

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1005-MA-2016 (O&M)
Date of decision: March 01, 2017.

State of Haryana

... **Petitioner**

v.

Ranbir Singh @ Mithu and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Mrs. Tanushree Gupta, Deputy Advocate General, Haryana.
Shri R.N. Kush, Advocate for the respondents.
Shri Surender Lamba, Advocate for the complainant.

A.B. Chaudhari, J. (Oral):

Heard learned counsel for the rival parties including counsel for the complainant.

The trial court acquitted the accused persons for the offences under Section 306 read with Section 34 IPC. Learned counsel for the State as well as learned counsel for the complainant vehemently argued that the trial court based its findings on presumptions and assumptions and on figment of imagination rather than adverting to the relevant evidence on record. According to the learned counsel for the appellant, the deceased had received a huge amount of Rs.32 lacs on account of the land acquisition compensation and it were the respondent-accused persons who had grabbed the said amount and it is in that context the suicide was committed by the deceased for which the accused persons only were responsible and therefore taking recourse to Section 107 IPC, the offence under Section 306 was clearly proved.

Per contra, learned counsel for the respondent-accused supports the impugned order and judgment of acquittal and submitted that the trial court considered entire evidence on record in proper perspective. No perversity has been committed by the trial court in recording the order of acquittal. He submits that the parameters in appeal against acquittal cannot allow this Court to interfere with the order of acquittal merely because second view is possible. He therefore prayed for dismissal of the appeal.

I have gone through the impugned order and judgment, so also the reasons recorded by the trial court. Learned trial judge has discussed the evidence and given its reasoning in para 42 and 43 in the judgment. I quote para 42 and 43, which read thus:-

“42. From the combined reading of statements made by aforesaid PWs, it is axiomatic that aforesaid PWs have made great improvements upon their earlier statements made to the police. PW1 and PW2 have stated that about 15 days earlier to this occurrence, deceased Sunni was given beatings by the accused persons whereas in their statements made to the police, the period has been mentioned as 4 to 5 days prior to the present occurrence. They have further stated that neither any complaint was made nor any panchayat was convened regarding said occurrence of beating/harassment of deceased Sunni. PW1 has stated that deceased Sunni was given beatings by the accused persons whereas PW2 has stated that the grappling occurred between deceased Sunni and accused Rajender and Ranbir and clothes of Sunni were found torn. PW4 stated in cross examination that 20 to 30 slaps were given by the accused 4-5 days prior to the occurrence. In this manner, there are inconsistencies and great improvements have been made by the aforesaid PWs regarding alleged beating of deceased few days prior to the occurrence. Neither

any complaint was made nor any panchayat was convened regarding alleged beating. It has also come in evidence that previously, parents of Sunni (since deceased) and his uncle Mohinder had also committed suicide which indicates that there was a tendency of suicide in the family history of deceased. This fact also casts doubt upon the prosecution case. In this regard, I find support from the ratio of law laid down in case Bhim Singh and others v/s State of Haryana and others (supra).

43. It has also come in evidence that the compensation amount was received on account of acquisition of land in the month of September, 2012. As stated by Saroj (PW2) in the year 2012 itself, they all the brothers and sisters had withdrawn the amount from their respective bank accounts and that amount was utilized on their education. Sunni (deceased) was having meager amount of Rs.599/- in his bank account. Under such circumstances, there was no occasion for the accused persons to pressurize or harass the deceased Sunni by saying that he should give money to them, which had been received by way of compensation, otherwise, he would also meet with the same fate that of his father. Even if we accept the story put forward by the prosecution, then also that itself does not constitute the ingredients of 'instigation'. The word 'instigate' denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite. Presence of mens rea therefore is the necessary concomitant of instigation. It is common knowledge that the word uttered in a quarrel or on the spur of the moment cannot be taken to be uttered with mens rea and it is in a fit of anger and emotionally."

Perusal of the above paragraphs clearly shows that the trial judge has adverted to the evidence placed on record and the self contradictory evidence brought by the prosecution. At any rate, the trial

judge found that no ingredient of Section 107 IPC was at all satisfied and consequently the prosecution had failed to prove any offence under Section 306/34 IPC. The trial judge therefore found that the prosecution had failed to prove its case beyond any reasonable doubt and it was impossible to convict the accused persons on the basis of evidence rendered by the prosecution.

Looking to the above reasons in para 42 and 43, I think the judgment of the trial cannot be faltered and I do not find any perversity in the approach adopted by the trial court in the matter of appreciation and marshalling of evidence. The reasons given by the trial court are sound and cannot be said to be wrong or illegal. As per the parameters in the case of Darshan Singh v/s State of Punjab, the appellate court would not be able to interfere with the order of acquittal. In view of the above discussions, I find no reasons to interfere with the finding of acquittal. In the result, I make the following order:-

ORDER

(i) The appeal is dismissed.

March 01, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No