

216**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRA-S-2072-SB-2015(O&M)
Date of Decision: 16.10.2018****Subhash Chand****...Appellant****Versus****State of Haryana and another****....Respondents****CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. Sanjiv Gupta, Advocate
for the appellant.

Mr. Yashwinder Singh, DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

This appeal has been filed without filing application under Section 378 (4) Cr.P.C. seeking leave to file appeal, therefore, the instant appeal, being not maintainable, is dismissed. However, the same is also dealt with on merits.

According to the prosecution, on 27.06.2013 Raman Saini committed suicide by hanging himself with ceiling fan in the house of accused -respondent No. 2. Therefore, police registered a case on the complaint of the father of the deceased against respondent No. 2 under Section 306 IPC and sent her to the Court to face trial. After holding trial, respondent No. 2 was acquitted vide impugned judgment dated 27.11.2014. Being aggrieved complainant has filed instant application.

Having given thoughtful consideration to the submission of learned counsel for the appellant, this Court is not inclined to interfere in the findings of the trial Court for the reasons to follow:-

1. According to the complainant, on the fateful evening, deceased Raman Saini had gone to attend the birthday party of his friend Jagwinder Singh PW-4, but thereafter did not return home. Jagwinder Singh-PW-4 testified that deceased Raman Saini, his friend, received calls from respondent No. 2 on his mobile phone, whereby she asked the deceased to marry her. On asking from Raman Saini (deceased) as to whether he wanted to marry respondent No. 2, he replied in the negative. Respondent No. 2 had threatened the deceased, either to marry her or commit suicide by hanging or by taking some poison. Thereafter, respondent No. 2 Tavinder Kaur disconnected the phone. Deceased said that she was pressurizing him to marry her, though she was married to his friend.
2. The above deposition of PW-4 was belied by the evidence collected by the police, inasmuch the call details of the mobile phone recovered from the pocket of the deceased at the time of suicidal death would show that accused-respondent No. 2 never called the deceased during the alleged birthday party

of Jagwinder Singh, rather deceased himself had made more than 20 calls to respondent No. 2 on the fateful day between 20:24:40 to 20:45:22 hours. The statement of PW-4 Jagwinder Singh qua alleged threatening by respondent No. 2 to deceased for marrying her or to commit suicide was also belied by the said call details. It is unexplained on the file why deceased was making such a huge number of calls to respondent No. 2 which, otherwise, shows that deceased had some infatuation to marry respondent No. 2 or to develop illicit relations with her for which she refused and for that reason deceased Raman Saini committed suicide.

3. PW-17 Chander Shekhar, a Senior Scientific Assistant, inspected the place of occurrence on 27.06.2013 and prepared a detail report about his inspection that there were drag marks on the outer boundary wall of the house of the accused which suggested that some stranger had scaled the boundary wall. PW-19, Davinder Singh also admitted in the cross-examination that the gate of the house was locked from inside and the deceased had trespassed the house by scaling the wall. The above fact shows that deceased was not called by the accused at her house, rather deceased voluntarily on

his own had gone to her house against her wishes.

4. There is another glaring feature in the instant case that the deceased even after trespassing the house of the accused, was not allowed access and for that reason, he had repeatedly been calling the accused on her mobile phone number in the late hours at night. In case the accused was forcing the deceased to marry her, in that eventuality, she would not have annoyed the deceased by forcing him to remain outside in the varendha of her house, beyond her reach during the night. In other words, if things would have been otherwise, accused must have kept the gate of her house open, not forcing the deceased to scale over the wall of her house. The above factual aspect of the case makes it abundantly clear that in the intervening night, the deceased had gone to the house of the accused with ill will and having not succeeded, he committed suicide, out of frustration meted to him on accused's refusal for submitting herself to him.

5. The complainant also did not raise any suspicion over the accused, rather he raised finger upon the conduct of one Vikram Saini to whom he had paid Rs. 8 Lakh for the employment of his son in Merchant Navy, but he did not fulfill his promise. Subsequently, the

complainant improved his version of blaming respondent No. 2 for the suicidal death of his son.

6. In support of the contention, the prosecution examined PW-2 Balbir Singh, real brother of the complainant, who also blamed only Vikram Singh for causing some kind of mental stress and disturbance to the deceased. He did not blame respondent No. 2 for causing mental tension to the deceased, rather simply testified that she was asking the deceased to marry her without raising any finger upon respondent No. 2 for suicidal death of Raman Saini. The statement of PW-3 Neeraj Saini, brother of the deceased, is based on hearsay and therefore, the same does not go to the root of the case.

In view of the above discussion, the appeal is dismissed.

16th October, 2018
shabha

[RAMENDRA JAIN]
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>