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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A No.235-MA of 2012 (O&M)
Date of Decision: 09.01.2018

AMARJIT SINGH

.....Appellant

Vs

JASVIR SINGH AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Isha Goel, Advocate for
Mr. Vikam K. Chaudhri, Advocate
for the applicant-appellant.

RAJ MOHAN SINGH, J.

[1]. This appeal has been preferred by the appellant against the judgment of acquittal dated 26.07.2011 passed by the Addl. Sessions Judge, Bathinda in case bearing FIR No.69 dated 25.06.2009 under Section 306 IPC, Police Station Sangat. Along with the appeal, an application under Section 378(4) Cr.P.C. for grant of leave to appeal has also been filed.

[2]. Prosecution case started with the allegations that on 24.06.2009, a wireless message was received at Police Station Sangat from Police Station Dabwali that Kamaljit Singh @ Bittu had died due to intake of some poisonous substance and his body was lying in Civil Hospital, Dabwali. The Investigating Officer went to the Civil Hospital, Dabwali for conducting proceedings, but no person was found and the statement could

not be recorded. On 25.06.2009, ASI Sadhu Singh along with ASI Mukhtiar Singh and other police officials went to the Civil Hospital, Dabwali where the complainant Amarjit Singh was found present and he got recorded his statement to the effect that his brother Kamaljit Singh @ Bittu was married with Charanjit Kaur. About 2/3 months ago, when Kamaljit Singh @ Bittu went to his in-laws house to bring his wife back, then his two co-brothers (*Saddu*) along with other family members of his in-laws house gave beatings to him. Kamaljit Singh @ Bittu fled away from there and saved his life. They also gave threats that Kamaljit Singh @ Bittu would be killed. Kamaljit Singh @ Bittu disclosed the same to Ex-Sarpanch Kulwinder Singh and he also disclosed that they have given threats to him that he would be implicated in some false case and would be killed. Whenever Kulwant Singh @ Bittu went to his in-laws house, all the family members of his in-laws house used to threat him.

[3]. It was further alleged that on 24.06.2009, all the family members were to go Malerkotla to pay obeisance. Complainant, his father, his mother Balwant Kaur and his wife Kamaljit Kaur went to Bathinda. Kamaljit Singh @ Bittu was to fetch his wife and thereafter was to reach Bathinda directly, when Kamaljit Singh @ Bittu went to his in-laws house on his motorcycle. At about 12.53 p.m., he made a call from his mobile to his sister

Gurmail Kaur wife of Jaspal Singh that both his co-brothers (*Saddu*) and other family members of his in-laws house were beating him and they would kill him. After some time, his nephew (sister's son) Deepak reached at the house of in-laws of Kamaljit Singh @ Bittu for handing over clothes to his brother and he saw that Nirmal Singh i.e. Saddu of his brother, Rajinder Singh another Saddu of his brother, Kulwant Kaur @ Bhuri mother-in-law of his brother, Boota Singh father-in-law of his brother, his wife Charanjit Kaur and Pappa Singh brother-in-law of his brother were beating Kulwant Singh @ Bittu and were forcibly putting something in his mouth. Deepak became frightened and he returned from them. Some more allegations were made in the context of illicit relationship of Charanjit Kaur with the husbands of her sisters.

[4]. Both the parties led evidence. According to evidence put forth, the cause of death was stated to be organo phosphate compound group of insecticide. The said report was on the basis of report of Pathologist Ex.PW-6/F and report of Chemical Examiner Ex.PW-6/E.

[5]. Kamaljit Singh @ Bittu died due to intake of some poisonous substance. Prosecution tried to prove the case of forcible administration of poison in the mouth of Kamaljit Singh @ Bittu with the aid of testimony of Deepak PW-2, but the same

was disbelieved by the trial Court for more than one reasons. It was observed by the trial Court that Charanjit Kaur (wife), Boota Singh (father-in-law), Kulwant Kaur @ Bhuri (mother-in-law), Jasbir Singh @ Pappa (brother-in-law) have been arrayed as accused. All the family members of in-law's house have been falsely implicated. The case was initially registered for the offence under Section 302 IPC. The prosecution version was found to be doubtful. The offence was converted from Section 302 IPC to Section 306 IPC.

[6]. PW-2 Deepak was introduced as eyewitness, but the trial Court did not place any reliance upon his testimony. He had allegedly gone to deliver some clothes to Kamaljit Singh @ Bittu and saw that Kamaljit Singh @ Bittu was being beaten by the family members of his in-laws house. Blood was oozing from his mouth and the accused were administering some poisonous substance in his mouth. It was observed by the trial Court that no external mark of injury was detected in the inquest report Ex.PW-3/C. Copy of postmortem report Ex.PW-7/B do not show any blood oozing out from the mouth of the deceased. Only a defused swelling was found on the right eyebrow. PW-2 was found to have improved his earlier statement Ex.DA. The witness could not tell the material particulars with regard to location of the house of in-laws of the deceased Kamaljit Singh

@ Bittu.

[7]. Statement of Amarjit Singh PW-1 was found to be afterthought as he made many improvements in his original statements. No evidence was adduced by the prosecution in the context of alleged relationship of Charanjit Kaur with her *Jijas*. PW-1 did not visit the Hospital on 24.06.2009 and the report was lodged only on 25.06.2009. Statement of SI Sandeep Singh PW-6 during his cross-examination would show that the witness had not taken the call details of Amarjit Singh and was never joined in the investigation. It was the specific case of Amarjit Singh that he had called Charanjit Kaur on the mobile phone and told Kamaljit Singh @ Bittu was vomiting. The call details of Amarjit Singh were not taken by the police during investigation, therefore, the statement of PW-1 in the aforesaid context was not appreciated by the trial Court.

[8]. No evidence was found in respect of alleged instigation/abetment given to Kamaljit Singh @ Bittu to commit suicide, rather statement of PW-1 would show that his brother had purchased one plot of 13 *Marlas* in the area of Prem Nagar, Mandi Dabwali. The witness admitted that his sister Gurmail Kaur was residing in the said plot owned by his brother. The trial Court found that as per medical evidence Kamaljit Singh @ Bittu had committed suicide and the cause of death was found to be

organo phosphate compound group of insecticide.

[9]. In order to prove offence under Section 306 IPC there must be concerted effort till last movement to compel the victim to commit suicide. It is not ordinary abetment as described in Section 107 IPC. Originally the case was registered under Section 302 IPC. During investigation, report Ex.PW-4/A was written and offence was changed from Section 302 IPC to Section 306 IPC. In the said report, it was found that Kamaljit Singh @ Bittu was upset due to not giving of birth to a child by his wife. His father-in-law, mother-in-law, brother-in-law and his wife used to pick up quarrel with him. Kamaljit Singh @ Bittu was left with no option, but to kill himself. He consumed some poisonous substance on 24.06.2009 and went to his in-laws house. Since his condition deteriorated, so he was brought to the Civil Hospital, where he died. M.C. Sukhdev Singh was not examined by the prosecution and he was given up being won over by the accused. Complainant Amarjit Singh was not present in the house of in-laws of Kamaljit Singh @ Bittu on 24.06.2009. He even failed to reach the Civil Hospital on 24.06.2009. His statement was recorded only on 25.06.2009. His statement in the context that he reached the Civil Hospital on 24.06.2009 at 5.30 p.m was found be to contrary and untrustworthy on the basis of material on record. Trial Court on

the basis of material on record found that Kamaljit Singh @ Bittu committed suicide and the prosecution was not able to establish that the accused had abetted the commission of offence. Prosecution could not prove the charges beyond shadow of doubts. By giving benefit of doubt, the trial Court acquitted all the accused persons.

[10]. It is a settled principle of law that even if, two views are possible in a given situation, then the view taken in favour of the accused should be preferred. Since the finding of acquittal has been recorded by the trial Court on the basis of material on record, therefore, the same cannot be brushed aside merely on the asking of the complainant. State has not preferred any appeal against the acquittal of the accused.

[11]. After considering the material on record, I do not wish to interfere in the judgment of acquittal recorded by the trial Court. The application for leave to appeal and the appeal are hereby dismissed accordingly.

[12]. Since the application for leave to appeal and the appeal have been dismissed on merit, therefore, there is no necessity of passing any order in the application under Section 5 of the Limitation Act. All other crl. misc. applications are accordingly disposed of.

January 09, 2018

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No