

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

**CRM No.11774 of 2016 and
Crl. Appeal No.S-2670-SB of 2014 (O&M)
Date of Decision: February 16, 2017**

Rampal Sharma

...Applicant-Appellant

VERSUS

Dolly Sharma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vikram Bali, Advocate
for the applicant-appellant.

Mr.Deepak Aggarwal, Advocate
for respondent No.1.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

CRM No.11774 of 2016

At the outset, it is essential to mention here that earlier Rampal Sharma filed criminal appeal No.S-2670-SB of 2014 but later on, he filed application under Section 378(3) Cr.P.C. for leave to appeal, which was taken on record on 11.04.2016. Now, firstly, the application under Section 378(3) Cr.P.C. is taken up for disposal.

Applicant-Rampal Sharma has filed this application under Section 378(3) Cr.P.C. seeking permission for leave to appeal against respondents Dolly Sharma and State of Punjab, challenging the impugned

judgment of acquittal dated 07.04.2014 passed by learned Judge, Special

Court, Bathinda, whereby respondent No.1 was acquitted of the charges framed against her.

The brief facts of the prosecution case as noted down in the judgment passed by learned Judge, Special Court, Bathinda, are as under:-

“2. Brief facts of the case of the prosecution are that on 15.11.2012, a ruqa from Military Hospital was received to the effect that Naik Sonu Kumar had committed suicide in his family quarter at Shivaji Colony, Bathinda, by hanging with fan. On this, ASI Sukhpal Singh along with other police officials went to Shivaji Colony where Military Officers were already present. Thereafter, ASI Sukhpal Singh got clicked the photographs of hanging dead body and then sent the same to Civil Hospital, Bathinda for conducting the post-mortem. On 16.11.2012, ASI Sukhpal Singh along with other police officials were present at Bibi Wala Chowk, where complainant Rampal Sharma came present and got recorded his statement to the effect that he is resident of Distt. Aligarh (UP) and retired from Military. He has two sons. His elder son named Sonu Kumar deceased is working in Army since 6-7 years and presently, he is posting at Bathinda Cantt. He was living with his family at Bathinda. He had two children i.e. one son and one daughter. He got married with Dolly Sharma accused about 6-7 years back. He stated that his daughter in law used to torture his son and did not allow him to talk with him on telephone. This fact was usually told by his son to him. On 14.11.2012, his son Sonu Kumar deceased intimated him on phone that he is committing suicide as he is fed up of torture being committed on him by his wife. On 15.11.2012, he came to know that his son Sonu Kumar had committed suicide and then complainant along with his relative came at Bathinda. He stated that his son had suicide due to harassment and torturing by his wife Dolly Sharma. So, action be taken against her.”

On presentation of challan against accused, copies of challan and other documents were supplied to her under Section 207 Cr.P.C. Finding prima facie case, the accused was charge-sheeted under Section 306 IPC, to which she pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Dr.Manindra Singh Brar, Medical Officer, PW-2 Ram Pal Sharma, PW-3 Vijay Kumar

Prasher, PW-4 MHC Kulwinder Singh, PW-5 ASI Sukhpal Singh, PW-6 Naib Subedar Mohan Lal Seervi, PW-7 Naib Subedar Sudakar Mankale and PW-8 Head Constable Bikramjit Singh.

At the close of prosecution evidence, the accused was examined under Section 313 Cr.P.C. She was confronted with the evidence of the prosecution and she denied the correctness of the evidence and pleaded herself as innocent and her false implication. In defence, accused examined DW-1 HAV/PNA Santosh Mishra.

The learned trial Court, after appreciation of the evidence, acquitted the accused as stated above.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

Notice of motion was issued. Learned counsel for respondent No.1 as well as learned State counsel appeared and contested the application.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that learned trial Court, after appreciating the evidence in minute detail, acquitted the accused. At the time of arguments, nothing has been pointed out as to how the findings given by learned trial Court are perverse or against the evidence. Nothing has been pointed out as to how the findings are illegal or against the law. 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.

From the evidence on record, I find that a complaint was filed by PW-2 Ram Pal Sharma, who also deposed as per prosecution version while entering into witness box. From the perusal of the evidence on record, I find that there is nothing to show as to what type of abetment has been given to the deceased by the accused, which compelled him to commit the suicide. Even in the dying declaration, there is nothing to show the abetment of such an extent was given by the accused, which compelled Naib Sonu Kumar to end his life. The main abetment as stated by the complainant in the FIR is that Dolly Sharma did not allow Sonu Kumar to talk to the complainant on mobile phone. It is simply stated that she used to harass and torture him. There is no documentary evidence of any type on the record to show any torture, beatings, injuries etc. No DDR/FIR was ever got registered against Dolly Sharma. No written complaint has been filed against Dolly Sharma. There are two children; one son and one daughter from the wedlock of Sonu Kumar and Dolly Sharma. Dolly Sharma was married with Sonu Kumar about 6-7 years back. As per complainant, on 14.11.2012, his son Sonu Kumar, intimated on phone that he is committing suicide as he is fed up of torture being committed on him by his wife but there is no particular that what type of torture is there.

As already discussed, this oral evidence is not supported by any cogent evidence on record. It is also in the statement of Ram Pal Sharma complainant that he never visited the house of Sonu Kumar, therefore, he has not ever seen the accused harassing and torturing deceased Sonu Kumar.

Learned trial Court after discussing the evidence in minute detail, reached to the conclusion that ingredients of abetment have not been

proved. Otherwise also, there is nothing in the evidence to show immediate abetment before the occurrence given by the accused. The complainant stated that before death, his son Sonu Kumar told him 2-3 times about cruel behaviour of his wife. 5-7 days prior to death, Sonu Kumar came to him and told that his wife is harassing him a lot. The complainant also deposed that he advised him to maintain silence and assured that matter will be solved.

It is settled law that wears and tears of matrimonial life do not mean abetment to commit suicide. As already stated, the complainant has never visited the house of Sonu Kumar and accused at Bathinda, therefore, he is not personally knowing anything about the harassment etc.

In view of the above discussion, I find that the judgment of acquittal dated 07.04.2014 passed by learned Judge, Special Court, Bathinda, acquitting the accused from the charges framed against her, is as per law and the same is upheld.

Therefore, no ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

Crl. Appeal No.S-2670-SB of 2014

As, no ground is made out for leave to appeal and application for leave to appeal has been dismissed, as stated above, consequently, present appeal also stands dismissed.

February 16, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No