

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

CRM No.A-1805-MA of 2016 (O&M)

Date of decision: November 07, 2017

Vijay Kumar @ Bablu

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vivek K. Thakur, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Vijay Kumar @ Bablu has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Haryana and other respondents, challenging the judgment dated 13.07.2016 passed by learned Addl. Sessions Judge, Panipat, whereby the complaint filed by the applicant-complainant was dismissed and accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that if the appeal is not granted, then he will suffer irreparable loss. It is, therefore, prayed that leave to appeal be granted.

As per the record, challan was presented against Surjeet Singh and other accused in case FIR No.851 dated 30.07.2013 under Sections 306

passed by learned Addl. Sessions Judge, Panipat, are as under:-

“2. Briefly the prosecution case is that on 30.7.2013 complainant Vijay Kumar alias Bablu son of Chandi Ram resident of Wadhawa Ram Colony moved an application to the police to the effect that on 29.7.2013 at about 9.00 p.m, his younger brother Bhupender alias Kaka had gone to some unknown place of his own will. They tried to find out his whereabouts but to no avail. Thereafter, they found a letter, mobile phone as well as purse of Bhupender alias Kaka in the house. He has also enclosed a letter alleged to be written by Bhupender alongwith the application and prayed for locating his brother.

3. On the basis of the complaint, FIR under section 346 of Indian Penal Code was registered. Initial investigation was conducted by SI Randhir Singh. On 1.8.2013 SI Randhir Singh received a telephonic information that dead body of Bhupender has been found in JLH Canal Village Tevri (Ganaur). On this information, SI Randhir Singh reached at the spot and ASI Bali Ram Police Post Khubru and legal heirs of deceased met him. SI Randhir Singh gave directions to ASI for initiating proceedings under section 174 Cr.P.C. after conducting post mortem. On 2.8.2011 ASI Bali Ram handed over documents i.e. suicide note, viscera, inquest papers and others parcels relating to deceased Bhupender, which were handed over by the doctor to ASI Randhir Singh. It was mentioned in suicide note of Bhupender that the cause of his death is some persons and due to that reason he is leaving behind his family members. They had turned his life into hell and did not allow him to live. They are implicating him in a false cases and later-on got compromised the matter on their terms and disturbed him mentally. They also uttered him while going. He has completed B.Com, M.Com and now he is doing MBA. At the time of examination, they do such act so that he could not concentrate on his studies. He prayed for justice and they should not be spared. He is residing in Wadhawa Ram Colony Panipat near Ravi High School. He also disclosed the names of accused as Angrejo Devi, Ram Phal, Manoj, Parmod and their maternal uncle. There are also signatures of Bhupender in English as well as in Hindi. Thereafter, section 346 of Indian Penal Code was deleted and Section 306/34 of Indian Penal Code was added. During the course of investigation, documents relating to study of deceased Bhupender i.e. form of Code of Conduct 11 P.M. from College Chatarpur Delhi, admission form from I.B.College, Panipat and record from Kurukshetra University, were obtained. On 21.9.2013 suicide note of deceased Bhupender and signed documents of Bhupender were sent to FSL, Madhuban for seeking opinion and it was revealed that suicide note was written by Bhupender. On 30.11.2013 accused Surjeet Singh, Parmod,

Manoj and on 1.12.2013 accused Ram Phal were arrested. On 24.12.2013 accused Angrejo Devi was joined in the investigation of present case as she was on interim bail vide order dated 18.12.2013 passed by the Hon'ble High Court of Punjab and Haryana. The statements of the prosecution witnesses were recorded under section 161 Cr.P.C. On completion of investigation, challan was presented in Court against above named accused persons for their trial."

Learned Addl. Sessions Judge, Panipat, after appreciating the evidence, dismissed the complaint and acquitted the accused-respondents vide impugned judgment dated 13.07.2016.

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

I have heard learned counsel for the applicant and have gone through the record.

The perusal of the findings given by learned trial Court shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and 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. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Addl. Sessions Judge, Panipat.

The perusal of the record, FIR as well as suicide notes show that there is no cogent evidence on record to show abetment to commit suicide. Even if it is taken that some complaint was filed, which was later on compromised, even then, that compromise is of February 2013 whereas Bhupender committed suicide on 30.07.2013. There is no cogent evidence

on record to show any immediate abetment by any of the accused to the

deceased. Even in the suicide note, nothing has been mentioned about any immediate abetment given by the accused to the deceased to commit suicide.

There is no evidence on record that any complaint has been given to the police or police harassed him. It is the defence that Bhupender was a higher sensitive person and he has committed suicide due to his love affair with Dimple. The Court further held that report of FSL, Madhuban placed on file as Ex.PZ, made it clear that even the admitted signatures of deceased Bhupender on Ex.P6 and Ex.P11 do not tally with each other. Opinion no.2 in respect of both the suicide notes i.e. Ex.P2 and Ex.P12 was given and it was opined that both the suicide notes were written by same person. The Court held that FSL report nowhere suggests that suicide notes Ex.P2 and Ex.P12 were written by Bhupender.

Keeping in view the above facts and reasonings given by learned trial Court, I find that learned trial Court has appreciated the findings in right perspective. The prosecution has failed to prove the guilt of the accused beyond reasonable doubt. There is no cogent evidence on record including suicide note to show any abetment by the accused persons. Even if it is taken that they have filed a complaint in the month of January 2013 i.e. 5-6 months earlier to the occurrence, which was later on compromised, even then, it does not amount to abetment to commit suicide. A person can avail remedy by filing appropriate application to competent authority. There is nothing on the record to show that complaint was false.

From the perusal of the impugned judgment passed by the Court below, in no way, it can be held as perverse or against the evidence.

In view of the above discussion, I find that the impugned

judgment dated 13.07.2016 passed by learned Addl. Sessions Judge, Panipat, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

November 07, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No