

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1782-MA-2017 (O&M)

Date of decision: 24.07.2018

State of Haryana

..... Applicant

Versus

Sher Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Yashwinder Singh, DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

CRM-25222-2017

For the reasons mentioned in the application, which is supported by an affidavit, the same is allowed. The delay of 40 days in filing application for grant of leave to appeal is condoned.

CRM-A-1782-MA-2017

1. Through the instant application under Section 378(3) Cr.P.C., the State of Haryana, has prayed for grant of special leave to file appeal against the judgment of acquittal dated 18.03.2017, rendered by the learned Additional Sessions Judge, Gurugram, acquitting the respondents in case FIR No. 208 dated 13.06.2013 registered under Section 306 IPC, Police Station Pataudi, Gurugram.

2. Briefly stated, Sunita daughter of respondent No. 1-Sher Singh was given in marriage to complainant-Maman Singh son of deceased-Rajbir. Respondents No. 2 and 3, namely; Sushila and Suraj Mal, were instrumental in their marriage. According to the complainant, his wife

Sunita daughter of respondent No. 1, was suffering from mental disorder.

Therefore, there was a matrimonial discord amongst them. His wife was residing at her parental house prior to two months of occurrence. Due to this reason, once respondent No. 1 and his son-Raman, gave beatings to the complainant on 09.06.2013, for which he got himself medico-legally examined from Community Health Centre, Pataudi. The complainant lodged complaint with the police. However, the matter was compromised. Respondent No. 1 used to threaten the complainant and his family members to take Sunita along with him, otherwise to falsely implicate them in some false case of dowry. Due to strained relations in the family, his father-Rajbir, under immense pressure, committed suicide leaving behind suicide note (Ex. P-2) containing the allegations as narrated above. With these allegations, respondents were booked and tried in case FIR No. 208 dated 13.06.2013, under Section 306 IPC.

3. In support of its case, the prosecution has examined as many as 16 witnesses and produced certain documents on record, including suicide note (Ex. P-2).

4. Statements of the respondents under Section 313 Cr.P.C., were recorded, putting the entire incriminating evidence brought on record against them to which they pleaded their innocence and false implication.

5. On appraisal of evidence brought on record by the prosecution and hearing learned counsel for both the sides, the learned trial Court acquitted the respondents vide judgment impugned herein.

6. Learned State counsel *inter alia* contends that the learned trial Court has failed to appreciate that due to matrimonial discord, respondent No. 1 and his son-Raman, gave beatings to the complainant with lathis, on account of which the complainant sustained injury on his head and was

medico-legally examined at Community Health Centre, Pataudi. However, after reporting the above incident to the police, the matter was compromised. The respondents were pressing hard the complainant, his deceased father-Rajbir and family members to keep Sunita with them, otherwise, they would involve them in some false dowry case. Being fed up with the indifferent attitude shown by the respondents, father of the complainant, namely; Rajbir, finished his life by consuming some poisonous substance. The trial Court also failed to appreciate that the FSL Authorities have categorically reported vide report Ex. PC/1 that hand-writing in the suicide note was of deceased-Rajbir in which he raised fingers for his death against the respondents.

7. Having considered the submissions made by learned State counsel, this Court does not find any merit in the instant application under Section 378(3) Cr.P.C. seeking permission to file appeal for the reasons to follow:

8. The prosecution story speaks volumes about the matrimonial discord amongst the complainant and his wife-Sunita, on account of her mental illness. However, the prosecution did not ever bring any evidence on the record about the mental condition of Sunita. The prosecution has miserably failed to prove the root cause of alleged matrimonial discord amongst the complainant and his father on one side and the respondents on the other side. It has come in evidence that Sunita was under treatment for her disease, but nothing was brought on record to prove that Sunita was taking medicines for her mental illness. Therefore, the oral assertion of the prosecution that Sunita was not mentally fit has rightly been ignored by the trial Court.

9. The entire prosecution story revolves around the alleged suicide note Ex. P-2 in which deceased-Rajbir, specifically narrated about the marriage of his son with Sunita daughter of respondent No. 1-Sher Singh, with the intervention of respondents No. 2 and 3. Sunita was suffering from fits since her childhood, but the respondents concealed this fact from him and got her married with his son fraudulently and were pressurizing him, his family members to keep Sunita in the matrimonial home, otherwise, to involve them in a false case of dowry. For this reason, he was going to commit suicide. It was further mentioned therein that HC Ram Niwas had taken a bribe of ₹ 2000/- for effecting compromise on 11.06.2013. However, the prosecution did not produce any standard hand-writing of deceased-Rajbir, for comparison of hand-writing of the suicide note Ex. P-2. None of the prosecution witnesses ever testified that they were acquainted with the hand-writing of the deceased and standard writing given by them to police belonged to deceased-Rajbir. In the absence of any cogent and convincing evidence on the record that the respondents were the main culprits for suicidal death of Rajbir, have rightly been acquitted by the learned trial Court.

10. I have carefully gone through the impugned judgment and find no illegality or perversity in the same. Rather the same is well reasoned based on appreciation of evidence.

11. Thus, the instant application, being completely devoid of any merit, is dismissed. Leave to appeal is declined.

July 24, 2018

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(RAMENDRA JAIN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No