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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 465/2017

STATE NCT OF DELHI

..... Petitioner

Through

Ms. Neelam Sharma, APP.
ASI Ram, P.S. Hari Nagar

versus

BIJENDER SINGH & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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18.08.2017

CRL. M.A. 13265/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl.M.A.13266/2017 (delay of 166 days in filing)

For the reasons stated in the application, delay of 166 days in filing the leave petition is condoned.

Application stands disposed of.

CRL.L.P. 465/2017

The petitioner/State is aggrieved by the judgment and order of acquittal dated 28.11.2016 passed by the learned Additional Sessions Judge-03 (West), Tis Hazari Courts, Delhi in SC No.57780/2016 arising out of FIR No.298/2006 dated 01.06.2006 (P.S. Hari Nagar) instituted for offence under Sections 306/34 of the IPC, whereby the respondents have been

acquitted of the charges.

One Sardar Satwant Singh committed suicide by jumping from the roof of his house on 13.05.2016. Immediately after the occurrence, the statement of the sons of the deceased was recorded and inquest proceedings were initiated. The post-mortem of deceased was conducted in DDU Hospital on the same date i.e.13.05.2016. On 14.05.2006, two of the sons of the deceased, namely, Satnam Singh and Joginder Singh, who have been examined as PW4 and PW5 in the trial respectively, gave their statement in the police station and also produced a suicide note which was said to have been written by the deceased. Along with the aforesaid sons of the deceased, one Mandeep Singh (PW10) had also visited the police station. Later, Smt. Gurminder Kaur (PW1), wife of the deceased, moved a complaint under Section 156(3) of the Cr.P.C. and on the directions of the learned Metropolitan Magistrate, FIR No.298/2006 dated 01.06.2006 (P.S. Hari Nagar) was instituted for offence under Sections 306/34 of the IPC.

The police after investigation submitted charge sheet under Sections 306/34 of the IPC. At the trial 32 prosecution witnesses were examined in support of the prosecution version.

From the records, it appears that Gurminder Kaur (PW1), wife of the deceased, Joginder Singh (PW4), son of the deceased, Satnam Singh (PW5), another son of the deceased and Mandeep Singh (PW10), a distant relative of the deceased have made contradictory statements at the trial.

The entire case of the prosecution hinged on the deposition of the aforesaid prosecution witnesses. From their deposition what could be culled out is that the major thrust of the allegation of threat, assault and harassment was against co-accused, Anil Arora, who died during the pendency of the

trial. The respondents, however, were not named in the first complaint (Ex.PW5/DA) lodged by Satnam Singh (PW5) on 13.05.2006.

The suicide note (Ex.P1) was not handed over to the police on the date of the occurrence. The hand writing in the aforesaid suicide note has not been compared with the hand writing of the deceased. Only the signature on the suicide note has been compared.

The trial court has summaries the grounds of acquittal as follows:

“81. The acquittal of accused persons are based on following grounds:

- (1) The entire allegations of threatening, beating and harassment are against Anil Arora who has expired during the pendency of the case. So far as accused Rajesh Mann and Bijender Singh are concerned, they are not named in the first complaint dated 13.05.2016 Ex.PW.5/DA and there is no mention that there was any abetment to commit suicide.*
- (2) There is great difference between the contents of first complaint dated 13.05.2006 Ex.PW.5/DA and the complaint made u/s 200 Cr.PC Ex.PW.1/B and application u/s 156(3) Cr.PC Ex.PW.1/A.*
- (3) Suicide note Ex.P1 is doubtful as the same was not handed over to the police by the family members on the date of incident.*
- (4) The handwriting on the suicide note Ex.P1 has not been compared but only the signatures were compared and the suicide note has not been proved.*
- (5) The case of the prosecution is that the deceased was harassed so many times by the accused persons but no complaint to any authority was made by the family members or the deceased and first complaint Ex.PW.5/DA was made only after the death.*
- (6) There is no active engagement on behalf of the accused to encourage or incite the deceased to commit suicide.*
- (7) The ingredients of abetment are totally absent in the present case for an offence u/s 306 IPC.*
- (8) The crucial element of mens rea is not even alleged in the prosecution case.*

(9) The whole case of the prosecution is based upon the statements of Gurminder Kaur PW1 (wife), Joginder Singh PW4 (son and PW5 Satnam Singh (son) but there are material contradictions in their statements and those contradictions are material.”

This court does not find any reason/ground to interfere with the findings of the trial court. No case has been made out for any interference.

Leave is declined.

Accordingly, the petition is dismissed.

ASHUTOSH KUMAR, J

AUGUST 18, 2017

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