

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-3057-SB-2013

Date of Decision: March 06, 2020

Manpreet Kaur

...Appellant

Versus

Balraj Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Tapish Gupta, Advocate, for
Ms. Pooja Chopra, Advocate, for the appellant.

Mr. Kamal Narula, Advocate,
for respondents No.1&2.

Mr. Dhruv Dayal, Senior DAG, Punjab,
for respondent No.3.

Harnaresh Singh Gill, J.

The present appeal is directed against the judgment dated 29.05.2013 passed by the learned Additional Sessions Judge, Sri Muktsar Sahib, whereby respondent Nos. 1 and 2, namely, Balraj Singh @ Pappi and Narinder Singh @ Ninderpal Singh, were acquitted of the charge under Section 306 IPC.

Facts of the case are that complainant-Manpreet Kaur recorded her statement on 05.08.2009 to the effect that her husband, Jagjit Singh, inherited 7-1/2 killas of land from his father. Accused Balraj Singh @ Pappi and Narinder Singh @ Ninderpal Singh, who had been on visiting terms with her husband, had sold the land of her husband. The accused had kept with themselves the sale consideration and when her husband demanded the money, the accused lingered on the

matter due to which her husband Jagjit Singh got upset. The accused told the complainant and her husband that they had purchased for them a house for Rs.25 lacs, but after three months, the complainant and her family was thrown out of the said house on the pretext that the said house had been mortgaged. Thus both the accused abetted her husband to commit suicide as a result of which her husband consumed pesticide on 9.7.2009. He was taken to Sachdeva Hospital, Muktsar. The accused approached them and showed their regrets and promised to repay the amount. Her husband Jagjit Singh, was discharged from the hospital on 1.8.2009, but he again developed complications, whereupon he was admitted in the Nagpal Hospital, wherefrom he was referred to Adesh Hospital, Muktsar, where he breathed his last.

On the basis of the statement of Manpreet Kaur, FIR No. 119 dated 5.8.2009 was registered under Section 306/34 IPC at Police Station Sadar, Malout. After filing of the challan, charge was framed against the accused under Section 306 IPC.

Trial Court carved out following point for determination:-

“Whether on 09.07.2009 at about 7 a.m. in the area of village Kotli, Jagjit Singh committed suicide by consuming pesticide as a result of abetment made by both the accused and resultantly died on 5.8.2009?”

Prosecution examined as many as 13 witnesses. Admission in Adesh Hospital was proved by PW1-Dr. Sanjay Majumdar and PW3-Dr. Satish Kumar Goyal, conducted post mortem on the

dead body of Jagjit Singh. Complainant Manpreet Kaur wife of deceased Jagjit Singh, appeared as PW2 and stated that Balraj Singh @ Pappi and Narinder Singh @ Ninderpal Singh did not pay the due amount to her husband; that the value of the property was Rs.20 lacs and that instead of making payment of the said amount, the accused had thrown the complainant and her husband out of their house. Thus, both the accused abetted her husband to consume pesticide, who ultimately died on 5.8.2009. Iqbal Singh, brother of the complainant appeared as PW7, who identified the dead body of Jagjit Singh and also signed the inquest report Ex.PW3/G.

Prosecution witness Joginder Singh, who appeared as PW13, before whom allegedly extra judicial confession was made by accused Balraj Singh @ Pappi and Narinder Singh @ Ninderpal Singh, was declared hostile and was cross-examined by the Public Prosecutor. The said witness was confronted with the statement Mark P13/A, but he denied having made such statement.

On the other hand, Ashok Kumar Bansal, Naib Tehsildar appeared as DW1 and deposed that Jagjit Singh sold his property vide a registered sale deed and total sale amount was paid by the vendor to the vendee in his presence.

DW2-H.C. Gurdeep Singh deposed that on 09.07.2009, he went to Sachdeva Nursing Home and moved applications Ex.PW4/C to Ex.PW4/N. Initially, the Doctor declared the patient unfit, but later he was declared fit to give statement and stated that he had consumed pesticide thinking it

to be a medicine and nobody had given it to him nor anybody was at fault.

After taking into consideration the evidence on record, both the accused were acquitted of the charge framed against them vide judgment dated 29.05.2013. Hence, the present appeal.

I have heard the learned counsel for the appellant and learned State counsel assisted by the learned counsel for respondent Nos. 1 and 2 and with their able assistance, I have gone through the record of the trial Court.

Basically, the offence of abetment is by instigation and intention of a person, who abets or incites anyone with force to commit suicide and there should be a direct evidence in respect of such instigation and intention. It is also to be seen if the accused person by his act or omission or by continued course of conduct, creates such a situation that the deceased is left with no option except to commit suicide. On the other hand, anything done without intending the consequences to actually follow, cannot be said to be instigation.

In the present case, it is to be seen if Jagjit Singh had committed suicide as a result of abetment made by respondent Nos. 1 and 2 and that there existed mensrea attributed to them.

The property was sold by Jagjit Singh and proper sale deed was executed and sale consideration was paid to him in the presence of Naib Tehsildar, who appeared as DW1. Moreover, there was no suicide note left by deceased Jagjit Singh

thereby raising his finger against respondent Nos. 1 and 2. Rather, there is on record the statement of Jagjit Singh to the effect that he had a fever and he had consumed pesticide thinking it to be a medicine and nobody had forced him nor anybody was at fault. This statement was duly signed by Jagjit Singh and thumb marked by Manpreet Kaur and Gurwinder Kaur, wife and mother of the deceased.

There being no evidence on record to prove that respondents No. 1 and 2 had any mensrea or intention to force Jagjit Singh to commit suicide, the learned Additional Sessions Judge, has rightly acquitted them of the charges framed against them.

Moreover, it is well settled by now that if the view adopted by the Court while acquitting the accused is a reasonable one and the conclusion reached by it had its grounds well set out on the material on record, the acquittal may not be interfered with. A Division Bench of this Court in case State of Haryana v. Satbir, 2013(7) R.C.R. (Criminal) 1490, has held as under:-

“There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion of this Court is that there is no substantial difference between an appeal against conviction and an appeal against acquittal except that while dealing with an appeal against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the High Court is a reasonable one and the conclusion reached by it had its grounds well set out on the materials on

record, the acquittal may not be interfered with. Thus, this fine distinction has to be kept in mind by the Court while exercising its appellate jurisdiction. The golden rule is that the Court is obliged and it will not abjure its duty to prevent miscarriage of justice, where interference is imperative and the ends of justice so require and it is essential to appease the judicial conscience.”

Still further, Hon’ble Supreme Court in State of Rajasthan Vs. Shera Ram @ Vishnu Dutta, Criminal Appeal No. 1502 decided on 1.12.2011 has held that if the two views are possible on the evidence adduced in the case, then one favourable to the accused, may be adopted by the Court. It was held as under:-

“12. There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion of this Court is that there is no substantial difference between an appeal against conviction and an appeal against acquittal except that while dealing with an appeal against acquittal, the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the High Court is a reasonable one and the conclusion reached by it had its grounds well set out on the materials on record, the acquittal may not be interfered with. Thus, this fine distinction has to be kept in mind by the Court while exercising its appellate jurisdiction. The golden rule is that the Court is obliged and it will not abjure its duty to prevent miscarriage of justice, where inference is imperative and then ends of justice so require and it is essential to appease the judicial conscience.”

Learned counsel for the appellant could not point out any misreading or misinterpretation of the evidence so as to warrant interference by this Court. It could not be pointed out that the conclusion drawn by the trial Court was arrived at by recording any perverse finding.

In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

March 06, 2020
ds

(HARNARESH SINGH GILL)
JUDGE

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No