

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**1. CRM-A-463-MA of 2012
Date of Decision: 18.05.2018**

State of Punjab

...Applicant-Appellant

VERSUS

Santokh Singh and another

...Respondents

2. CRM-A-1004-MA of 2012

Jaswinder Kaur

...Applicant-Appellant

VERSUS

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Manjari Nerhu Kaul, Addl. A.G., Punjab
for the applicant-appellant in CRM-A-463-MA-2012
and for respondent no. 1 in CRM-A-1004-MA-2012

Ms. Sumanjit Kaur, Advocate
for Ms. Jaswinder Kaur, Advocate
for applicant-appellant in CRM-A-1004-MA-2012.

Mr. Gurvinder Arora, Advocate
for respondents in CRM-A-463-MA-2012 and
for for respondents no. 2 and 3 in CRM-A-1004-MA-2012.

SURINDER GUPTA, J.

Respondents Santokh Singh and Inderjit Singh faced trial for offence punishable under Section 306 IPC and were acquitted by the trial Court vide judgment dated 12.03.2012. Against judgment of acquittal, State of Punjab has come up with appeal bearing CRM-A-463-MA-2012 and complainant filed appeal bearing CRM-A-1004-MA-2012, as such, both the appeals have been taken up together for disposal.

2. Brief facts of the case as incorporated in para 2 of the judgment

passed by trial Court are reproduced as follows:-

“2. Brief facts of the prosecution case are that the case was registered on the statement of Charanjit Kaur wife of late Davinder Singh resident of Bulanda, Police Station Mehatpur, wherein she stated that her husband Davinder Singh was employee of Police department as Head Constable and he was posted at Police Line, Jalandhar. Accused Santokh Singh son of Jaspal Singh is also resident of her village. The said accused blamed on her husband that he is working as a travel agent and a case was registered against her husband and accused Santokh Singh was demanding ₹11,00,000/- from her husband, whereas her husband never obtained even a single penny from Santokh Singh nor his passport was ever obtained, but Santokh Singh used to give threat and due to that reason her husband remained under strain and stress. On 21.01.2007 at about 8.00 p.m., Santokh Singh son of Jaspal Singh along with one Inderjit Singh son of Harbhajan Singh came in front of their house and they knocked the outer gate. Due to fear they did not open the gate and both the accused were giving threats and they were stating that if gate is not opened, then they will enter into the house by scaling the wall and their children will be kidnapped and due to that act of the accused, her husband came under depression and at about 11/12.00 night he consumed some poisonous substance. Complainant and her brother-in-law Sarabjit

Singh immediately took him to CMC, Hospital, where he was admitted and medicolegal treatment was given but in the morning about 3.45 p.m. he expired. The husband died due to threats given by accused Santokh Singh and Inderjit Singh. When her husband died, one chit was taken out from the pocket of his shirt by attendant in presence of complainant and Sarabjit Singh, where he scribed that 'Santokh Singh son of Jaspal Singh is responsible of his death as he got a false case registered against him and further scribed that a case under Section 306 IPC be registered against Santokh Singh and other persons responsible'. The said chit was produced before the investigating officer by the complainant. Inderjit Singh accused was previously working as Gunman of Kuldeep Singh, Judicial Magistrate and he also gave threat in the name of Judge and further requested that legal action may be taken against the accused."

3. The deceased was taken to CMC Hospital where he expired in the morning at 03.45 a.m. Complainant has alleged that her husband died due to threats given by accused Santokh Singh and Inderjit Singh. After death of her husband a chit was taken out from pocket of his shirt by attendant in the presence of complainant and Sarabjit Singh, which was a suicide note (Ex. PA) left by him, which is in Punjabi language and English translation of which reads as follows:-

"I beg pardon for anything bad uttered for anyone.

*Santokh Singh son of Jaspal Singh, resident of Bulanda
(sic) had lodged a false FIR. Case under Section 306 IPC be
registered against him and other persons responsible. Sd/-
Davinder Singh.”*

4. Police recorded FIR No. 07 dated 23.01.2007 on the statement of Charanjit Kaur wife of the deceased, arrested Santokh Singh and presented challan for offence punishable under Section 306 IPC against him. After presentation of challan accused Inderjit Singh was also summoned by the Court on application of prosecution under Section 319 Cr.P.C. After conclusion of prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded, who denied that they had visited the house of deceased on 21.01.2007. Accused-Santokh Singh pleaded that the deceased had taken ₹11,00,000/- from him for sending him abroad. His wife has got recorded false FIR in order to save herself from the liability to pay said amount. Accused-Inderjit Singh denied his presence at the spot and pleaded that he was posted as gunman of Sh. Ashok Kapoor, Civil Judge, Nakodar and had never gone to the house of deceased.

5. Learned State counsel and learned counsel for complainant have vehemently argued that the deceased was under lot of pressure due to lodging of false FIR against him and because of the incident at 08.00 p.m. on 21.01.2007. He came under pressure as accused had given threat to kill his children. The threat given by accused was the immediate cause/abetment for the deceased to commit suicide.

6. Learned counsel for respondents has argued that the police after investigation had presented challan in case bearing FIR No. 150 dated 13.07.2006 got registered by Santokh Singh at Police Station Shakot against

the deceased and he had also been charge-sheeted in that case by trial Court. The alleged occurrence at 08.00 p.m. on 21.01.2007 is false and fabricated and is not supported by any evidence. Trial Court after appraising entire evidence on record did not find any material to reach the conclusion that accused-respondents had abetted the deceased for committing suicide, as such, conclusion drawn by trial Court is based on evidence on record and calls for no interference in these appeals.

7. Trial Court framed following points for determination in this case:-

“(i) Whether the accused abetted the commission of suicide by Davinder Singh by harassing and demanding ₹11 lac from him.”

8. The deceased was posted as Head Constable in police. It is admitted fact that Santokh Singh had lodged FIR No. 150 dated 13.07.2006 at Police Station Shahkot against the deceased for defrauding him by taking a sum of ₹11 lakhs to send him abroad. Trial Court after appraisal of evidence concluded that so far as accused-Inderjit Singh is concerned he was not named by the deceased in suicide note. In case Inderjit Singh had also gone to his house with Santokh Singh he must have mentioned his name in the suicide note. The version of prosecution that accused had come to the house of deceased on 21.01.2007 was not believed because, firstly, the deceased had not stated this fact in his suicide note. Secondly, no independent person from locality or persons, who had assembled at the time of occurrence have come forward to state that accused had come to the house of deceased. It is admitted that the deceased was facing trial in a case got registered by Santokh Singh.

9. On consideration of submissions of learned counsel for parties and perusal of record with their assistance, I find that trial Court while doubting the version as given by complainant with regard to incident dated 21.01.2007 at 08.00 p.m., has rightly observed that the same is not proved because the deceased had not mentioned about this incident in his suicide note. The prosecution has also not examined any witness from the locality or any of the person, who allegedly assembled at the spot at the time of occurrence. I am also of the opinion that version regarding alleged incident of 21.01.2007 at 08.00 p.m. is doubtful for the reason (in addition to reasons already recorded by trial Court) that the deceased was not a layman. He was a police official and if such an incident had taken place he would have immediately rushed to inform the police. This was particularly so because of his inimical relations with Santokh Singh, who had lodged an FIR against him in which he was facing trial. Reporting the matter to police about this incident would have given him opportunity to initiate criminal proceedings against Santokh Singh and to put pressure on him. Learned trial Court has rightly observed that in case this incident had taken place the deceased must have mentioned about it in his suicide note. The deceased had mentioned in the suicide note that FIR for offence punishable under Section 306 IPC be registered against Santokh Singh and other persons responsible for his death but has not specifically named Inderjit Singh. All this is a pointer to the fact that version of prosecution regarding incident dated 21.01.2007 is doubtful.

10. Now I examine the case of prosecution from the angle believing version of the prosecution as it is. Firstly, lodging of FIR by Santokh Singh against the deceased cannot be termed as giving him (deceased) abetment to commit suicide. Secondly, even if happening of incident dated 21.01.2007

is believed this cannot be termed as a abetment to the deceased to commit suicide as being a police official he was very well aware that the matter could be reported the police and suitable legal action could be taken against Santokh Singh. Around midnight hours, the deceased consumed some poisonous substance and left behind a suicide note. Implication of Santokh Singh in suicide note can be well understood as he (deceased) was facing trial because of complaint lodged by Santokh Singh against him. Being a Government employee he was certainly under pressure as he could face departmental action against him if Santokh Singh had been successful in proving the charge that he was indulging in travel agent business and duped him. If a person approaches lawful authorities for redressal of his grievance and files complaint for illegal act of any person, this cannot be termed as abetment to the person against whom such complaint has been filed or matter has been reported to authorities. The charge for abetting the deceased to commit suicide is not made out even on believing the version of prosecution as it is.

11. Keeping in view above facts and on perusal of judgment of trial Court, I find no legal or factual infirmity therein calling for any interference in these appeals. No reason is made out to allow applications under Section 378 (4) Cr.P.C. seeking leave to appeal. Consequently, appeals filed by State of Punjab and complainant have not merit and the same are dismissed.

May 18, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No