

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-695 MA of 2012 (O&M)

Date of decision : 7.2.2018

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Babli

.....Applicant

vs.

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Baljinder Singh, Advocate for the applicant.

Mr. Ramandeep Sandhu, Senior Deputy Advocate General,
Punjab.

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H. S. Madaan, J.

Raj Pal aged about 56 years s/o Manohar Lal, Kewal Krishan aged about 63 years s/o Sohan Lal and Suresh Kumar aged about 52 years s/o Ravel Chand, all residents of Rupnagar, being accused in FIR No. 4 dated 15.1.2010, for offence under Section 306 IPC, registered at Police Station City Rupnagar, faced trial by Additional Sessions Judge, (Fast Track Court), Ropar, who vide judgment dated 20.1.2012, acquitted such accused of the charge framed against them.

Briefly stated, facts of the case, as per prosecution

version are that the FIR in question was lodged at the instance of complainant Babli w/o Surinder Kumar, deceased. She had made statement to the police on 15.1.2010, stating therein that she was married with Surinder Kumar s/o Manohar Lal, about 25 years back and they were blessed with two children, a son namely, Gagandeep Vinayak aged about 23 years and a daughter namely, Priyanka aged about 20 years; that Surinder Kumar alongwith Raj Pal Vinayak, Kewal Krishan and Suresh Kumar Lamba, had been working in partnership as vegetable commission agent in vegetable market near Bhatha Sahib, for the last about 23 years; that however, in the year 2008, Raj Pal Vinayak, Kewal Krishan and Suresh Kumar threw out Surinder Kumar from the joint business without rendering any accounts; that resultantly, Surinder Kumar got mentally upset; that though Surinder Kumar had approached his three partners aforesaid, to furnish accounts of the firm, but what to talk of doing so, they rather threatened Surinder Kumar, stating that he would not be allowed to stay in Ropar. Surinder Kumar had moved an application before the concerned official of the Market Committee, Ropar, to resolve the matter and that on 15.1.2010 when Surinder Kumar came back home at about 1.30 P.M. after taking meals, he went inside his room and at about 4.30 P.M. when the complainant went inside the room of her husband she found froth coming out from the mouth of Surinder Kumar; that Surinder Kumar was shifted to Civil Hospital, Ropar, where he was declared brought dead; that two suicide notes were recovered from the pocket of shirt worn by Surinder Kumar; that in one of the notes it had been disclosed that he was taking that

drastic step since his partners had failed to render any accounts to him with regard to the partnership business.

After registration of the FIR, the case was investigated. The accused were arrested in this case.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court, copies of documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. Then finding that offence under Section 306 IPC is exclusively triable by the Court of Sessions, committed the case there. It was assigned to the Court of Additional Sessions Judge, Ropar.

Learned Additional Sessions Judge, after going through the challan and other relevant documents, finding that charge for offence under Section 306 IPC was disclosed against the accused, charge sheeted them accordingly, to which they pleaded not guilty and claimed trial.

During the course of prosecution evidence, it examined PW-1 Babli, wife of the deceased, PW-2 Gagandeep Vinayak, son of the deceased, PW-3 SI Gurmeet Singh, PW-4 SI Nirmal Singh, PW-5 Dr. Kulwinder Kaur, Medical Officer, and thereafter evidence of the prosecution stood closed.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to them, but they denied the allegations and pleaded innocence. The accused did not lead any evidence in

defence.

After hearing the arguments, the accused were acquitted of the charge framed against them, as such the complainant has approached this Court seeking Special Leave to Appeal, notice of which was given to the respondents, including State of Punjab and the accused, who have been acquitted. They had put in appearance through counsel.

I have heard learned counsel for the parties, besides going through the record.

It is undisputed fact that Surinder Kumar had committed suicide by consuming an insecticide having chemical Aluminum Phosphate. Now the crucial question arises as to whether such suicide was abetted by the accused. The trial Court by proper appreciation and appraisal of the evidence and correct interpretation of law, has come to the conclusion that it was no so.

As far as two suicide notes stated to have been recovered from the pocket of deceased, shortly after his death, those notes being in Punjabi alleged to be in handwriting of the deceased, which as per allegations of defence, happen to be forged documents. Taking up the question whether those suicide notes were indeed recovered from the pocket of the shirt worn by the deceased and are in his handwriting, the trial Court has discussed those aspects in detail in paragraph 11 of its judgment, observing that as per statement made by complainant Babli to the police, she herself had recovered the suicide notes from the pocket of the deceased, when he was declared brought dead at the hospital and then produced the same before the police while lodging

the FIR. However, while being examined in the Court as PW-1, she had stated in her cross examination that the suicide notes had been handed over to her by the doctor at the hospital and her son had then read over the notes to her. Furthermore, she had stated that suicide notes were with the police when her statement Exhibit PW 1/C was recorded in the Police Station. She had specifically denied that she herself had taken out the notes from the pocket of the deceased. She denied having made any such statement to the police. Furthermore, PW-5 Doctor Kulwinder Kaur, who had handled the dead body at the hospital, clearly denied that she had recovered suicide notes from the pocket of the deceased or that she had handed over the same to the complainant.

Learned trial Court in paragraph 14 of its judgment, has noted the contradictory stand taken by PW-1 Babli, submitting that the FIR statement was recorded by SI Nirmal Singh at the hospital and the suicide notes were taken into possession by the police there. Though according to the complainant FIR was recorded at the Police Station and the suicide notes were already with the police at that time. Thus making it doubtful whether notes were actually recovered from the pocket of the deceased.

Then dealing with the question as to whether suicide notes are in the handwriting of the deceased, learned trial Court referring to reply given by PW-1 Babli to a Court question, wherein she had stated that there was no document written by the deceased in Punjabi in her possession and for that reason she had not produced that before the police for comparison. That no trustworthy evidence

of any person who might be conversant with the handwriting of the accused and handwriting of the deceased, could be examined and that there was evidence to show the deceased generally wrote in Hindi, making it doubtful as to why he should write the suicide notes in Punjabi. That suicide notes were purportedly signed by the deceased in English and even the signatures were not got compared with his admitted signatures, though it is apparent from the record that deceased had accounts in the banks and had even passbooks.

The reasoning given by the trial Court while coming to the inference that no case against the accused was made out is there in paragraphs 17 to 20, which for ready reference are reproduced as under:-

17. Then it was stated by Babli as well as her son PW2 Gagandeep Vinayak that the deceased had been running partnership business with the accused as commission agent in vegetables at the local vegetable market and in September 2008, the accused suddenly threw out the deceased from the partnership business without settling his accounts. It was stated that on this account, the accused was greatly disturbed. Now, no accounts of any such business were seized by the police and nor has any witness who might have seen such business being run appeared before the court. There must have been so many customers in the vegetable market who must have dealt with

the deceased and the accused and who could testify whether the deceased had actually working in partnership with the accused. However, no such person has been produced. In the course of her cross examination, PW1 Babli even stated that the deceased had served the accused with notice to render accounts but no such notice has been produced. It came in evidence that such business in vegetable market can be carried on only after obtaining a licence but no record is shown to exist regarding such partnership in the market committee. Then no report was ever lodged by the deceased with police regarding such unceremonious ouster from business by the accused and nor was any suit filed to recover his dues. In the course of her statement, Babli could not even state whether the deceased got any salary from the accused or took any share in the profits.

18.All this creates great doubt about any partnership business alleged to have been run by the accused and the deceased.

19.Then it is significant that about one and a half year had elapsed since the alleged ouster of the deceased from the partnership business and with the passage of time, the bitterness caused thereby in the mind of the deceased might have been

softened. It is difficult to believe that he should have suddenly taken it into his head to take away his life because of the things that had happened about one and a half years back. Something must have happened immediately before the incident of suicide which might have impelled him to take such drastic step. The real reason for suicide to my mind has remained undisclosed. In *Pardeep Kumar Vs. State of Punjab* 2003(1) Criminal Court Cases 117 (Punjab and Haryana), it was observed by his lordship that to prove abetment, there should be a direct or reasonable nexus between the act and the consequences. If there is no direct nexus, the offence of abetment would not be constituted.

20. The question, however, is bound to arise as to why this case should have been set up against the accused at all. Possibly, the family of the deceased had some grouse against each accused and took this chance to settle scores. Anyhow, the suspicions indicated above are too many and would only indicate that the prosecution has failed to prove the charge against the accused beyond reasonable doubt. Accordingly giving benefit of doubt to the accused, they stand acquitted of the charge framed against them. File be consigned to

the Record Room.”

Feeling aggrieved the complainant has approached this Court filing application for special leave to appeal, notice of which was given to the respondent accused.

I have heard learned counsel for the parties, besides going through the record.

The judgment passed by the Additional Sessions Judge (FTC), Ropar, is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein.

The prosecution had failed to prove that suicide of Surinder Kumar was abetted by the accused. The suicide notes stated to have been left by the deceased, have not properly proved to be in his hand, therefore are inadmissible in evidence. Therefore, no fault can be found with the impugned judgment. No ground is made out for grant of Special Leave to Appeal. The application in that regard stands dismissed.

7.2.2018

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(H.S. Madaan)

Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No