

CRA-AS- 118 of 2015(O&M)

In the High Court of Punjab and Haryana at Chandigarh

CRA-AS- 118 of 2015(O&M)

Date of Decision:23.2.2017

Anil Kumar

---Appellant

vs.

Meenu Sachdeva and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.C.Verma, Advocate
for the appellant

Rekha Mittal, J.

The present appeal has been directed against judgment dated 27.4.2015 passed by the Additional Sessions Judge, Ambala whereby respondent No. 1 (accused) has been acquitted of the charge for offence punishable under Sections 306, 406 and 420 of the Indian Penal Code (in short "IPC").

The facts relevant for disposal of the present appeal are that on 11.4.2014, ASI Ranjeet Singh received medical ruqa from Civil Hospital, Ambala Cantt. that Chanchal wife of Anil Kumar has been referred to PGI in a case of poisoning. On 12.4.2014, after receiving intimation from PGI, Chandigarh about death of Chanchal, ASI Ranjeet Singh was proceeding to

go to PGI, Chandigarh but at Gol Chakker, Ambala Cantt., Anil Kumar son of Mansa Ram accompanied by his brother Ved Parkash met ASI Ranjeet Singh and got recorded his statement to the effect that on 11.4.2014 at about 4-00 p.m. he received a telephonic call from his elder brother Ved Parkash asking him to come to his house and when he reached his house, Ved Parkash told him that Chanchal had consumed the tablets used for preserving wheat. Chanchal was taken to Civil Hospital and on the way, she disclosed that she had written the reasons for consuming tablets in a diary lying on the bed. Chanchal was taken to civil hospital, Ambala Cantt. from where she was referred to PGI, Chandigarh and she died during her treatment. On reaching his house, he found the diary lying on the bed wherein Chanchal had written that on asking of Meenu Sachdeva, she had given Rs. 2.5 lakhs and her entire gold to her. Meenu Sachdeva neither got purchased any plot nor house for Chanchal and refused to return the money and gold. She (Chanchal) had not disclosed these facts to her family members and now she was going to commit suicide due to refusal by Meenu Sachdeva to return her money and gold.

The sole submission made by counsel for the appellant is that in the entire judgment of the trial court, there is no reference to any discussion with regard to culpability of the respondent/accused for committing offence punishable under Sections 406, 420 IPC. It has further been argued that the appellant presses his claim only qua offence punishable under Section 406 IPC as the respondent/accused committed criminal breach of trust in respect of an amount of Rs. 2.5 lakhs and gold jewellery handed over by the deceased to the accused for the purpose of getting purchased a house or plot

for the deceased and her refusal to return the money and gold jewellery which was in custody of the accused as a trustee of the deceased. It is prayed that the matter may be remitted to the trial court for deciding the question of guilt of the accused qua offence punishable under Section 406 IPC.

I have heard counsel for the appellant, perused the paper book and records of the trial court.

Apart from the fact that the appeal is barred by limitation of 58 days, I do not find the appeal to be meritorious, thus, application for leave to appeal is liable to be dismissed.

Before advertng to the submissions made by counsel for the appellant, it necessary to recapitulate judgment of Hon'ble the Supreme Court of India **Ganpat vs. State of Haryana, (2010)12 SCC 450** wherein the Court has culled out the following principles for interference in a judgment of acquittal:-

“(i) There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is founded and to come to its own conclusion.

(ii) The appellate court can also review the trial court's conclusion with respect to both facts and law.

(iii) While dealing with the appeal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and by giving cogent and adequate reasons may set aside the judgment of acquittal.

(iv) An order of acquittal is to be interfered with only when

there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.

(v) When the trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts, etc. the appellate court is competent to reverse the decision of the trial court depending on the materials placed.”

The learned trial court on a detailed consideration of the matter has refused to rely upon the alleged suicide note left behind by deceased Chanchal. Further it was held that Anil Kumar, husband of the deceased (appellant herein) had deposed that his wife used to give details of all monetary transactions to him. She never concealed anything from him, therefore, it is unbelievable that she would not have disclosed about her transactions with the accused to her husband. The witness could not tell as to when money and gold transactions had taken place between the deceased and the accused; when the deceased demanded return of the same and refused by the accused.

Except the suicide note purported to be authored by the deceased, there is no material on record with regard to the deceased having given any money or gold to the accused or the deceased having made a demand for its return or the accused having refused to return the same. Counsel for the appellant has failed to cite any precedent that a suicide note solely can form the basis for proving culpability in regard to any offence charged against the accused. I am afraid if suicide note can even be treated

at par with the dying declaration as to cause of death of its author or as to any of the circumstances of the transaction which resulted in his/her death, in view of Section 32 of the Evidence Act. Under the circumstances, the mere fact that the trial court has not adverted to the charge under Section 406 IPC, is not sufficient to remit the matter to the trial court for decision on the said charge by forcing the accused to undergo another bout of litigation.

For the aforesaid reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

23.2.2017
paramjit

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