

(313) IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRA-AS-151 of 2022  
Date of Decision:25.07.2022.

**Jaswinder Kaur**

.....Petitioner

**Versus**

**State of Punjab and others**

..... Respondents

**CORAM:- HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present: Mr. Krishan Kasha, Advocate for  
Mr. Narinder S. Lucky, Advocate  
for the applicant

Mr. Karanbir Singh, AAG, Punjab.

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**VINOD S. BHARDWAJ, J(Oral)**

The present appeal has been preferred against the judgment dated 02.02.2017, passed by the Sessions Judge, Barnala, in case bearing FIR No. 168 dated 16.05.2016, under Section 36 of the Indian Penal Code, registered at Police Station City, Barnala.

Before proceeding further into the matter, it is expedient to make a reference to the necessary facts:-

*“The brief facts of the case are set out in the report under Section 173 Cr.P.C., and documents attached therewith are that on 16.05.2016 ASI Maghar Singh along with policy party was on patrolling duty in Court Chowk, Barnala where Jaswinder Kaur along with her brother in law Sikander Singh came present and got recorded her statement. She stated that she is a labourer and has three sons and one daughter and that her son Samanpreet Singh @ Sonu had got married some time back to Raman. They had no issue out of the wedlock and both were leading a life of marital disharmony because of frequent visits of Raman to her parents' house. She further stated on*

*14.05.2016 her son Sonu, along with Raman had gone to his in laws' village Jagatpura and they came back at around 9.00 AM on 15.5.2016. She further stated that Sonu then told her that Raman and her mother Sarbjit Kaur troubled him all night and even gave beatings to him. Thereafter, in the afternoon, Sarbjit Kaur came with two other women and forcibly took Raman away. She further stated that Sonu had disclosed to her that Raman troubled him regarding committing suicide. She further stated that in the night her son Sonu went to sleep to his grand parent's house and that in the morning her brother in law Sikander Singh informed her that Sonu had committed suicide by hanging from the fan. She further stated that he had taken this step because of harassment by his wife Raman and mother in law Sarbjit Kaur. On the basis of the complainant, FIR was registered against both the accused under Section 306 IPC and the proceedings Under section 175 Cr.P.C. Were conducted. Statement of witnesses under Section 161 Cr.P.C. were recorded and the postmortem of dead body was got conducted. During the investigation, the Investigating Officer visited the spot and prepared the rough site plan of the place of occurrence with correct marginal notes and the accused were arrested, their personal search was got conducted. After completion of investigation and other formalities, the challan was presented in the court against accused.”*

Pursuant to the filing of the report under Section 173 of the Code of Criminal Procedure, finding that the offence was triable by the Court of Sessions, the matter was committed to the Court of Sessions by the Chief Judicial Magistrate, Barnala, vide order dated 12.10.2016. Charge was thereafter framed by the Competent Court.

Upon consideration of the evidence and after noticing that the material prosecution witnesses had not supported the case of the prosecution, the Sessions Judge, Barnala, acquitted the respondent-accused vide judgment dated 02.02.2017.

Aggrieved thereof, the present appeal has been preferred.

Learned counsel appearing on behalf of the appellant has argued that the prosecution witnesses had resiled from their statements recorded under Sections 161 Cr.P.C., since a settlement had already been arrived at between the parties. However, after the appellant resiled from the statement before the Court, the respondent-accused did not perform their part of the obligation in terms of the compromise. He further submits that it was on the assurance given by the respondent-accused and by placing reliance on the same that the prosecution witnesses did not depose against the respondent and that no benefit of such misconduct ought to be extended to the accused persons. No other argument was raised and the submission was not supported by reference to any precedent.

I have heard learned counsel appearing on behalf of the appellant and have gone through the judgment passed by the Sessions Judge, Barnala. The operative part of the said judgment reads thus:-

*“During trial prosecution examined Jaswinder Kaur PW-1 and Sikander Singh PW-2. It may be mentioned here that all the prosecution witness Surinder Kaur and Sikander Singh did not support the case of the prosecution and they have turned hostile and were subjected to cross-examination by the learned PP for the State but nothing favourable to the prosecution could be extracted from them. As the only material witness named above have not supported the prosecution case, the learned PP for the State closed the prosecution evidence by making statement that there shall be no improvement for keeping the case pending for evidence of the prosecution.*

*Since no incriminating material/evidence to be put to the accused has come on record, therefore, recording statement of the accused under Section 313 Cr.P.C. was dispensed with.*

*Jaswinder Kaur PW-1 while appearing into witness box deposed that she is having three sons and one daughter and her elder son Harpreet Singh and younger to him was Samanpreet Singh Alias Donu, now deceased and youngest one is Lovepreet Singh. She further deposed that her son Samanpreet Singh was married to Ramandeep Kaur daughter of Bhola Singh village Jagatpura about two years back. She further deposed that out of their wedlock, no child was born and they both were leading a happy life and there was no quarrel between them. She further deposed that on 14.05.2016 her son had gone to her in laws house alongwith his wife to their house on next day. She further deposed that as her son was under depression due to his unemployment and due this reason, he hanged himself with Ceiling fan. She further deposed that no body is responsible for his death and he has committed suicide of his own. She further deposed that Ramandeep Kaur alias Raman and Sarabjit Kaur accused present in the court had no role to play in the death of her son Samanpreet Singh alias Sonu. She further deposed that she has not got recorded any statement to the Police against the accused. Jaswinder Kaur PW-1 was declared hostile at the request of learned PP for the State and she was allowed to be cross examined by learned PP. During her cross examination she identified her thumb impression on statement Mark A point B and volunteered that her thumb impressions were obtained by the police on blank papers.*

*Sikander Singh PW-2 stated that Samanpreet Singh son of his elder brother Balwinder Singh was married to Ramandeep Kaur daughter of Bhola Singh, village Jagatpura, about two years ago. He further deposed that out of this wedlock, no child was born and they both were leading a happy life and there was no quarrel between the. He further deposed that on 14.05.2016 Samanpreet Singh had gone to his in laws house alongwith his wife Ramandeep Kaur at village Jagatpura and had returned abck alongwith his wife to their*

*house on the next day. He further deposed that as Samanpreet Singh was under depression due to his unemployment and due to this reason, he hanged himself with Ceiling fan. He further deposed that no body was responsible for his death and he had committed suicide of his own. He further deposed that Ramandeep Kaur alias Raman and Sarabjit Kaur accused present in the court had no role to play in the death of Samanpreet Singh alias Sonu. He further deposed that he has not got recorded any statement to the police against the accused. Sikander Singh PW-2 was declared hostile at the request of learned PP for the State and he was allowed to be cross examined by learned PP. During his cross examination he denied of having made any such statement Mark C which he was confronted which he suffered before the police. He volunteered that the police obtained his suffered before the police. He volunteered that the police obtained his signatures on blank papers.*

*The only witness Jaswinder Kaur PW-1 and Sikander Singh PW-2 were declared hostile and subjected to cross-examination but nothing favourable to the prosecution could be elicited from them. These witnesses have not uttered even a single incriminating word against the accused.”*

The appellant-Jaswinder Kaur had herself stepped into the witness box as PW-1 and had not supported the case of the prosecution. Furthermore, there is no reference in the evidence led by the prosecution with respect to any compromise that had allegedly been executed or entered into between the parties. The explanation being tendered now cannot be accepted as a 'valid reason' for setting aside a judgment passed on the strength of the evidence led before the Court.

While considering an appeal against a judgment, the Appellate Court has to examine the merits of the case on the basis of the evidence that has been adduced before the lower Court and it would not be appropriate to

grant any undue benefit to a complainant/prosecution witness who opted to not support his case in his pursuit of reaping benefits. Any such undue indulgence is likely to legitimise conduct of a party which acts to defeat the rule of law. A voluntary decision arrived at through some private settlement amongst the parties, without the intervention of the Court, cannot create any obligation on the Court to ensure compliance of the same especially when such settlement is against law. Such conduct of the complainant/injured itself shows the credit-worthiness of the testimony of such a witness. Such an explanation cannot be accepted at this stage.

The appellant having deposed consciously against her case ought to have remained conscious and aware of the consequences that arise from the same. Any such explanation as is being sought to be tendered runs contrary to the ethos of the administration of criminal justice. It cannot be assumed that there was any settlement between the appellant as well as the respondent-accused. In any case, such a settlement runs contrary to the process of law and was intended to defeat the rule of law. High Court would not permit the appellant to capitalize her conscious acts intended to defeat the process of law and operation of the rule of law.

A judgment under challenge is examined about its correctness on the basis of evidence brought before the Court and as to whether the same suffers from any illegality, perversity, procedural impropriety or gross mis-appreciation of evidence and law. The counsel for the appellant however failed to point out any of the above by reference to any evidence adduced on the record. A judgment of acquittal passed by the Court on due consideration and interpretation of evidence should not ordinarily be interfered with.

I find no illegality in the judgment dated 02.02.2017, passed by

the Sessions Judge, Barnala, in Sessions Case no.31 dated 26.10.2016 arising out of FIR No. 168 dated 16.05.2016, under Section 36 of the Indian Penal Code, registered at Police Station City, Barnala. Consequently, the present appeal is dismissed and the judgment dated 02.02.2017 passed by the Sessions Judge Barnala, is affirmed.

**July 25, 2022**  
*rekha sharma*

**[VINOD S. BHARDWAJ]**  
**JUDGE**

*Whether speaking/reasoned* : *Yes/No.*  
*Whether reportable* : *Yes/No.*