

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

CRM-A-570-MA of 2012 (O&M)
Decided on:- August 27, 2018.

Ram Pal.

.....Applicant.

Versus

State of Haryana & others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA*

Present:- Mr. R.S. Mamli, Advocate
for the applicant.

Mr. Anmol Malik, AAG, Haryana.

Mr. Subhash Godara, Advocate for
Mr. S.S. Dinarapur, Advocate
for respondent No.3.

Mr. G.C. Shahpuri, Advocate
for respondent No.4.

HARI PAL VERMA, J.

This is an application filed under Section 378(4) CrPC seeking leave to appeal, against the judgment of acquittal dated 27.03.2012 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, whereby the respondents-accused were acquitted of the charges framed against them.

Briefly stated, FIR No.161 dated 20.11.2008 under Sections 306, 420, 406/34 IPC Police Station Chhachhrauli was registered at the behest of the Ram Pal – applicant. As per the FIR, Jagat Singh, aged about 40-42 years, the eldest son of the complainant, had sold some of his land

through Mahi Pal and co-accused Kirpal Singh and Kulwinder Singh, who paid him some money out of the sale consideration, but retained the substantial part of the sale consideration with them with a promise to pay the retained amount afterwards. On 17.11.2018, Jagat Singh left his house informing his family members that he was going to Mahi Pal etc. so as to collect his money, but he did not return back home. His dead body was recovered on 20.11.2008 in the area of Village Chhachhrauli and a suicide note was also recovered from his possession. As per the suicide note, Jagat Singh committed suicide on account of the harassment caused to him by Mahi Pal and his co-accused Kulwinder Singh and Kirpal, as they had not paid the balance sale price of the land sold by him through them (accused).

After registration of the FIR, the accused were arrested and on completion of investigation, challan was presented against the accused in Court. Copies of the challan were supplied to the accused free of cost as envisaged under Section 207 CrPC.

Learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri committed the case to the Court of Session and accordingly, finding a *prima facie* case against the accused Mahi Pal, Kirpal Singh, Kulwinder Singh and Harbans Singh, they were charge sheeted under Sections 420, 306 IPC read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

The prosecution had examined as many as 20 witnesses to prove its case. PW-6 Ram Pal, the complainant, has deposed that his son Jagat Singh had separated from him about 6/7 years back and 8-9 acres of land had fallen to his share and out of that land, he had sold approximately

3¼ acres of land, to which the accused Harbans Singh, Kala, Mahi Pal and Kirpal had acted as mediators. He further deposed that Jagat Singh had sold the land for about Rs.40-42 lacs, but out of this amount, he had received only part of the amount whereas the remaining consideration was still due. A week before his death, Jagat Singh had told the complainant that he was disturbed and tense because the remaining sale consideration was not being paid to him and Harbans Singh was delaying the payment on one pretext or the other. He had stated all this in the presence of his other son Umesh. On 17.11.2008, Jagat Singh left home, saying that he was going to Mahi Pal etc. for getting the balance sale consideration and in the night, at about 8-00/9-00 p.m., Jagat Singh had telephonically told him that the money had not yet been paid to him and the same is likely to be paid on the next day, and therefore, he would not be coming home. But even on the next day, he did not come back. On Wednesday, they tried to contact him on his mobile phone, but they could not get through and therefore, they contacted their relations. However, nobody gave any clue about him (Jagat Singh). On Thursday, somebody telephonically informed his another son Umesh that the dead body of Jagat Singh was lying in a hut in the fields of Rajender Singh of Village Sherpur near Cremation Ground. On receipt of this information, the complainant Ram Pal along with his brother Raj Pal, son Umesh and his nephew Bhupinder left for the pointed place, where they found the dead body of Jagat Singh lying on a cot in the hut. His complexion had turned bluish and some blood had also trickled out of his mouth. The police was called. A hand written paper was recovered from the back pocket of the trouser of Jagat Singh, which was exhibited as

Ex.PW/6A, wherein it was written that he was committing suicide due to non-payment of his money by Mahi Pal, Kala, Harbans Singh and Kirpal. The complainant had identified the hand writing and signatures of Jagat Singh.

PW-7 Umesh, the brother of the deceased, has also deposed in the same manner. PW-11 Dr. Deepila Gupta, Medical Officer, Civil Hospital, Jagadhri, who conducted the post-mortem examination on the dead body of Jagat Singh, has deposed that as per the police papers, the death had occurred on 20.11.2008 at 11-00 a.m. and the post-mortem examination was conducted on 20.11.2008 at 4.10 p.m. and the information given by the police was that some poisonous thing had been consumed by the victim.

The trial Court narrowed down the controversy for consideration in the case by framing charge as to 'whether the accused persons abetted the commission of suicide by Jagat Singh and cheated him by refusing to pay the remaining sale price?'.

The aforesaid point was replied in negative by the trial Court with an observation that the prosecution has not been able to prove the guilt against the accused beyond a shadow of reasonable doubt and while extending the benefit of doubt acquitted them of the charges framed against them.

Aggrieved from the aforesaid judgment of acquittal, the complainant - Ram Pal has filed the present application for grant of leave to appeal.

Learned counsel for the applicant-complainant has argued that PW-6 Ram Pal, complainant, has supported the prosecution version. Even in the suicide note, which was written in the handwriting of the deceased Jagat Ram himself, speaks a lot against the accused that he was committing suicide on account of non-payment of sale consideration. However, the trial Court has not appreciated the evidence on record, and rather acquitted all the accused.

He has further submitted that the suicide note, Ex.PW-6/A, which was recovered from the back pocket of the trousers of the deceased, depicts that the deceased Jagat Singh had addressed this note to SHO, wherein it has been written that he was writing this suicide note in the compelled circumstances. The note contained that out of the sale consideration of the land sold by the deceased through Mahi Pal of Jaidhari, he had not received any amount. Mahi Pal had got his land sold to Harbans resident of Fatehpur after hatching a conspiracy with one Kala and had received Rs.10 lacs from him (Harbans). At the time of selling the land, Mahi Pal had assured that he would be responsible for the payment, but now, he (Mahi Pal) has refused to pay the money and therefore, he (Jagat Singh) is committing suicide. Thus, as per the suicide note, Jagat Singh did not get the sale consideration of land sold to Harbans Singh through Kirpal Singh and Kala, in which, Mahi Pal was also instrumental in getting the land sold.

On the other hand, learned counsel for respondents No.3 and 4 have argued that the respondents-accused never provoked or incited Jagat Singh to commit suicide and as such, the trial Court has rightly acquitted

them of the charge levelled against them. There is no scope for interference in the impugned judgment of acquittal passed by the trial Court. The prosecution has failed to adduce any evidence to prove its case.

I have heard learned counsel for the parties.

As per the suicide note Ex.PW6/A, deceased Jagat Singh did not receive the sale consideration for the land sold by him to Harbans Singh through Kirpal Singh and Kala in which Mahi Pal was also instrumental. Mahi Pal stated to have taken the responsibility for payment, but thereafter, he had refused to make the payment. In the suicide note, there is reference of 3 amounts i.e. Rs.10 lakh, Rs.3.70 lakh and Rs.13.25 lakh. There is no corroborative evidence regarding the sale for a sum of Rs.2.70 lakh, whereas regarding the amount of Rs.13.25 lakh, there is a sale deed Ex.D1 for a sum of Rs.6.25 lakh regarding sale of land measuring 10 Kanals executed by deceased Jagat Singh in favour of Usha. When Usha stepped into the witness box as DW2, there is no suggestion by the prosecution that no sale consideration of Rs.6.25 lakh was paid to Jagat Singh or for that it was Mahi Pal along with Kala and Kirpal, who were instrumental in getting the sale deed executed in her favour from Jagat Singh.

In the suicide note, Jagat Singh has written that he has received Rs.10 lakh from Harbans Singh for which a sale deed Ex.PW8/A was executed by Jagat Singh in favour of Harbans Singh and Amrik Singh. The suicide note also refers that Mahi Pal was instrumental in getting the sale deed executed through Kala and Kirpal also acted as a mediator. In this manner, against this sale deed, no amount was due against deceased Jagat

Singh. Even if it is assumed that for the land sold by Jagat Singh, the sale consideration was not being paid to him and the accused were putting off the matter on one pretext or the other, it cannot be held that the accused have abetted Jagat Singh to commit suicide.

In order to hold an accused guilty for abetment to commit suicide, active complicity on the part of the abetter is a necessary component. There is no evidence on the file that what transpired between Jagat Singh, Mahi Pal and others on 17.11.2008 or for that matter on 18.11.2008 or before 20.11.2008 when the dead body of Jagat Singh was found lying in a hut in the fields of Rajinder Singh. Moreover, the prosecution has not come out with the evidence as to who informed PW7 Umesh (other son of the complainant) that the dead body of Jagat Singh was lying in a hut in the fields of Rajinder Singh resident of village Sherpur near cremation ground. Thus a very important link in the prosecution case is badly missing.

Thus, in the absence of any evidence which may prove the culpability of the accused, learned trial Court has held that the prosecution has not been able to bring home the guilt of the accused beyond a shadow of reasonable doubt and acquitted the accused of the charges framed against them by extending them the benefit of doubt.

In this view of the matter, no interference is warranted in the impugned judgment dated 27.03.2012 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri. Accordingly, finding no merit in the contention of the learned counsel for the applicant, the prayer made

in the present application under Section 378 (4) Cr.P.C. for leave to appeal is declined.

The application is, accordingly, dismissed.

August 27, 2018
AK/Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No