

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRA-S-4695-SB-2014 (O&M)

Date of Decision: 11.07.2018

Satbir

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Vikrant Pamboo, DAG, Haryana.

ARVIND SINGH SANGWAN , J.

Challenge in this appeal is to the judgment dated 04.09.2014 passed by Additional Sessions Judge, Bhiwani vide which the accused/respondents No. 2 to 6 were acquitted from the charge framed under Section 306 IPC.

Brief facts of the case are that on 18.04.2013, on receiving a telephonic information in the police station regarding death of Jagbir son of Om Parkash, the police reached in the hospital and found the complainant/brother of the deceased present near the dead body and recorded his statement Ex. P-14. In the statement, it was alleged that they are four brothers and sisters and the complainant and Jagbir were living separately. Jagbir was married to Kavita Devi (one of the accused) in the

year 2008 and there was a matrimonial dispute going between them as Kavita Devi had filed a dowry case against Jagbir, his brother and mother which is pending in Court. It was further stated that Kavita Devi was extending threat to his family and even on 18.04.2013, she had made a call to him and his brother who has committed suicide by taking poison due to harassment caused by his in-laws. On the basis of this statement, DDR No. 29 Ex. P-3 was recorded and subsequently, a formal FIR Ex. P-4 was registered. The police initiated the proceedings under Section 174 Cr.P.C. and a suicide note dated 18.04.2013 Ex. P-9 was recovered from the pocket of the deceased, vide recovery memo Ex. P-10. The complainant later on produced the driving licence of the deceased which was recovered, vide recovery memo Ex. P-13 and the same was sent to FSL for comparison with signature of the deceased on the suicide note.

Thereafter, the police completed the further investigation and the post-mortem of the deceased was conducted vide report Ex. P-8.

After completion of the investigation, the challan under Section 173 Cr.P.C. was submitted and the trial Court framed the charge under Section 306 IPC, to which, the accused persons did not plead guilty and claimed trial.

The prosecution in evidence examined PW-1 Bhup Singh, who initially conducted the investigation, PW-2 Dr. Mahesh Kumar, who conducted the post-mortem, PW-3 SI Shish Ram, one of the Investigation Officers, PW-4 Satbir, complainant/brother of the deceased, PW-5 Rajender son of Pokhar Mal, witness of the locality, PW-6 ASI Om Parkash, PW-7 Constable Anand Parkash, PW-8 SI Subhash Chander, PW-9 SI Attar Singh,

PW-10 Draftsman Dharmender Singh, PW-11 Constable Shamsher Singh, PW-12 SI/SHO Ajit Singh and PW-13 HC Vinod, with regard to the completion of the investigation and the documents presented before the trial Court. The prosecution also produced on record the report of the FSL Ex. P-1, Chemical Examiner's report Ex. P-25 and Ex. P-26.

After completion of the evidence, statements of accused persons were recorded under Section 313 Cr.P.C. in which all the incriminating evidence, which have come up against them, were put to them. The accused persons denied the correctness of the evidence and pleaded their false implication. No evidence was laid in defence.

The trial Court, vide judgment dated 04.09.2014, acquitted accused/respondents No. 2 to 6 from the charge framed against them. The operative part of the judgment is reproduced below:

“It is evident on record that Kavita had launched criminal proceedings against deceased and his family members including complainant of this case under Section 498-A of IPC. This is a legal remedy which is available with a lady who is facing torture from her husband and his companions. If legal remedy is carried on them it cannot amount to abet the person against whom such proceedings are pending to commit suicide. Kavita had been informed by the complainant on telephone when he was hearing the telephone coming from Kavita's side on which he informed Kavita that Jagbir had already consumed poison. It means before the starting of conversation of Kavita with the complainant on telephone Jagbir had already consumed the poison which does not amount to instigation or abetment at the end of Kavita. So, it appears to me that complainant being one of the accused under Section 498-A of IPC has

prepared a plan for encash the suicidal death of Jagbir in order to pressurize Kavita who is complainant in this case for getting the compromise so that he may be escaped therein from the clutches of law. Rather, it appears to this Court that due to lack of inbuilt confidence Jagbir himself consumed poison without instigation or abetment for the same at the instance of Kavita.

Therefore, in the opinion of this Court, ingredients of Sections 306 and 107 of IPC are not attracted in this case.

Hence, as a sequel to my aforesaid discussion and observations, I am of the view that case of the prosecution is completely doubtful. Therefore, benefit of doubt is extended to the accused. Consequently, they are acquitted of the charges framed against them in this case. Their bail bonds and surety bonds, except the bonds furnished by them under Section 437-A of Cr.P.C., stand discharged. File be consigned to record room, after due compliance.”

Learned counsel for the appellant/complainant has raised the following issues before this Court:

- i. that the trial Court has not appreciated that as per the FSL report Ex. P-1, it is proved that the signature of the deceased on the suicide note tally with the signature of the deceased on the driving licence;
- ii. that from the statement of the complainant as well as PW-5, it has come on record that accused Kavita, wife of the deceased, had initiated a matrimonial proceedings against the deceased and his parents, therefore, there was direct evidence of harassment on the part of the accused persons.

iii. that from the suicide note itself, it is proved that offence under Section 306 of the IPC is made out against the accused persons.

In reply, learned State counsel has opposed the prayer of the appellant and submitted that the evidence laid by the prosecution is not sufficient to prove the ingredients of abetment under Section 107 of the IPC as no such evidence has come on record that the accused persons have abetted the deceased in a manner immediately before such incident that he was forced to commit suicide.

After hearing learned counsel for the parties and going through the record, I find no merit in the present appeal.

A perusal of the FSL report shows that only the signature on the suicide note was tallied and not the entire scription of suicide note, which was handwritten, was compared with handwriting of the deceased. Therefore, the prosecution has failed to prove that the contents of the suicide note were also written in the handwriting of the deceased. The trial Court has recorded a well reasoned finding on this aspect that there was no standard signature before the FSL to tally the same with the signature on the suicide note as the document which was produced before the police for comparison had come from the custody of the complainant himself and not from some independent source.

Even otherwise, from the perusal of the evidence, it is apparent that the ingredients of abetment are not proved on record. The mere fact that Kavita, wife of the deceased, had initiated a matrimonial litigation against the deceased as well as his family members do not constitute and prove the

abetment on her part as she was residing separately at the time of incident.

In view of above, this Court finds no merit in this appeal and upholding the judgment of acquittal passed by the trial Court, the same is dismissed accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

July 11, 2018
Waseem Ansari

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No