challenging the impugned judgment dated 05.12.2011 passed by learned Addl. Sessions Judge, Fast Track Court, Sirsa, vide which the accused-respondent was acquitted.

It is mainly stated in the application that the applicant want to challenge the impugned judgment of acquittal dated 05.12.2011. It is, therefore, prayed that leave to appeal be granted.

The brief facts of the case as noted down in the judgment dated 05.12.2011 passed by learned learned Addl. Sessions Judge, Fast Track Court, Sirsa, are as under:-

“Prosecution presentation is that the present case was registered on the statement Ex.P1 made by Vipin Kumar son of Yashpal, resident of Mandi Dabwali (complainant) on the averments that he was principal in Arya Model School, Bathinda. On 30.08.2008 at about 1.00 p.m., he was coming back to his house from Bathinda and he received a telephonic message that his brother Naveen @ Vicky had taken some poisonous substance and had been admitted in Govt. Hospital, Dabwali. On which, he reached Civil Hospital, Dabwali and found his brother in very serious condition and he told him that some persons were troubling him regarding some money transaction due to which he was forced to take such a step. Thereafter, his brother was referred to Government Hospital, Sirsa but they took his brother to Aadesh Hospital, Bathinda for treatment and his brother died around 11.30 p.m. His brother was tense for the last few months and he had told him that Manoj Kumar son of Ram Lal took the papers of their Maruti Wegnor Car No.CH-03H-1335 which was lost and misused them and he had also moved an application for getting the same transferred in his name fraudulently and he (Manoj Kumar) also used to threat his brother due to which his brother took this step. On this statement a formal FIR was recorded. Investigation was carried out. Accused was arrested. On completion of investigation, Challan in the present case has been forwarded against the accused.”

The prosecution examined PW-1 Vipin Kumar, complainant, PW-2 Dr.Baldesh Kumar, Medical Officer, PW-3 Dr.Raj Kumar, PW-4 Dr.Niranjan, PW-5 Dr.Kuldeep Singh, PW-6 Dr.Rakendra Singh, PW-7 Yashpal, PW-8 Sat Narain, PW-9 Davender Kumar, PW-10 Radhey Sham, PW-11 Constable Vijay Kumar, PW-12 Constable Ramesh Chander, PW-13 Head Constable Shalender Kumar, PW-14 SI Krishan Lal and PW-15 ASI Dharambir Singh, Investigating Officer.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded himself as innocent.

In defence, accused-appellant examined three witness namely

DW-1 Inder Jain, DW-2 Bharat Inder and DW-3 Kulwant Rai.

Learned Addl. Sessions Judge, Fast Track Court, Sirsa, after appreciating the evidence, acquitted the accused-respondent vide judgment dated 05.12.2011.

I have heard learned counsel for the applicant and have gone through the record, especially the impugned judgment.

At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed as to how the findings are perverse or against the evidence and what illegality has been committed by the Court below.

Learned Addl. Sessions Judge, Sirsa, while discussing the law laid down in ***Paramjeet Singh Chawla vs. State of Madhya Pradesh, 2007 Cr.L.J. 3343***, in which the Court held that the demand of loan amount by person granting loan to borrower does not come within the scope of abetment under Section 107. The demand of loan amount does not itself prove the fact of instigation to deceased borrower for commission of suicide. The Court below also discussed the other judgments on the same point.

Learned trial Court further discussed the evidence on record in right perspective. It is deposed by PW-1 Vipin Kumar that on his asking, Naveen Kumar told him that he became frustrated as some people were demanding money from him and due to that reason he took the poison and after that he became unconscious. Even if this statement is taken as correct, even then, this statement will amount to dying declaration. The deceased

made by deceased to PW-1 Vipin Kumar, Naveen Kumar (deceased) became frustrated as some people have been demanding money. So, in no way, accused can be held liable for abetment to commit suicide. Otherwise also, the deceased himself has not named the present accused in the dying declaration. This statement further shows that Naveen Kumar was under obligation to pay money to various persons and not to the accused only.

Learned trial Court further held that PW-1 Vipin Kumar has also deposed regarding dispute of Maruti Wagon-R car transferred in his name by preparing forged documents and also that Naveen had dispute regarding money involved in the chit funds.

Learned Addl. Sessions Judge, Fast Track Court, Sirsa, has discussed all these facts in evidence in minute details. The findings have been given after appreciating the evidence in right perspective. In no way, the findings can be held as perverse.

In view of the above discussion, I find that the impugned judgment dated 05.12.2011 passed by learned Addl. Sessions Judge, Fast Track Court, Sirsa, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

August 03, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No