

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222

CRM-A-251-MA-2018

Date of Decision: 28.08.2023

Ompal

.... Applicant

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Ms. Deepika, Advocate for
Mr. S.K. Yadav, Advocate for the applicant.

NIDHI GUPTA, J.

1. The applicant/complainant has preferred the instant criminal miscellaneous application under Section 378(3) Cr.P.C., seeking leave to file appeal against the judgment dated 30.10.2017, passed by the learned Additional Sessions Judge, Narnaul, whereby the accused/respondent No. 2 herein, was acquitted in case FIR No. 39 dated 07.02.2016 registered under Section 306 IPC at Police Station Mahendergarh.
2. Briefly, the aforesaid FIR was registered on 07.02.2016, upon the application moved by applicant/complainant alleging therein that the victim who is his sister-in-law, namely, Moni @ Monika (sister of the wife of the complainant) was living with them for the past 4-5 years and was pursuing her studies at Women College, Narnaul. Her engagement was solemnized with respondent No. 2 herein around 01 year ago. Around 2-3 days prior to the incident, respondent No. 2 herein went to the college of Moni @ Monika and beat her. When the complainant party tried to break up the relationship, respondent No. 2 threatened to make the

video recording of Moni @ Monika, viral on the social media. On account of harassment and beatings by respondent No. 2, Moni @ Monika had committed suicide on 06.02.2016.

3. Learned counsel for the applicant, *inter alia*, submitted that the impugned judgment of acquittal is based on surmises and conjectures. It is contended that it was duly proved on record that Moni @ Monika (since deceased) was abetted to commit suicide on account of harassment caused by respondent No. 2 and her video recording by respondent No. 2, but the learned trial Court had erroneously acquitted respondent No. 2. Learned counsel for the applicant further submits that the findings returned by the trial Court are immaterial as there was sufficient evidence produced on record by the applicant which had wrongly been ignored by the learned trial Court. Thus, it is submitted that the prosecution has successfully proved its case against respondent No. 2 beyond any shadow of doubt and he is liable to be held guilty and convicted.

4. No other argument is raised on behalf of the applicant.

5. I have heard learned counsel for the applicant.

6. Perusal of the record of the case shows that the learned trial Court upon detailed appraisal of all the facts, pleadings, submissions, and documentary as well as the oral evidence produced on record, returned the following findings:

“28. It is the case of the prosecution that deceased Monika who is sister-in-law of complainant was living with the complainant and his family for the last 4-5 years and her engagement was solemnized with accused Pardeep son of Hawa Singh, accused around year ago. After the engagement for the last some days accused started harassing Moni and also went to her college where he beat her. When the complainant and his brother tried to break up the relation

then they were threatened by the accused Pardeep that he would put video recording of Moni on the net and father of the accused also threatened to call panchayat of 5 villagers. After being harassed with this act and conduct of the accused on 6.2.2013 Moni committed suicide by strangulating herself. On the basis of the statement of complainant FIR was registered.

29. *A careful perusal of the document placed on court file as well as statements/testimony of the witnesses this court has come to the conclusion that the accused has been falsely implicated in the present case and the accused is liable to be acquitted. The deceased was student in Government Women College, Narnaul and she was engaged with Pardeep son of Hawa Singh about one year ago. Since the father of the deceased was no more, as such, she was residing with her brother-in-law and his family. It is an admitted fact that accused Pardeep used to talk to her after engagement on phone. It is also admitted by sister of Moni i.e. Mamta when stepped into the witness as PW11. Now the case of the prosecution is that after engagement the accused started harassing Moni but in this regard no complaint has ever been filed before the police by the complainant. Further it is the case of the prosecution that when the complainant and his family members tried to break this relation then the accused threatened them that he would put video recording of the deceased Moni on net. Again in this regard no video recording has ever been recovered from the accused by the police. The accused interrogated on 30.09.2016 near the ITI situate near village Bhurjhat at about 2.00 P.M. He was interrogated for a period of one and half hour but despite the fact that it was a public place no independent witness was ever joined by the Investigating Officer and the confessional statement of the accused was recorded in police custody whereby no new fact was discovered.*

30. *The other thing that the accused also went to the college of the deceased 2/3 days prior to the alleged incident and manhandled with her. This fact is also not disclosed by the complainant in his complaint Ex. PW10/B. Surprisingly, in this regard no complaint was ever made to the police authorities as well as to the college authorities. The fact of manhandling the deceased by the accused was told by the deceased Moni to her brother-in-law as observed from the testimony of Raj Kumar when stepped into the witness box as PW8 but he categorically admitted that he disclosed this fact to the police about his above said discussion to his sister-in-law. The things which is amply clear/proved from the testimony of witnesses is that deceased Moni liked accused Pardeep and she used to talk to him on phone then the question of deceased being harassed by the accused does not arise at all and it cannot be presumed that she had committed suicide after being harassed by the accused. No suicide note has been produced in order to show that there is any part of*

the accused in the said committed by the deceased Monika @
Moni”.

7. From the above facts, it is clear that it has been alleged by the applicant/complainant that the accused respondent had been harassing the deceased ever since their engagement. However, admittedly, no complaint in this regard was ever filed by the complainant party. It is hard to believe that if the accused had indeed been harassing the deceased for almost 1 year or more, why no complaint was registered in this regard by the applicant. Further, it has also been alleged that 2–3 days prior to the incident, the accused had gone to the college of the deceased and beaten her. However, again, no complaint was made to the police about this serious incident either. Even no medical record has been produced in support of this allegation. Admittedly, there is even no suicide note implicating the accused. Learned counsel for the applicant is unable to dispute or controvert the abovesaid findings as recorded by the trial Court. Even nothing has been produced before this Court to show as to why the abovesaid findings are incorrect or ought to be rejected.

8. Accordingly, I find that no ground is made out to interfere in the impugned judgment. The instant criminal miscellaneous application seeking leave to file appeal being completely devoid of any merit is **dismissed.**

28.08.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No