

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-888-2017 (O&M)
Date of Decision : 21.05.2019

Ramdeen and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Charanjit Singh Bakshi, Advocate
for the petitioners.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

Mr. Preetinder S.Ahluwalia, Advocate
for the complainant.

RAJ SHEKHAR ATTRI, J. (Oral)

Learned counsel for the petitioners has placed on record copies of the matriculation examination certificate, mark sheet and two certificates, issued by Rashtriya Shiksha Abhiyan. Same are taken on record.

The petitioner has preferred the instant petition under Section 401 Cr.P.C., assailing the order dated 23.01.2017, passed by the learned trial court vide which the application for discharge of the petitioner was dismissed.

This case relates to the unfortunate death of a young lady, who committed suicide by hanging. After her death, a suicide note was recovered wherein she has stated that nobody is responsible for her death.

Rather she herself is responsible for the same. This suicide note is written in Devnagri script and has been signed by her in English. The suicide note appear to be written in the old diary of 2072 tritia samwat 2072 which comes to 2015 AD and the diary relates to date 28, Monday.

The said suicide note was sent to the forensic science laboratory ascertaining the signatures appended thereon. The signatures on suicide note (Mark Q1) tallied with the standard signatures of the deceased. However, there is no report with regard to hand writing of the contents of said suicide note. An application was moved before the trial court to discharge the accused solely on the ground that the said suicide note amounts to dying declaration and nothing has been stated with regard to the petitioners. Rather they have been exonerated.

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

Learned counsel for the petitioners has submitted that prima facie, it is proved that the suicide note was signed by the deceased and it completely exonerated the petitioners, therefore, no charge can be framed against them. He has also contended that deceased was fully understood Hindi as she has passed matriculation examination as well as other classes in Hindi subject.

Learned counsel for the petitioners has placed reliance upon the judgment of Gujrat High Court in **Harpalsinh Dungarbhai Kher vs. State of Gujarat & 7 2015 (3) GujLH 298**; the judgments of Hon'ble Supreme Court in **P.V.Radhakrishna vs. State of Karnataka 2003 (3) RCR (Criminal) 869, Pinakin Mahipatray Rawal vs. State of Gujarat 2013 (4) RCR (Criminal) 271, State of Maharashtra vs. Som Nath Thapa 1996 (2)**

RCR (Criminal) 480, Sharad Biridhichand Sarda vs. State of Maharashtra 1984 (2) Crimes 235, R.S.Nayak vs. A.R.Antulay and another and Wazir Chand vs. State of Haryana 1989 (1) RCR (Criminal) 109 and the judgment of Patna High Court in Pakala Narayana Swami vs. Emperor 1939 AIR (PC) 47.

On the other hand, learned counsel for complainant has submitted that there is no material evidence on record if the body writing of the suicide note was ever compared and also that comparison with the alleged standard signatures is also of dubious nature and it cannot be believed that deceased has signed the same. He has further submitted that it is no stage to discharge the accused. He has also placed reliance upon the judgment of Hon'ble Supreme Court in State of Maharashtra vs. Priya Sharan Maharaj 1997 (2) RCR (Criminal) 634.

Learned State counsel has also submitted that the suicide note is old one as it was scribed in the diary of the last year. However, he endorsed the arguments of learned counsel for the complainant.

I have given my thoughtful consideration to the rival contention.

For the purpose of determining whether there is sufficient ground for proceeding against an accused the Court possesses a comparatively wider discretion in the exercise of which it can determine the question whether the material on the record, if unrebutted, is such on the basis of which a conviction can be said reasonably to be possible.'

It has been held by Hon'ble Supreme Court in State of Tamil Nadu v. N.Suresh Rajan (2014) 11 SCC 709 that at the stage of consideration of an application for discharge, the Court has to proceed with

an assumption that the materials brought on record by the prosecution are true and evaluate the materials to find out whether the facts taken at their face value disclose the existence of the ingredients constituting the offence. At this stage, only the probative value of the materials has to be gone into and the Court is not expected to go deep into the matter to hold a mini-trial.

The Hon'ble Supreme Court in *State of Maharashtra vs. Priya Sharan Maharaj* 1997 (2) R.C.R. (Criminal) 634 has also observed as under:-

*The law on the subject is now well settled, as pointed out in **Niranjan Singh Punjabi v. Jitendra Bhimaraj Bijja, JT 1990(3) SC 408 : 1990 (4) SCC 76**, that at Sections 227 and 228 stage the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case. Therefore, at the stage of framing of the charge the court has to consider the material with a view to find out if there is ground for presuming that the accused has committed the offence or that there is no sufficient ground for proceeding against him and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction."*

The report of forensic science laboratory has to be proved before the trial court.

At this stage, it cannot be said whether standard signatures were of the deceased. Surprisingly, there is no comparison with the body writing of the hand writing. The report of forensic science laboratory

cannot be taken as gospel truth at this stage and its probative value shall be considered at the appropriate stage of the trial.

In view of aforesaid discussion, this court is of the view that the impugned order does not suffer from any illegality, irregularity or infirmity and the same does not call for any interference and is hereby affirmed.

The facts of the judgments, as cited by learned counsel for the petitioners, are distinguishable.

As such, finding no merit in the instant petition, the same is dismissed.

21.05.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No