

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

CRA-S-3445-SB-2014
Date of Decision: 17.01.2023

RAZIA

...Appellant

Versus

STATE OF PUNJAB & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amrik Singh Kalra, Advocate
for the appellant.

Mr. Aman Dhir, DAG, Punjab.

JASJIT SINGH BEDI, J.

The present appeal has been preferred against the judgment of acquittal dated 27.05.2014, whereby the respondents/accused were acquitted of the offence under Section 306 read with Section 120-B IPC.

2. The brief facts of the case are that on 22.06.2012, a medical *ruqa* was received from the Medical Officer, Civil Hospital, Malerkotla regarding the death of Mohd. Imran son of Salamdin resident of Malerkotla. Upon this, the Inspector/SHO Kuldeep Singh along with ASI Jagtar Singh and other police officials were proceeding towards Civil Hospital, Malerkotla, when on the way Salamdin Pehalwan son of Ibrahim met Inspector Kuldeep Singh and got recorded his statement to the effect that he was a Wrestler and running a Gym near Alfala School, Malerkotla. His son Mohd. Ibrahim (deceased) was also learning wrestling. On 22.06.2012, at about 06.45 AM his son-in-law Abdul Rashid son of Noor Mohd. told him that he had received a call on his mobile phone from Dilshad Bhangi that

Mohd. Imran, Wrestler had been thrown away by someone near Baghar Gate after giving him beatings and he (Dilshad Bhangi) along with his brother-in-law Mohd. Suba were taking him (then injured Mohd. Imran) to Civil Hospital, Malerkotla. The complainant were asked to come there immediately. Thereafter, he (complainant) and his son-in-law Abdul Rashid reached Civil Hospital, Malerkotla, where they saw Mohd. Ibrahim lying unconscious. The doctor informed him that he had died. There were no injury marks on his person. One paper slip was found in the pocket of his son, wherein it had been written that "I Mohd. Imran son of Salamdin Wrestler in full consciousness have stated that if he is met with an accident or beaten up by someone, then Moti and his son and one Mohd. Shehbaz son of Mohd. Din, resident of New Basti Iftkhar Ganj Sirhindi Gate, Malerkotla". Thereafter, they inquired about the cause of death of his son. As per him (complainant), he was confident that Sehbaz, Mohd. Din, Bessan, Feroze Khan alias Fauji, Moti and Dilshad alias Bhangi had compelled his son to commit suicide.

Based on the statement, an FIR No.65 dated 22.06.2012 came to be registered.

3. After completion of investigation, the challan was submitted against Mohd. Sehbaz, Mohd. Salim and Feroze Khan alias Fauji.

The case was thereafter committed to the Court of Sessions Judge, Sangrur. Feroze Khan alias Fauji was declared a juvenile by the Illaqa Magistrate vide order dated 30.04.2013.

4. Charges under Section 306/120-B IPC came to be framed against Mohd. Sehbaz and Mohd. Salim alias Moti. The accused pleaded not guilty and claimed trial and then the case was fixed for prosecution evidence.

5. In order to prove its case, the prosecution examined PW1-Abdul Rashid, PW2-Sher Mohd., PW3-Wasim Iqbal, PW4-Mohd. Akhtar, PW5-Dr. Jaswinder Singh, PW6-HC Gurjant Singh, PW7-HC Baljit Singh, PW8-HC Gurmit Singh and PW9-Inspector Kuldeep Singh. Thereafter, the Addl. P.P. for the State closed the prosecution evidence on 08.05.2014.

6. Based on the evidence led, the accused came to be acquitted vide judgment dated 27.05.2014 passed by the Additional Sessions Judge, Sangrur. The Trial Court found that merely because the accused had some dispute with the deceased or that they had made a complaint to the police against the illegal acts of the deceased did not make out an offence under Section 306 IPC if the accused subsequently committed suicide. The suicide note (Ex.P1) was only to the effect that if the deceased met with an accident or was beaten up by anti-social elements, the accused would be responsible. Nothing in the suicide note suggested that the deceased had committed suicide on account of the acts of the accused. There was no reference of acts or conduct in the alleged suicide note, whereby the accused could be said to have committed any willful act or omission or intentionally aided or instigated the deceased in committing suicide. Therefore, a mere reference of the names of the accused in the suicide note could not make them responsible for the suicide of the deceased. The Trial Court further came to the conclusion that there was no evidence that the alleged suicide note was in fact scribed by the deceased.

7. The learned counsel for the appellant (wife of the complainant) contends that the respondents/accused have wrongly been acquitted. The suicide note clearly established that the respondents/accused had abetted the suicide of the deceased. Feroze @ Fauji co-accused (juvenile) son of respondent-accused Mohd. Salim @ Moti was residing on rent in the house of Sabri sister of Mohammad Din, father of accused Sehbaz. Above-said Feroze Khan @ Fauji son of accused Mohd. Salim @ Moti was not a man of good character. About 8/10 days prior to the occurrence, the complainant and his deceased son Mohd. Imran asked Mohd. Din father of accused-respondent No.2-Sehbaz, to get the rented house vacated from Feroze Khan @ Fauji. On this, the accused respondents and Feroze alias Fauji son of Moti, Mohd. Din were highly offended due to the allegation levelled by the deceased Mohd. Imran against Feroze Khan @ Fauji son of accused-respondent No.2-Mohd. Salim @ Moti that he was not having good character. All the above-said persons extended threats to the deceased Imran Khan to be killed and on the other hand gave an application to the police against the deceased. The threats extended by the accused left a serious impact on the mind of the deceased and the deceased was compelled to end his life. Hence, it was a fit case, in which the Trial Court should have convicted the accused-respondents, instead of acquitting them.

Further, the writing on the suicide note had been established by the witnesses and merely because the FSL did not opine as to the genuineness of the note did not in any way detract from its veracity. He thus, contends that the accused/respondents ought to be convicted of the offence in question.

8. The learned State counsel submits that the offence is clearly established against the accused and they ought to be convicted of the charges framed against them.

9. I have heard the learned counsel for the parties.

10. In the present case, there is absolutely no evidence of abetment of suicide in the absence of proof of direct or indirect acts of incitement on the part of the accused. Merely having a dispute with the deceased or making a complaint to the Police against the deceased would not make out a case under Section 306 IPC.

A perusal of the suicide note does not refer to any act on the part of the accused amounting to abetment. It only says that if something was to happen with the deceased, the accused would be responsible. The suicide note therefore does not further the case of the prosecution.

Even otherwise, there is a doubt regarding the author of the suicide note. The FSL had asked for a admitted document of the deceased so as to compare the writing on the suicide note along with that of the deceased. However, no such writing was despatched to the FSL for comparison. The brother of the deceased PW2-Sher Mohd. however identified the signatures of the deceased on the suicide note which would not be sufficient to affix the authorship of the suicide note. Be that as it may as mentioned above, merely mentioning the names of the accused in the suicide note in the absence of any specific role would not lead to the commission of an offence under Section 306 IPC. Further, there is nothing to suggest that immediately prior to the alleged commission of suicide, the deceased had become disturbed on account of any act or omission on the part of the accused. On the other hand,

words uttered in a quarrel or in the spur of a movement if at all cannot be taken to be uttered with the necessary *mens rea* and would be an outcome of an emotional outburst or a fit of anger. Therefore, the same would not amount to abetment.

11. In view of the above discussion, I find no illegality in the well-reasoned judgment of the Trial Court acquitting the respondents/accused. Therefore, the present appeal is dismissed.

(JASJIT SINGH BEDI)
JUDGE

17.01.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No