

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

Crl. Appeal No.S-5048-SB of 2014 (O&M)

Date of Decision: October 23, 2017

Munni

...Appellant

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Shokeen Singh Verma, Advocate
for the appellant.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Haryana and other respondents, challenging the judgment dated 06.10.2014 passed by learned Addl. Sessions Judge, Bhiwani, whereby the accused-respondents were acquitted of the charges framed against them.

The brief facts of the prosecution case as noted down in the judgment passed by learned Addl. Sessions Judge, Bhiwani, are as under:-

“2. The version of the prosecution is that on 23.10.2013 an information Ex.PS was received from Police Post GRP Dadri from the Incharge Railway Station Charkhi Dadri in which he mentioned that one body was lying between tracks between CKD-MHU at K.M. 57/5 to 57/6 reported by the Key Man Mungari Lal/CKD. On receiving the information ESI Sukhbir Singh and EASI Baljeet Singh went to the spot and made all the efforts to get the body identified but they could not do so. Postmortem of the dead body was got conducted from Government Hospital Dadri and as per the postmortem report the cause of death was acute neurogenic shock, as a result of injury to vital organs i.e. Brain which is sufficient to cause

death in the ordinary course of nature. All the injuries were anti-mortem in nature and possibility of these injuries was due to railway track accident. On 29.10.2013 Munni Devi and one other person identified the deceased as Hanuman son of Prem Singh from photographs and clothes and thereafter Munni Devi made a complaint that Hanuman had died as he was being harassed due to property and his money having been taken away by the accused. He was put under so much tension by Samundar son of Indraj, Chhaju son of Indraj, Samundar Pehlwan son of Hoshiar Singh and Mahender son of Prithvi Singh alongwith Kartar Singh and Billu that he committed suicide. She stated in her complaint Ex.PA that she was the widow of Prem Singh an Ex-serviceman and was resident of village Bhagvi Tehsil Charkhi Dadri. She had two sons, Hanuman who was 20 years old and Shiv Kumar who was 11 years old and two daughters Darshana and Somvati who were both married.

3. She stated that some land had come to the share of her husband from the ancestral property. The land was about 4 to 5 acres. Some land was taken away by Chhaju and Samunder, both sons of Indraj, from them and their only source of income was from the land. She stated that she brought up the children in a very difficult manner. She had sold some of her land in village Kasni for a consideration of Rs.9.50 Lacs and she looked after the children with that money. In the year 2004 Samunder Pehlwan took away her money and gave her assurance that he would give her interest on the said amount. After some time she asked Samunder Pehlwan, Samunder and Chhaju to return her money and land but they refused to do so. Then she contacted her Devar's son Sanjeev (Guddu) who also asked these persons to return the land and the money but they totally refused and even they did not agree in the panchayat and started threatening them. The money was not returned.

4. In the month of July, 2011 she wanted money for marriage of her daughters and Samunder Pehalwan got an agreement done with Mahender, Kartar and Billu all sons of Prithvi for selling 347 square yards of plot and after paying Rs.25,000/- the land was got registered in the name of Balwanti wife of Mahender. Patram son of Mehar Singh became a false witness in this case. When she demanded back her money, Naveen son of Mahender spoiled her son Hanuman and he was made an alcohol addict.

5. She also stated that when her son Hanuman and both her daughters grew up and whenever they asked for the land and the money Samundar Pehalwan, Samunder, Chhaju and Mahender all used to threaten her son. They also used to beat him up under the influence of liquor and used to threaten him that he would be falsely implicated in a case in Delhi and

on this her son used to keep quiet. She also made complaints to the Superintendent of Police through Guddu, Sumer Singh, Anil, Umed Singh and other respectable of the village. A panchayat was also convened in the village but these accused did not accept the truth and her son started remaining under more pressure. On 20/21.10.2013 her son Hanuman went to Samunder son of Hoshiar and Mahender son of Prithvi to demand money, he was beaten up and made to run away. Her son came back home and started crying and stated that it would be better if he commit suicide as all the land and money has gone and they were empty handed. The complainant and her daughter Somwati tried to make him understand but her son was under pressure due to the threat. On 22.10.2013 her son left the home and he met Samundar Pehalwan, Mahender etc. and they threatened him so he left home and never came back. He was searched every where but later on they came to know that on 23.10.2013 a dead body was found on the railway track and Hanuman was inscribed on his arm. She went with her nephew Guddu, her daughter and Devar Sumer to the Railway Police Post Dadri where she identified her son from the clothes and photographs vide memo Ex.PB. She after full satisfaction identified his body and stated that her son Hanuman was so much threatened by Samundar, Samunder Pehlwan, Chhaju, Mahender and others that he committed suicide and action be taken against them.”

On presentation of challan against accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Section 306 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined 17 witnesses. At the close of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. They denied the correctness of the evidence and pleaded themselves as innocent. In defence, accused examined DW-1 Karan Singh.

Learned trial Court, after appreciating the evidence acquitted the accused-respondents.

I have learned counsel for the appellant and have gone through the record.

The perusal of the record further shows that learned trial court has discussed the evidence in minute details as well as law and found that prosecution has failed to prove the guilt of the accused beyond reasonable doubt. The perusal of the record shows that there is no cogent evidence on record to prove the abetment to commit suicide. The allegations are that accused harassed the deceased and he was threatened whenever he went to accused asking for money. There is no cogent evidence on record to show that money was given to one of the accused. There is also nothing that beating was ever given. Further, there is nothing to show that matter was ever reported to the police regarding beating against the accused or the deceased ever got himself medico legally examined. Even if it is taken that Samunder Pehalwan took money and refused to repay the same, even then, there is no specific allegation against any other accused regarding any abetment to commit suicide.

Hanuman son of Munni complainant had gone missing from his house on 22.10.2013 but the matter was never reported immediately to the police. The dead body was recovered on 23.10.2013 and the FIR was got registered on 29.10.2013. Learned trial Court took note of the fact that even the application was given by the complainant that Hanuman used to beat her. The Court also took note of the fact that deceased was drunkard person etc. Learned trial Court also considered the fact that complainant herself sold the land to Balwanti but she was not made an accused.

The perusal of the record shows that prosecution has failed to prove the guilt of the accused, especially the fact that accused abetted the

commission of offence of suicide and furthermore, there is nothing on the record to show immediate abetment to commit suicide.

All these facts show that prosecution has failed to prove the guilt of the accused beyond reasonable doubt and the judgment dated 06.10.2014 passed by learned Addl. Sessions Judge, Bhiwani, is correct, as per evidence and law and does not require any interference from this Court.

Furthermore, in this case, leave to appeal is necessary but no such application has been filed asking for leave to appeal. Even if it is taken that it is a technical ground, even then, from the perusal of the record, no ground is made out for grant of leave in this case.

Resultantly, finding no merit in the present appeal, the same is dismissed.

October 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No