

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1329-MA-2017 (O&M)
DATE OF DECISION:-17.01.2019

RAM KISHAN

...APPLICANT...

V.

STATE OF HARYANA AND ORS.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. J.S. Cooner, Advocate for the applicant.

Mr. Munish Sharma, AAG, Haryana.

Mr. R.S. Bains, Advocate for respondents No.2 to 4.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378 (3) Cr.P.C., the complainant has sought leave to file appeal against judgment dated 18.04.2017 of the ld. Addl. Sessions Judge, Sonapat, whereby, accused has been acquitted from the charges.

Briefly, son of the petitioner-complainant namely Jasbir was married to Sunita-respondent No.2 on 29.01.2011. Out of their wedlock, one male child had born named Vishnu, after one year of their marriage. However, Jasbir committed suicide on 02.01.2014 i.e. after 3 years of his marriage, leaving a suicide note mentioning that ill-behavior of his wife-respondent No.2 had forced him to commit suicide. Consequently, complainant being father of Jasbir lodged FIR No.02, dated 02.01.2014, under Sections 323, 306, 506 and 34 IPC,

Police Station Civil Lines, Sonapat against his daughter-in-law, her brother and father, levelling allegations that respondent No.2 was maltreating and beating his deceased son. Even, her brother and father also gave beatings to his son on several occasions and forced him to commit suicide, besides threatening that they would falsely implicate him in some dowry case. Therefore, his son started remaining perturbed and finally committed suicide.

After filing of final report under Section 173 (2) Cr.P.C., the trial court after holding full fledged trial, acquitted the private respondents, vide impugned judgment dated 18.04.2017.

Learned counsel for the applicant contends that lower court has failed to appreciate that in the suicide note (Ex.P-1), deceased has categorically mentioned that he was given beatings by respondents No.3 and 4 at the behest of respondent No.2, levelling false allegations against him. Behaviour of respondent No.2 against his son was very rude. The complainant as PW-9 has categorically testified that respondent No.2, despite maltreating her husband was also abusing him and her mother-in-law. The lower court has also failed to appreciate that PW-12 Dr. Kanta Malik from Forensic Science Laboratory in her report dated 24.04.2014 (Ex.PX) had clearly clarified that standard handwriting of the deceased had tallied with the writing of the suicide note. Post-mortem report Ex.PW8/C of the deceased clearly clarified that Jasbir had died due to Asphyxia and other related complications, which was ante-mortem in nature.

On the other hand, learned counsel for private respondents vehemently refuting the above submissions, contends that prosecution story is not corroborated by medical evidence. There was no immediate abetment to the deceased, forcing him to commit suicide. The entire prosecution story is concocted and false. Therefore, the private respondents had rightly been acquitted.

Having given thoughtful consideration to the rival submissions, this Court finds instant application being devoid of any merit for the reasons to follow:-

1. According to complainant version, respondent No.2 had given beatings to her husband on 31.12.2013 i.e. two days prior to the suicidal death. Thereafter, again in the morning of 02.01.2014 i.e. on the day of suicidal death, deceased-Jasbir was given beatings by his brother-in-law and father-in-law i.e. respondents No.3 and 4. However, this version of the prosecution is not supported by any medical evidence. Even post-mortem report (Ex.PW8/C) did not support prosecution story, inasmuch as, no other injury on the body of Jasbir Singh was found except ligature mark on his neck. Therefore, in the absence of any medical corroboration to the ocular version of the prosecution, the same has rightly been discarded by the lower court, being not trustworthy.

2. To punish a person under Section 306 IPC for abetment to commit suicide 'immediate provocation or abetment' is required to be proved. In the instant case, said ingredient is missing.

Therefore, the impugned judgment is not liable to be disturbed.

3. There are general allegations against respondent No.2, being wife of the deceased that she used to maltreat and ill-behave with her husband, which, in the considered opinion of the Court, cannot be made the basis of conviction of private respondents, inasmuch as, minor disputes on trifling issues in matrimonial life is a routine matter, for which, the person is not expected to take such extreme step. The same cannot be made a ground to punish a person under Section 306 IPC. Provisions of Section 306 IPC are only attracted when ingredient under Section 107 IPC is proved. In the instant case, same are also missing. Therefore, from any angle, Section 306 IPC is not attracted.

4. Had there been any dispute in between husband and wife, in that eventuality, birth of a child to them may not have taken place. That apart, deceased or the complainant never moved any application against the private respondents during survival of marriage in between respondent No.2 and deceased for around 3 years, which shows that story put forth by the prosecution is concocted and false.

I have gone through the impugned judgment dated 18.04.2017 and find no illegality and infirmity in the same. Accordingly, the instant application is dismissed.

17.01.2019

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No