

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

CRA-AS-6-2016 (O&M)
Date of decision : 11.09.2019

Alka Sharma

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Bhavnik Mehta, Advocate for the appellant.

Mr. Bhupender Beniwal, AAG, Punjab.

ANIL KSHETARPAL, J.

This criminal appeal has been filed against judgment of acquittal. It is debatable whether such an appeal at the hands of first informant-victim is maintainable or not. However, this Court has heard learned counsel for the appellant at length and with his able assistance gone through judgment passed by the learned Additional Sessions Judge dated 28.10.2015.

As per the case of the prosecution, first informant-petitioner-Alka Sharma was married to late Sh. Ashok Kumar in the year 1986. She gave birth to one son namely Hartej Kumar. Ashok Kumar, her husband was trading in sale and purchase of furnace oil at Mohali. Amit Kumar Sharma, his cousin was also working with him. Ashok Kumar used to purchase furnace oil from one Gurarpan Singh Chauhan and supply the oil

so procured to Kiran Pal and Rana. It is alleged that Amit Kumar committed theft of car of Ashok Kumar after forging his signatures and sold the same, due to which an FIR No.24 dated 28.5.2010 was lodged by Ashok Kumar against Amit Kumar and his wife. Kiran Pal and Rana owe some money to Ashok Kumar but they were not returning the same, rather extending the threats to Ashok Kumar. Amit Kumar and his wife, Sonia were also pressurizing Ashok Kumar to withdraw the case. Ashok Kumar went into depression for which he was getting treatment from Ivy Hospital, Mohali. Ashok Kumar committed suicide on the intervening night of 28th February/1st March, 2013. Thus the complaint was lodged by the first informant against Amit Kumar, Gurarpan Singh Chauhan, Sonia, Brhamajit Singh and Kiran Pal. Allegations are that they have abetted the suicide committed by Ashok Kumar.

Prosecution in order to prove its case examined following witnesses:-

“PW-1 Lekh Raj, PW-2 ASI Lakhwinder Kumar, PW-3 Dr. Jagdish Singh Gill, PW-4 Damandeep Sharma, PW-5 Alka, PW-6 Som Nath, PW-7 ASI Narinder Kumar, PW-8 MHC Bhag Singh, PW-9 SI Naveen Pal, PW-10 C-Jaspreet Singh.”

After closure of the evidence of the prosecution, statements of the accused under Section 313 Cr.P.C were recorded and incriminating evidence appearing against them was put to them. They denied allegations and pleaded false implication. In defence accused examined Harwinder Singh as DW1 and Rekha Pathak as DW2.

This Court has heard learned counsel for the appellant at length

and with his able assistance has gone through the judgment passed. In the present case, prosecution has failed to prove that alleged suicide note is in the handwriting of the deceased. Prosecution in order to prove that the suicide note was allegedly written by Ashok Kumar tried to prove the same with the help of opinion of a finger print and handwriting expert- Ex.PX. It is apparent from the reading of the report that handwriting and finger print expert refused to give any definite opinion as he has reported that if some more suitable, sufficient and admitted signature, handwriting in English and Hindi of the deceased would have been provided, some definite opinion could be given. Still further it has not come on record that the application Ex.PW5/F was written by Ashok Kumar-deceased. The expert was given writing Ex.PW5/F for comparison with alleged suicide note Ex.PW5/A.

Still further, prosecution has failed to prove as to on which date the suicide note was traced out. Investigating Agency also failed to prepare any site plan of the place where suicide note was allegedly recovered. There are suspicious circumstances which raise doubt, particularly, when investigating team had not visited the place from where alleged suicide note was recovered. Still further no evidence has been led or no explanation has been given as to how the alleged suicide note travelled from Mohali to Ludhiana. The suicide note is alleged to have been recovered from Ludhiana. Prosecution has not examined mother and son of the deceased who were the best witnesses to prove the actual recovery of the alleged suicide note.

The judgment passed by the learned Additional Sessions Judge is in detail and a reasonable view has been taken by the learned Judge.

While hearing appeal against acquittal, the jurisdiction of the Appellate Court is limited. The Appellate Court can interfere only if the Court comes to a conclusion that the judgment under appeal suffers from perversity, material irregularity, patent error or there is error in the procedure followed. In the present case, learned counsel for the appellant has failed to draw attention of the Court to same.

Still further Alka Sharma when she appeared she tried to make significant improvements while deposing in the Court. She had resiled from her earlier statement made in Court qua involvement of accused Kiran Pal and Rana.

In view of the aforesaid, no ground to interfere is made out. Hence, dismissed.

11.09.2019

rekha/pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No