

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

CRA-S-1318-SB-2014 (O&M)

Date of decision : 14.01.2020

Rattno Devi

...Appellant

Versus

Suresh Sharma and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Kahlon, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CRM-38996-2019

For the reasons stated in the application, main appeal is restored to its original number.

Application is allowed.

CRA-S-1318-SB-2014 (O&M)

First informant-victim has filed the present criminal appeal against the judgment of acquittal passed by the learned Additional Sessions Judge, in criminal case arising from FIR No.104 dated 04.09.2011 registered under Sections 306/34 of the Indian Penal Code at Police Station Division No.2, Pathankot.

In nutshell, the case of the prosecution is that late Sh. Satish Bali had consumed poisonous substance (Aluminum Phosphide) on 07.09.2011. He died on 09.09.2011 in Fortis Escorts Hospital, Amritsar at 03.30 AM. The accused are his father-in-law and wife. An FIR was registered on the basis of statement of mother of the deceased which reads as under:-

“That her son Satish Bali was married to accused Poonam and after marriage, the accused Poonam came to her

parental home in the year 2005 for a month. Thereafter, she did not come back to matrimonial home and she gave birth to a male child, who was now 6 years old. They all tried to bring her back but the parents of accused Poonam did not agree for the same. On 07.9.2011, at about 9.30 PM, Satish Bali went to bring his wife back from his in-laws house. At that time, the accused Suresh Sharma i.e. father of accused Poonam demanded Rs.5 lakhs from Satish Bali for compromise. Satish Bali returned to his home in tense condition. Thereafter, Satish Bali informed his nephew Vishal telephonically that he had consumed tablets of Celphos. Vishal came to their house and after arranging vehicle, Satish Bali was brought to Civil Hospital, Pathankot and he was referred to Fortis Escort Hospital, Amritsar, where he died on 09.9.2011 at 3.30 AM during treatment. The complainant alleged that her son took poisonous material on the instigation of both accused and had expired.”

In order to bring home the guilt of the accused, the prosecution has examined following witnesses:-

- “(a) Rattno Devi (complainant) PW1;*
- (b) ASI Sukhdev Raj (investigating officer) PW2;*
- (c) Dr. Rajinder Parshad, Civil Hospital, Pathankot PW3;*
- (d) PHC Surjit Singh PW4;*
- (e) ASI Angrej Singh PW5; and*
- (f) Vishal Sharma PW6.”*

Learned trial Court, on appreciation of evidence, has found that the prosecution has failed to prove the charges against the accused persons resulting in their acquittal

It may be noted here that the alleged suicide note has neither

been produced nor proved. The first informant alleges that she handed over the suicide note to the police whereas police denies that fact. Learned Additional Sessions Judge, conducted an enquiry and found that there is no entry of the alleged suicide note in the police file. As per the allegations, the suicide note was written in a diary, photocopy whereof was produced at the time of hearing of the bail application but thereafter the same was neither produced nor proved.

From the facts as noted above, it is apparent that Satish Bali and Poonam-accused No.2 got married in the year 2005 and Poonam stayed with Satish Bali (deceased) only for a month and thereafter she never came back to matrimonial home. She also gave birth to a male child, who at the time of lodging the FIR was six years old. In other words, it is apparent that Poonam and late Sh. Satish Bali were residing separately for approximately six years.

As per the case of the prosecution, Satish Bali had gone to his in-laws house to bring his wife back to matrimonial home but father-in-law namely Suresh Sharma-accused No.1 had demanded ₹5,00,000/- for entering into a settlement. When Satish Bali returned home stressed, he allegedly informed his nephew telephonically that he has consumed tablets of celphos (aluminum phosphide).

Learned Additional Sessions Judge, on appreciation of evidence, has concluded that the prosecution has miserably failed to prove its case against the accused or in other words fails to bring home the guilt of the accused.

There is no explanation as to how Rattno Devi-first informant

came to know about the demand of ₹5,00,000/-. Still further, the Court has found that chances of demand of ₹5,00,000/- by the in-laws does not appear to be believable, particularly when Poonam had already filed the proceedings for fixing maintenance and on her complaint, late Sh. Satish Bali was also facing case under Sections 107/151 Cr.P.C.

The criminal charge against accused is required to be established by the prosecution beyond the shadow of reasonable doubt. In the present case, the prosecution has failed to establish its case beyond the shadow of reasonable doubt. In these circumstances, there is no ground to interfere.

Accordingly, the present criminal appeal is dismissed.

14.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No