

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-AD-134-2015

Date of decision: 29.03.2016

Dharampal

..... Appellant

Versus

State of Haryana and others

..... Respondents

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

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. Vijay Kumar Sheoran, Advocate
for the appellant.

RAMENDRA JAIN, J.

The appellant as 'victim' defined under Section 2(wa) Cr.P.C. being father of deceased-Deepak has filed the present appeal against acquittal of respondents No. 2 to 6 vide judgment dated 29.09.2015, passed by the learned Additional Sessions Judge, Bhiwani.

2. In nutshell, around 11.25 P.M. in the intervening night of 04/05.05.2012, Deepak son of the appellant by jumping in front of a train committed suicide. On receipt of information about it, ASI Ram Kumar along with EASI Harpal Singh reached at the spot. Two suicide notes i.e. one addressed to Deputy Superintendent of Police, Siwani and the other to Deputy Superintendent of Police, Railways, Hisar were recovered from the dead body of Deepak. During the proceedings under Section

174 Cr.P.C., Naresh Kumar brother of the deceased made statement that around two years ago they had purchased two acres of the land in the name of their mother Raj Rani in which respondent No. 2-Bhim Garg was already a co-sharer. Respondent No. 2 under the garb of his co-sharership intended to purchase their share at cheaper rates. However, they did not budge to his illegal demand and sold their share to a third person. On coming to know of this fact, respondent No. 2 obtained illegal injunction order against them which resulted into cancellation of their agreement. A meeting was also convened, but the matter could not be resolved. Respondent No. 2 refused to leave the land abutting National Highway and started threatening them with dire consequences. On account of above reason his brother Deepak (since deceased) became nervous as now it was not possible for them to execute the sale deed in respect of 10 acres of land. Consequently, Deepak committed suicide on account of atrocities of respondents No. 2 to 4 and their father Ram Chander, since deceased (proceedings against him were abated vide order dated 06.03.2013).

3. On the basis of above statement of complainant-Naresh Kumar, a case was registered. Investigation was commenced. Inquest proceedings and post-mortem examination of the dead body of Deepak were got conducted. Blood stained stones/pebbles were lifted from the spot. Suicide notes recovered from the dead body of Deepak were sent to Forensic Science Laboratory, Madhuban for comparison of his hand writing. Respondents No. 2 to 6 and co-accused Ram Chander (since deceased) were arrested. After completion of investigation, final report

under Section 173 Cr.P.C. was presented before the learned Chief Judicial Magistrate, Bhiwani.

4. On commitment of the case to the Court of Sessions, respondents No. 2 to 6 were charge-sheeted 306, 420, 467 and 468 read with Section 120-B IPC to which they pleaded not guilty and claimed trial.

5. After hearing learned counsel for both the sides and perusing the evidence brought on record, the learned trial Court acquitted respondents No. 2 to 6 vide the impugned judgment dated 29.09.2015.

6. Learned counsel for the appellant contended that the impugned judgment is based on surmises and conjectures. It was well proved that respondents No. 2 to 6 were out and out to grab the property of the family members of the deceased by committing atrocities upon them and in this way abetted the deceased to commit suicide. Learned trial Court has erred in ignoring the suicide notes Ex. P-8 and Ex. P-9 recovered from the pocket of the deceased, pointing towards the guilt of respondents No. 2 to 6. The learned trial Court has also failed to appreciate that the FIR was lodged very promptly after spotting the dead body of deceased-Deepak by naming all respondents No. 2 to 6 and, thus, no colorful version could be expected in the same.

7. After giving our thoughtful consideration to the submissions made by learned counsel for the appellant, we find no merit in the instant appeal for the reasons to follow.

- (i) The stand of the prosecution is that respondent No. 2-Bhim Garg, by obtaining an injunction order

succeeded in cancellation of the agreement of the complainant party with Bhagirath Jangra and others. Consequently, the complainant party had to return the earnest money of ₹ 40 lacs, out of which ₹ 20 lacs had already been returned and the remaining was yet to be repaid which disturbed deceased-Deepak and resultantly, he committed suicide. However, the prosecution did not bring on record any such agreement. The prosecution also failed to produce any document qua the return of part payment of earnest money i.e. ₹ 20 lacs. Even the prosecution did not make any effort to examine Bhagirath Jangra vendee and his partners to prove the factum of aforesaid agreement to sell in between them and the complainant party. Thus, the prosecution story kept on hanging in the air without any substance.

- (ii) The learned trial Court after perusing the injunction order has observed that the Civil Court had not restrained the complainant party from alienation of their share in the property. In other words, Raj Rani and deceased-Deepak were at liberty to alienate or sell their share in the land in dispute. Hence, the question of abetment to Deepak by private respondents to commit suicide does not arise at all.
- (iii) Undisputedly, deceased-Deepak was a graduate. The

- Investigating Officer did not collect any authentic proof of his hand-writing from his college or school, rather took into custody only three papers Ex. P-11 to P-13 given to him by complainant-Naresh Kumar, taken out from a personal diary allegedly maintained by deceased-Deepak. However, the said diary did not see the light of the day. It was unexplained on the record as to why complainant-Naresh Kumar did not hand over the complete diary of deceased-Deepak to the police. In view of the above factual position, the suspicion of the learned trial Court about the authenticity of the hand-writings Ex. P-11 to Ex. P-13 on the basis of report Ex. P-40 given by PW-21 Dr. Satish Kumar, is quite genuine.
- (iv) The entire prosecution story revolves around the deposition of PW-4 Sonu. However, his testimony has been disbelieved by the learned trial Court, because according to him on the date of incident around 10.00 A.M., he and the deceased had gone to Surinder Gas Agency, situated near the finance office of respondent No. 2 to bring a gas cylinder. Deceased-Deepak, went inside the finance office of respondent No. 2 and returned after 15 minutes. When Deepak came out of the office of respondent No. 2, he was having tears in his eyes and a sad face. On his asking, Deepak

disclosed that respondents No. 2, 3 and 5 namely, Bhim Garg, Rattan Garg and Ravi Garg had extended threat to him. They wanted to purchase their land under threat to teach a lesson to their family. They also extended threat to the life of Deepak and his family and after sometime, he committed suicide at Railway track. This witness has further testified that he reached at the place of occurrence around 10.30 A.M. However, the statement of this witness under Section 161 Cr.P.C. Ex. D-2 was recorded for the first time on 10.05.2012 i.e. after 6 days of the occurrence. Hence, it does not appeal to reason that why PW-4 Sonu did not come forward and got recorded his statement to the police about the incident told to him by the deceased, immediately after the suicide of Deepak on 04/05.05.2012. He has, thus, rightly been doubted by the learned trial Court.

8. Learned counsel for the appellant has failed to put any dent in any of the findings of the learned trial Court. We have gone through the impugned judgment and found no illegality or perversity in the same.

9. The instant appeal being completely devoid of any merit is dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 29, 2016
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