

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

225.

CRM-A No.1528-MA of 2017

Date of Decision:12.12.2023

Gurcharanjeet Singh

... Applicant/Appellant

Versus

State of Punjab and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. HPS Bhinder, Advocate  
for the applicant-appellant.

Mr. Madhur Sharma, AAG, Punjab.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. The present application has been filed under Section 378 (3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 07.06.2017 passed by the learned Additional Sessions Judge, Ludhiana whereby the respondents No.2 to 6 have been acquitted in FIR No.152 dated 14.11.2014 registered under Section 306 IPC at Police Station Sudhar, District Ludhiana.

2. In brief, the facts are that on 14.11.2014, the applicant-complainant made a complaint to the police that he is an agriculturist by profession and his brother namely Gurjeet Singh, who was a panchayat member, used to reside with him. At about 9 AM, his brother went to fields after paying obeisance at the Gurdwara Sahib. After some time, the applicant also went to their fields and noticed that his brother was lying on a cot. On being asked about his well-being, his brother told him that Ex. Sarpanch Darshan son of Kartar

Singh and his two sons along with Jaswant Singh son of Pritam Singh and Sukhwant Singh son of Mehar Singh, resident of village Balian were harassing him. The applicant-appellant further stated that on 11.08.2014, the above named persons had also given beatings to his brother and Daljeet Singh son of Nachattar Singh on account of which his brother was admitted to the hospital. An FIR in this regard was also recorded. Darshan Singh and other accused were pressuring his brother to compromise the matter and also extended threats of dire consequences to him. Due to the harassment meted out to him at the hands of accused persons, Gurjeet Singh (brother of the applicant) consumed some poisonous substance. The applicant-appellant arranged for a vehicle to take his brother to Shaheed Kartar Singh Sarabha Hospital for treatment where he died. The applicant-appellant claimed that his brother committed suicide due to harassment caused to him by Darshan Singh and others. On his complaint, an FIR was registered against Darshan Singh, his sons Sukhvinder Singh and Sukhpreet Singh, Jaswant Singh and Sukhwant Singh. During investigation of the case, a suicide note was also recovered from the pocket of brother of the applicant-appellant, which was taken in possession by the police.

3. Finding a *prima facie* case against the accused persons under Section 306 IPC, charge was framed against them to which they pleaded not guilty and claimed trial. The prosecution examined as many as 11 witnesses and closed its evidence.

4. Statements of accused persons were recorded under Section 313 Cr.P.C. and the incriminating evidence was put to them to which they pleaded false implication and claimed innocence. After appreciating the evidence led by the

parties, the learned trial Court acquitted the accused persons from the charge framed against them. Hence, the present application.

5. Learned counsel for the applicant-appellant submits that the learned trial Court did not appreciate the evidence led by the prosecution that respondents No.2 to 6 were in illegal occupation of the panchayat land on which they were running a school and the deceased brother of the applicant-appellant, being a panchayat member, was making an attempt to get the land vacated from said illegal encroachment. Therefore, respondents No.2 to 6 were nursing grudge against his deceased brother. They started harassing him due to which he committed suicide. Suicide note recovered by the police was also discarded by the learned trial Court by giving an erroneous finding that recovery of the said suicide note was doubtful while ignoring the statements of the applicant-appellant and official witnesses. Even the veracity of the said suicide note was also corroborated by the FSL report Ex.DX. There was no dissimilarity in the handwriting of the suicide note. Further, the learned trial Court has wrongly held that there are contradictions with regard to alleged recovery of suicide note, in the statements made by the applicant-appellant, PW-8 HC Raj Kishan and PW-5 ASI Gurmeet Singh. The applicant-appellant deposed that the suicide note was recovered from the spot whereas the official respondents stated that the same was recovered from the pocket of the deceased. These are minor contradictions which cannot be fatal to the prosecution case. Furthermore, the suicide note was recovered subsequent to the complaint made by the applicant-appellant to the police.

6. It is further contended that the learned trial Court has wrongly held that the applicant-appellant made improvements in his testimony and statements of prosecution witnesses, who stepped into the witness box, did not inspire

confidence. It is settled law that every improvement is not fatal to the prosecution case and thus, the finding rendered by the trial Court is based on conjectures and surmises. The brother of the applicant-appellant was instigated to commit suicide at the instance of respondents No.2 to 6 as they were harassing and threatening him of dire consequences, much less, pressuring him to compromise the matter between them. There was no undue delay in lodging of the FIR.

7. I have heard learned counsel for the applicant-appellant and perused the paper book with his able assistance.

8. As per the report of the handwriting expert, there was difference in signatures on passbook Ex.P2 at Point A16 and on voucher Ex.P3 at Point A17 and on suicide note Ex.PW-8/A. There was also difference in tint and lustre of writing stamped and marked Q2A from the tint and lustre of remaining writings stamped and marked Q1, Q2 and Q3, which raised a serious doubt as the writing stamped and marked Q2A contained reference of Dashan Singh's sons. Signature appended on the suicide note were not of the deceased and therefore, it cannot be said that the prosecution had proved the veracity of the suicide note to the hilt. Furthermore, there are different versions qua recovery of the suicide note. The complainant in his statement stated that the suicide note was recovered from the spot whereas PW-8 and PW-5 deposed that it was recovered from the pocket of the deceased. Statements of PW-4 Daljit Singh and PW-2 Sher Jang Singh under Section 161 Cr.P.C. were recorded after six months of the alleged incident, despite the fact that they were stated to be present in the hospital on the said day. PW-2 in his cross-examination stated that he did not disclose about his meeting with deceased on 14.11.2015 wherein the deceased had narrated the factum of

harassment meted out to him at the hands of respondents No.2 to 6 for the reasons best known to him. There is no cogent explanation as to why statements of PW-4 and PW-2 were not recorded on the day when they were present in the hospital or thereafter and why they did not come forward to record their statement when they were in knowledge of the harassment caused to the deceased by respondents No.2 to 6. The earlier incident occurred on 11.08.2014 and the deceased committed suicide on 14.10.2015 and if the deceased was being pressurized, he ought to have made a complaint to the police in this regard. Therefore, the link evidence and *mens rea* is missing to attract the ingredients of Section 306 IPC, as the prosecution has failed to prove that there was instigation on the part of respondents No.2 to 6, which caused the deceased to commit suicide.

9. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See *H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023*; *Kali Ram v. State of H.P., 1973 (2) SCC 808* and *Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415*). A Division Bench of this Court in the judgment passed in *State of Haryana Vs. Ankit and others* passed in CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched

and fortified in favour of the accused after earning acquittal from the trial Court.

10. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant has failed to point out any perversity or illegality in the findings recorded by the learned trial Court, which warrants interference by this Court. As such, there is no merit in the present application and the leave to appeal is declined. Resultantly, the instant application stands dismissed.

(HARPREET SINGH BRAR)  
JUDGE

December 12, 2023  
Pankaj\*

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| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |

