

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.23342 of 2014
and
Criminal Misc. No.A-1224-MA of 2014

.....

Date of decision:11.02.2019

Gian Parkash Bansal

...Applicant

v.

Smt. Sapna and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Surinder Garg, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.23342 of 2014:

For the reasons mentioned in the criminal miscellaneous application, the delay of 30 days in filing the present appeal along with application seeking leave to appeal is condoned.

The criminal miscellaneous application is allowed.

Cr. Misc. No.A-1224-MA of 2014:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Sapna and others-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 7.2.2014 passed by learned Additional Sessions Judge, Jalandhar, whereby the complaint filed under Sections 306 read with Section 34 IPC has been dismissed and the accused-respondents have been acquitted of the charges as framed against them.

It has been mainly stated in the application that accompanying appeal is being filed against the judgment dated 7.2.2014 passed by learned Additional Sessions Judge, Jalandhar, which is likely to succeed on the grounds mentioned therein. It has been stated that the accused-respondents have been wrongly acquitted by the learned trial Court. There are arguable points in the appeal, some of which are left undecided by the learned trial Court and some have been decided wrongly. It has been mentioned that the applicant/appellant shall suffer irreparable loss and grave injustice if the leave to appeal is not granted to him. It has, therefore, been prayed that this application be allowed and leave be granted to the applicant to file appeal.

From the record, I find that Gian Parkash Bansal-complainant filed complaint against Smt. Sapna, Rajinder Pal Jindal, Smt. Naresh Jindal and Surinder Lal Gupta for the offence under Section 306 read with Section 34 IPC. The brief facts of the case as noted down by learned Additional Sessions Judge, Jalandhar, in his judgment dated 7.2.2014 are as under:-

“The story of the prosecution against the aforesaid accused is that Late Rajiv Bansal was the only son of complainant Gian Parkash, who unfortunately had committed suicide on 19.1.2006. After his death a case under the FIR No.10 dt. 20.1.2006 was registered in Police Station Div. No.7, Jalandhar under Section 306 read with Section 34 IPC. The worthy SSP constituted a team of DSP Sukhwinder Singh (Control Room) and Inspector Jagjit Singh on 25.1.2006 for investigation. After the investigation, the police submitted a cancellation report in the Court, based on the enquiry held by the DSP (Control

Room) and also approved by the learned District Attorney (Legal) Jalandhar. The said cancellation report was submitted on 10.8.2006 to which a protest petition dt. 8.12.2006 was filed by complainant Gian Parkash. Reply to the same was also filed on 24.3.2007. Simultaneously a private complaint dt. 5.6.2006 was also filed by complainant Gian Parkash. The then learned Judicial Magistrate 1st Class, vide order dt. 31.10.2008 had ordered further investigation in the case and also forwarded the protest petition to the concerned police station to work in light of the said protest petition. ASI Bakshish Singh prepared a fresh report after further investigation and agreed with the previous cancellation report. It was again reported that deceased Rajiv Bansal had committed suicide by consuming poison due to domestic complications and he was not abetted to commit suicide by any of the accused named in the FIR. It was also reported that Rajiv Bansal had misappropriated Rs.20,40,208/-, in connivance with Hardip Saini, Amarjit Singh and Raj Kumar of M/s Sood Medicals, Jalandhar City. When the matter came to the knowledge of the Director of Sood Medical Traders, Rajiv Bansal consumed poison and committed suicide. It was also reported that his wife Sapna Bansal (accused) was not present in the house and was on duty. This report of ASI Bakshish Singh was submitted through learned A.P.P on 30.4.2011. The Learned Court however, proceeded with the complaint and recorded the pre-summoning evidence.

Before narrating the contents of the complaint let us first see as to what was the version of the complainant in the FIR, which was recorded just 18 hours after the occurrence at 11.40 A.M dt. 20.1.2006.

2. Gian Parkash, the father of the deceased, alleged in his statement that he is a resident of Noormahal Road, Ravi Dass Chowk Jalandhar and has been running a clinic of dentist in his house. His son was a Chartered Accountant and was married to Sapna Jindal r/o Bombay. After six months of their marriage, Sapna, her mother Smt. Naresh Jindal, her father Rajinder Pal Jindal and maternal uncle Subash Gupta, jointly started pressurizing his son Rajiv Bansal to reside separately with Sapna and to leave the house of his parents. They also threatened, him of registering of a false dowry case, in case he will disagree with the wish of Sapna. Then Sapna, in the presence of all relatives, admitted her fault and agreed to live jointly in the matrimonial house, when Rajiv Bansal refused to accede to their unreasonable and illogical demand of separate residence. After a few days Sapna in connivance with her mother and uncle again started pressurizing Rajiv for a separate residence but Rajiv did not agree to it. Later about 6 months afterwards she created a false drama of swallowing sleeping pills and called in Media reporters and Mehila Morcha Volunteers and also pressurized Rajiv to live separately from his parents. Both Rajiv and Sapna took a separate house No.83

on rent in Gurjit Nagar and started living there. Even then the parents and uncle of Sapna were not satisfied and they further pressurized Rajiv to live with them at Hoshiarpur. Then suddenly in the evening of 19.1.2006 at about 4.30 PM, Rajiv rang him up to save him. Then he brought him to a hospital for treatment but Rajiv could not be saved. Lastly he requested to take action against Sapna, her parents and her uncle for torturing him and compelling him to take this drastic step. The said statement was recorded by ASI Sarabjit Singh at 11.40 AM on next day i.e. 20.1.2006 in Civil Hospital, Jalandhar.

3. The Investigating Officer put his endorsement thereon and sent the same through PHG Raj Kumar, to police station Division No.7 for the registration of the case, on the basis of which a formal FIR No.10 dt. 20.1.2006 under section 306 read with section 34 IPC was registered against the accused.

4. The allegations levelled in the private complaint are as under:-

5. "That the complainant is a Dentist by profession and is maintaining his clinic in his house itself. Rajiv Bansal son of the complainant who was a Chartered Accountant was married to Sapna, accused No.1 on 26.1.2004 and at that time, Sapna was living in Mumbai. Six months after the solemnization of this marriage, Sapna, her mother Smt. Naresh Jindal and her father Rajinder Pal Jindal and her maternal uncle Surinder Lal Gupta, started pressurizing Rajiv Bansal the son of the

complainant, to go separate from his parents and to live with his wife Sapna in a separate house. They also threatened him that in case he was not to agree to this demand of the accused, he would be got involved in a dowry case and would be got sent behind the bar. Since Rajiv Bansal was the only son of the complainant, he did not agree to the said demand of the accused. Thereafter a meeting of some close relatives on either side was convened and in that meeting Sapna expressed remorse for asking for the above said demand and agreed to live with her husband in the house of his parents. Then despite having agreed to live in the joint family, she barely after a few days of resuming cohabitation with her husband, once again started pressurizing her husband alongwith her mother and her maternal uncle Surinder Lal Gupta, to live separately with his wife Sapna. Prior to 20.1.2006 Sapna had pretended to have consumed sleeping pills and after doing so, she approached the press as well as the Mehla Morcha and pressurized Rajiv Bansal to live separately from his parents and under this pressure, Rajiv Bansal and Sapna started living separately after taking portion of house No.83 in Gurjit Nagar, Jalandhar. Despite Rajiv Bansal having separated from his parents, Sapna, her maternal uncle Surinder Lal Gupta, her mother and her father used to pressurise him that he should shift to Hoshiarpur alongwith his wife, but he did not agree to it. On 19.1.2006 at

about 4:30 PM Rajiv Bansal gave a telephone call from his house to the complainant that he i.e. the complainant should come over to his house so as to save him. Immediately on the receipt of the said telephone call, the complainant alongwith others went to House No.83 Gurjit Nagar, Jalandhar and took Rajiv Bansal to the hospital so as to get him proper treatment, but (Rajiv Bansal) could not be saved. Rajiv Bansal had apparently committed suicide by consuming aluminum sulphide tablets. It is further averred in the complaint that all the accused named in the head note of the complaint namely Sapna, her parents i.e. her mother Naresh Jindal, her father Rajinder Pal Jindal and Surinder Lal Gupta her maternal uncle, by pressurizing him in the first instance to live separate from his parents, threatening him with false implication in a dowry case and then making false allegations against him before the press as well as before the Mehla Morcha, had created such circumstances for him as he was left with no alternative but to commit suicide. Therefore, all the accused named in the head note of the complaint are guilty of abetting the suicide committed by Rajiv Bansal. Hence they all are guilty for the commission of offences punishable under section 306/34 IPC. The crime committed by the accused had been reported to the police by the complainant and a case stood registered in the police station Div. No.7 Jalandhar on 20.1.2006 against the accused for the commission of the offences punishable under

section 306/34 IPC vide FIR No.10. That despite a clear cut case being made out against the accused for the commission of the offence punishable under section 306/34 IPC, the police for some ulterior motive is in no mood to present the challan against the accused, rather is threatening to commit a cancellation report in the court. Hence this complaint.”

On finding a *prima facie* case, charges against accused were framed for the offence under Section 306 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, the complainant examined Vijay Kumar as PW-1, Gian Parkash-complainant as PW-2, Rakesh Kumar as PW-3, Dr. Jasbir Singh as PW-4. Thereafter the complainant closed his evidence.

At the close of prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. and they were confronted with the evidence against them, but they denied the correctness of the same and pleaded themselves as innocent and false implication in the case. In their statements, all the accused took a similar defence that Sapna got married to the deceased on 26.1.2004 and at that time she was working with Citi Financial as an Officer at Jalandhar City and the deceased was working as a Consultant with Sood Medical Traders Pvt. Ltd. at Hoshiarpur. On 29th July, 2005 Sapna was administered sleeping pills in an excessive doze by her mother-in-law and had to be admitted in Sikka Hospital, where, in a written agreement, Sapna's-in-laws felt sorry and it was agreed that they would live in a separate accommodation. On 19.1.2006, deceased Rajiv consumed Aluminum Sulphide tablets and died on 19.1.2006. The reason

had been that the deceased had committed a fraud of ₹20.46 Lakhs with his employer by transferring the amount to a fake account Ess Ess Pharma with Capital Local Area Bank, opposite to Bus Stand, Jalandhar and shared the booty with other three employees namely Ram Kumar, Amarjit Singh and Hardeep Singh. On 14.1.2006 another fake account with Hardeep Saini as proprietor and with address c/o Rajiv (Deceased) rented house, was opened with Catholic Syrian Bank, Jalandhar, but the fraud was detected by the company and the other three above said employees accepted their guilt and returned the money, but when the employer called the deceased and threatened him with serious action, he committed suicide. The accused never abetted the death of Rajiv, nor they conspired for the said abetment. The accused never threatened the deceased, nor forced him to live separately at Hoshiarpur, nor they ever threatened him with implication in any false case, nor he committed suicide on account of their abetment.

In defence, the accused examined Hardeep Saini as DW-1, Anuj Sood as DW-2 and closed the defence evidence.

After appreciating the evidence, the accused were acquitted by the learned Additional Sessions Judge, Jalandhar, vide judgment dated 7.2.2014. Aggrieved from this judgment of acquittal, the present appeal along with application seeking leave to appeal has been filed by the complainant.

I have heard learned counsel for the applicant and have gone through the record.

From the record, I find that the findings given by the learned trial Court are correct as per evidence and law. The evidence has been

appreciated in right and proper perspective. In no way, the findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered by the Court below.

A perusal of the record shows that the case of the complainant is that Sapna and Rajiv Bansal (since deceased) were residing separately from the parents. The complainant has alleged that now the accused were pressing that Rajiv Bansal along with Sapna should reside at Hoshiarpur. There is no document of any type to prove this fact. Secondly, this conversation regarding asking the deceased to reside at Hoshiarpur has not taken place in presence of any of the witnesses. The complainant produced compromise Ex.DA, wherein Rajiv himself and his parents admitted their guilt and agreed that they will not maltreat Sapna in future and agreed for the separate residence of Sapna and Rajiv. Vijay Kumar PW-1 has improved the version as held by the learned trial Court. The Court below held that the credibility of this witness can well be gathered from the fact that the parents of Sapna for false implication of Rajiv in the fraud case with Sood Medicines, being related to them. But later on, he failed to tell the relationship of parents of Sapna with Sood Medicines. Similar kind of evidence is there on the file of PW-3 Rakesh Kumar, who even failed to narrate in a chronological order of the events put forth by the complainant. He was also confronted with the improved version. Whatever this witness has deposed is stated to be told by Rajiv (since deceased) and they themselves have no personal knowledge of the same. PW-3 has categorically admitted that nothing has happened in his presence and Rajiv

Bansal used to tell him about the pressure by Sapna. PW-1 Vijay Kumar deposed that compromise Ex.DA was signed by the complainant, his wife, PW-1 Vijay Kumar and also by Dr. Ashok Gupta, who took responsibility of both the sides. In that compromise, it has been clearly written that she was maltreated by her in-laws on account of non-procreation of a child, who blamed Sapna for the same. The complainant and the members of his family also agreed to separate Rajiv and Sapna in rented accommodation. When this document was put to the complainant, he denied his signatures at Point-B and also of his wife at Point-C thereon, but in his further examination he deposed that he does not remember whether any writing was made in the hospital and whether he alongwith his wife and Ashok Gupta had signed the same. In the later portion of his cross-examination, he admitted that it was decided that they would not maltreat Sapna in future nor they would interfere in their peaceful living.

The learned trial Court after appreciating the evidence produced by the complainant in the minute detail found that from the ocular and documentary evidence led by the prosecution, it is crystal clear that the evidence available does not suffice the proof that the accused have committed the offence punishable under Section 306 IPC.

Keeping in view the facts and circumstances of the case, I find that the learned trial Court has rightly acquitted the accused-respondents. The findings given by the learned trial Court, in no way, can be held as perverse. The findings have been given by the Court below after appreciating the evidence in right and proper perspective which are as per evidence and law and the same do not require any interference from this

Court and the same are upheld.

From the above, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

February 11, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No