

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

**CRM-A-153-MA-2016
Decided on : 23.01.2020**

Sunil Kaushal

... Applicant(s)

Versus

State of Punjab and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Nikhil Batta, Advocate
for the applicant(s).

MANJARI NEHRU KAUL, J. (Oral)

The present application has been filed under Section 378 (4) Cr.P.C., seeking grant of special leave to appeal against the judgment of acquittal dated 22nd September, 2015, passed by the Ld. Additional Sessions Judge, Patiala (hereinafter referred to as 'the Ld. Trial Court'), vide which respondent(s) No.2 - accused has been acquitted of the offence charged with in case FIR No. 08, dated 22.01.2015, under Sections 306, 34 IPC, registered at P.S. GRPS, Patiala.

The prosecution case in brief is that on 31st January, 2015 on receipt of a memo regarding the death of an unknown person having been run over by a train in between Railway Station Patiala and Dhablan, the police officials visited the spot, and found the dead body of a girl. The dead body was later on identified by Sunil Kaushal and Khushi Ram, father and maternal uncle of the deceased, respectively. On 22nd January, 2015, Sunil Kaushal came to the police station, wherein, he recorded his statement Ex.P1, to the effect that on the intervening night of 21st – 22nd January, 2015, when he woke up to have water, he found his daughter Bharti Kaushal (deceased) missing. His wife Bala Kaushal and he searched for their

daughter in vain. His wife then disclosed to him that respondent No.2 – Sandeep Mittal had been teasing their daughter while going to school and despite reprimanding and asking the respondent-accused time and again not to indulge in eve-teasing, it had been of no avail. The complainant alleged that her daughter after getting exasperated by the constant eve-teasing by the respondent-accused had committed suicide.

The prosecution examined as many as 08 witnesses including the complainant and mother of the deceased, who stepped into witness-box as PW-1 and PW-2, respectively. All the incriminating evidence appearing against the respondent-accused put to him under Section 313 Cr.P.C., wherein, the respondent-accused denied all the allegations and pleaded false implication.

Learned Trial Court on analysis of the evidence led, acquitted the respondent-accused by holding that the prosecution had failed to prove the case beyond reasonable shadow of doubt.

I have heard learned counsel for the parties as well as gone through the impugned judgment.

It has been noticed in the impugned judgment that the family of the respondent-accused and the complainant were well acquainted with each other and were on visiting terms. Hence, in this background, it cannot be digested that had the respondent-accused been indulging in continuous eve-teasing, the parents of the deceased would not have informed the parents of the respondent-accused. As per PW-1/Bala Kaushal, the deceased used to be teased not only by respondent NO.2 but also by some other boys while she would be on her way to school. She also deposed that many a times her deceased daughter would be accompanied by her son while going to school.

However, for reasons best known to the prosecution the brother of the deceased, who could have been the best witness to depose qua the allegations of eve-teasing was not even examined much less cited as a prosecution witness.

In the absence of any direct evidence, the story of the prosecution of the deceased having committed suicide on account of eve-teasing by respondent-accused does not come across as convincing. The ingredients to attract an offence punishable under Section 306 IPC are clearly amiss in the instant case. From a perusal of the evidence led, no element of instigation on the part of the respondent-accused has come to the fore, which could be said to have driven the deceased to have committed suicide.

In view of the aforesaid discussion, the finding recorded by Ld. Trial Court cannot be faulted with.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

January 23, 2020

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No