

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

**CRM-A No.484-MA of 2016 (O&M)
Date of decision: 06.12.2016**

State of Haryana

.....Applicant/appellant

Versus

Sanjeev and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.R. Singla, DAG, Haryana.

Ritu Bahri, J.

CRM-7962-2016

For the reasons mentioned in the application, same is allowed and delay of 125 days in filing of the appeal is condoned.

CRM-A No.484-MA of 2016

Challenge is to the judgment dated 24.07.2015 passed by the Additional Sessions Judge, Gurgaon, whereby accused-respondent Nos.1 and 2 have been acquitted of the charges framed against them under Section 306 IPC and held them guilty only under Section 354 IPC.

On 09.07.2014, a medical memo with regard to admission of the prosecutrix in Paras Hospital, Gurgaon, on consuming acid, was received in the Police Station, whereupon Lady ASI Meena Wanti reached there and obtained opinion of the Medical Officer regarding fitness of the injured. The doctor on duty declared the injured unfit to make a statement. Again on 10.07.2014, the said ASI visited the hospital, however, she was handed over

a medical memo about death of the victim. After some time, father of the victim moved a complaint to the police, alleging therein that Sanjeev and Rinku (respondents herein) had been stalking his daughter for the last two months on her way to school and used to pass lewd remarks on her. In that regard, he had lodged a protest to their parents. On 09.07.2014, at about 2.30 P.M., when his daughter (prosecutrix), along her sisters Komal, Rakhi and nephew of complainant namely Akash, was returning home from school, both the above named accused surrounded them, caught hold of the hands of the prosecutrix and done obscene acts with her. On raising an alarm, they left the spot. Feeling aggrieved with this incident, daughter of the complainant committed suicide by consuming acid. Thereafter, she was admitted to the Paras Hospital, Gurgaon, where she died on 10.07.2014. On the basis of statement made by the complainant, FIR No.426 dated 11.07.2014, under Sections 354, 354-A, 306, 354-D read with Section 34 IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012 was registered at Police Station, Palam Vihar, Gurgaon. During investigation, both the accused were arrested and site plan of the place of occurrence was prepared. On completion of investigation, challan was presented. Thereafter, both the accused-respondents were charge-sheeted accordingly.

In order to prove its case, the prosecution examined Ramesh Chand (PW-1), Kumari Komal (PW-2), Dr. Gulshan Parmar, Medical Officer, Paras Hospital, Gurgaon (PW-3), EASI Paras Singh (PW-4), SI Braham Parkash (PW-5), Girish Kumar, Draftsman (PW-6), Constable Naresh Kumar (PW-7), Constable Manjeet (PW-8), Smt. Mithlesh Yadav, Principal, Government Senior Secondary School, Kartarpur, Gurgaon (PW-

9), Dr. Sanjiv Mathur, Medical Officer, General Hospital, Gurgaon (PW-10), Lady ASI Meenawanti (PW-11) and Constable Randhir Singh (PW-12). On conclusion of prosecution evidence, statements of accused-respondents under Sections 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same. In defence, the accused examined Smt. Parvesh (DW-1), Sh. Rajesh (DW-2) and Sh. Jayant (DW-3).

Lady ASI Meenawanti (PW-11), who had conducted the investigation, in her cross-examination had admitted that father of deceased-Versha met her in the hospital. He did not give any statement or written complaint against anybody with regard to the incident. Complaint, Ex.PA, with regard to the incident was made on 11.07.2014 by father of the deceased. Dr. Sanjiv Mathur, Medical Officer (PW-10) had proved the postmortem report of Versha as Ex.PL. He further stated that as per the report of Forensic Science Laboratory, hydrochloric acid was detected in the viscera samples. The cause of death of deceased was acid poisoning.

Smt. Parvesh (DW-1) had deposed that Ramesh Chand was her neighbour. On 09.07.2014, at about 07/07.30 A.M., there was a fight between Ramesh Chander and his daughter-Versha (since deceased). He was scolding Versha. Thereafter, she went to her duty. When she returned from her duty at about 5.30P.M., she came to know that Versha had consumed some poisonous substance. On the next day, she had come to know that Versha had expired. In her cross-examination, Smt. Parvesh (DW-1) had deposed that everyone in the neighbourhood had seen and heard Versha being scolded by Ramesh Chander. To the same effect is the testimony of Rajesh (DW-2) and Jayant (DW-3).

The allegation against accused-respondents Sanjeev and Rinku was that they had outraged the modesty of Versha (since deceased) and thereafter, she had consumed acid and committed suicide. The trial Court took into consideration the deposition made by Komal daughter of Ramesh Chander, who appeared as PW-2 and deposed that her sisters Rakhi, Versha and cousin Akash were studying in the same school. On 09.07.2015, at about 2.30 P.M., she along with her sisters Versha, Rakhi and cousin Akash were returning from the school, they were intercepted by accused Sanjeev and Rinku. They caught hold of hands of Varsha and snatched her *dupatta*. Thereafter, they had done obscene acts with her by putting their hands on her breasts. On raising an alarm, accused-respondents ran away from the spot. Both the accused used to chase her sister at the time of going and returning from school and pass lewd remarks. Due to this reason, Versha had committed suicide by consuming acid on 09.07.2014. However, in cross-examination, this witness had stated that her sister had consumed acid when her father had arrived at home.

Incident in the present case took place on 09.07.2014 and the deceased had died on 10.07.2014 at 7.30 P.M. The complaint was made to the police on 11.07.2014 by father of deceased namely Ram Chander. There was no evidence with regard to the persistent teasing of the deceased by the accused (respondents). Even, this fact was not in the knowledge of the neighbours, as no protest was lodged to the parents of the accused or to the teachers or to the police. Thereafter, the act of accused by just holding the hands of the deceased would not amount to abetment under Section 107 IPC, which could compel the deceased to commit suicide. The trial Court while acquitting the accused made a reference to the judgment passed by

this Court in Ajay Singh Parveen and another Vs. State of U.T. Chandigarh, 2011 (2) RCR (Criminal) 405, wherein it has been held that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Even if the entire prosecution story is believed, the behaviour of the accused can only be said to be cruel or harassment without any intent to derive the deceased to commit suicide. Even if, the accused were held to be cruel to the deceased, it would not amount to abetment as the necessary *mens rea* to derive the deceased to commit suicide was missing. Further reference has been made to a decision given in M.Mohan Vs. State of Tr. Dy. Supdt. of Police, 2011 (2) RCR (Criminal) 272. This was a case where, a newly wedded wife was not allowed to use family car on one occasion and she committed suicide after four days of taunt. Proceedings against the mother of husband and his brother were quashed as they were not remotely connected with the offence under Section 306 IPC. Further in Ravinder Pal Singh Vs. The State of Punjab, 2008 (2) RCR (Criminal) 47, deceased-Virpal Kaur was studying in co-educational school and had made a complaint against the accused. It was held that mere catching hold of her arm by the accused would not amount to abetment of suicide.

In the present case as well, the allegation in the FIR was that the accused-respondents had intercepted the deceased when she was returning from school and molested her. Molestation itself would not amount to an act containing *mens rea*, which would lead to the deceased to commit suicide.

In the absence of any cogent and convincing evidence against the accused-respondents, the scope of interference in the impugned judgment is

very limited. Accordingly, having examined the impugned judgment, no illegality, much less perversity has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

Dismissed.

06.12.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No