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

**CRM-A-1190-MA-2014 (O&M)
DATE OF DECISION : 02.08.2023**

Ram Diya (since deceased)**...Applicant****Versus****State of Haryana and another****...Respondents****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Rakesh Gupta, Advocate,
For applicant/appellant.

Ms. SvaneelJaswal, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

This is an application seeking leave to appeal against judgment dated 26.05.2014 passed by learned Additional Sessions Judge, Kurukshetra, vide which accused was acquitted of the charge under section 306 of the IPC levelled against him.

2. Succinct facts of the present case, as noted by learned trial Court in the impugned judgment, are as under:

“ Ram Diya filed a complaint against Raman and seven others on the allegations that Ramesh son of Ram Diya (complainant) was married with accused Raman. It was an inter caste marriage which was arranged through matrimonial advertisement given in the newspaper. It was second marriage of both Ramesh and Raman. After the marriage, accused lived at matrimonial home at Kurukshetra only for a week and then a rental accommodation was arranged at Karnal for convenience of Raman to attend her duties as JBT Teacher. After that accused instead to live at Panipat with her sister asked her husband to arrange Rs.20 lacs for purchasing a house at Panipat and only then she would live with him and she threatened to renounce the relations with Ramesh. It was alleged that all the accused persons kept on harassing the complainant's son Ramesh on one pretext or the other. They pressurized Ramesh to get transferred to Panipat and to purchase a house at Panipat to live with accused Raman. Thereafter, a rental accommodation was arranged at Panipat by paying earnest money of Rs.4000/- on 1.6.2009 but accused Raman did not come to reside with Ramesh on the pretext that she had to appear in the improvement

*examination of M.A and she would live at the house of her sister at Rohtak during examination. On 14.6.2009, Ramesh alongwith Parvinder elder son of the complainant went in a Car to Rohtak and brought back accused Raman. Ramesh was so much harassed that he was missing from the house without any information from 18.6.2009 to 22.6.2009. Accused Raman along with Ramesh and complainant again went to Rohtak on 24.6.2009 as the relative of Raman had expired and Ramesh continued to be harassed by all the accused persons. They returned back and there was continuous altercation between the two in the night of 1.7.2009. On 2.7.2009 accused Raman went to attend his duties, while Ramesh left the house on the pretext of getting the money from the bank. Ramesh was very much perturbed and on the same day, he jumped into a canal and finished his life. The dead body of Ramesh was recovered from the Canal and Post Mortem examination was conducted at LNJP Hospital, Kurukshetra. The son of the complainant reported the matter to police and only a DDR was lodged and no action was taken against the accused.
xxx”*

3. After appreciating the evidence on record, vide impugned judgment dated 26.05.2014, learned Court below did not find sufficient material on record to frame charge against the accused persons (respondent herein) and acquitted them.
4. Aggrieved, applicant-complainant has filed instant application seeking leave to appeal against aforesaid impugned judgment.
5. Impugned order dated 26.05.2014 is, *inter alia*, premised on the following reasoning:

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13. First of all, it may be mentioned that the present complaint was filed after the registration of case under Section 498-A IPC by the accused against the complainant. Copy of the report under Section 173 Cr.P.C. is Ex.D7. Secondly, when Ramesh Kumar committed suicide, a DDR No. 18 dated 2.7.2009 Ex.D5 was registered by the police in which the complainant and his sons did not raise any suspicious in respect of suicide by Ramesh Kumar, rather they stated that no one was at fault. It was also mentioned in the DDR that Ramesh Kumar died when he went to take bath in the canal and drowned.

14. As stated earlier, the complainant was counterblast of the FIR which was got registered by the complainant but if the allegations in the complaint are taken to be true, still it cannot be said that Ramesh Kumar had no other choice but to commit suicide. If there was any cruelty on the part

of the accused, he could have lodged the complaint with the competent authority. There is also no evidence that the accused ever abetted Ramesh Kumar to commit suicide. As per version of Dr. Amit Kumar (DW2) deceased Ramesh Kumar complained him of dry ejaculation and he was taking treatment for this purpose. It appears that he might have been disturbed as he was not capable to perform sexual intercourse like a normal man. If the entire evidence is to be taken at its face value, it has merely been stated that Ramesh Kumar was being harassed by accused and his family members. Even if that was so, on its own, it would not be suffice to be an act of abetting the suicide. Even where a quarrel takes place and an accused tells the deceased to go and die, it would not tantamount to abetment of suicide as held by the Hon'ble Supreme Court in Sanju Versus State of Madhya Pradesh 2002 (Crl. L.J. 2796. In order to prove the offence under Section 306 IPC, the basic constituents of an offence under Section 306, are suicidal death and abetment thereof as has been held in Sangarabonia Sreenu V. State of Andhra Pradesh, (1997) 4 Supreme 214. Meaning thereby to attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary. There is no evidence whatsoever that accused ever abetted deceased Ramesh Kumar to commit suicide.

15. Hence, the prosecution has not been able to prove the charges against the accused and the accused is acquitted of the charges leveled against her. Bail bonds and surety bonds of the accused would continue for a period of six months from this date in view of the provisions of Section 437-A of the Code of Criminal Procedure, 1973 and the accused would be liable to appear before the Appellate Court and in case of his default, he would be liable alongwith his surety under Section 446 of the Code of Criminal Procedure, 1973 File be consigned to record room after due compliance."

6. Before analysing the order/judgment under challenge, it would be pertinent to note that Section 107 of the Indian Penal Code defines "instigation" as creating circumstances where the deceased had no other option but to commit suicide. A mere emotional outburst without an intention for the consequences to follow cannot be considered as instigation. If the accused's actions or conduct led to a situation where the deceased had no choice but to end their life, then instigation might be inferred. For a charge of abetment under Section 306 IPC to hold, there needs to be a clear intention on the part of the accused to aid, instigate, or abet the deceased to commit suicide.

7. In the backdrop of afore legal position, the reasoning and view taken by the leaned trial court appears to be based on analysis and detailed examination of the evidence and circumstances. Trial court has rightly emphasised on the absence of sufficient evidence to prove abetment and the lack of element of instigation. View taken correctly underscores the importance of intent and the requirement for conclusive evidence when charging someone with abetment of suicide.

8. Even if the allegations in the complaint are taken as true, there is no compelling evidence to suggest that Ramesh Kumar was driven to suicide due to the accused's actions. If the accused's behaviour amounted to cruelty, the deceased could have sought help from the competent authority, in accordance with law, rather than resorting to suicide. Be that as it may, there is no concrete evidence of the accused abetting the suicide.

9. In any case, the prosecution failed to prove the charges against the accused before the trial court. Resultantly, accused has been rightly acquitted of the charges.

10. It is a settled law, as has been held in ***C. Antony Vs. K.G. Raghavan Nair***¹, that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused unless the judgment suffers from any perversity. In the cases of acquittal, there is double presumption in their favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

11. In ***Anil Kumar Gupta vs. State of U.P.***², it is held as under:

“This Court held that “the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence, cannot constitute

¹ 2002(4) RCR (Criminal) 750 SC

² 2001(2) RCR(Criminal) 292 SC

a valid and sufficient ground to interfere an order of acquittal unless it comes to the conclusion that the approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal, the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate Court answers the above question in the negative, the order of acquittal is not to be disturbed. Conversely, if the appellate Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then-and then only-reappraise the evidence to arrive at its own conclusions.

(emphasis supplied)

11. This Court following the decision in Ramesh Babulal Doshi, further observed that 'there cannot be any denial of the factum that the power and authority to appraise the evidence in an appeal, either against acquittal or conviction stands out to be very comprehensive and wide, but if two views are reasonably possible, on the state of evidence: one supporting the acquittal and the other indicating conviction, then and in that event, the High Court would not be justified in interfering with an order of acquittal, merely because it feels that it, sitting as a trial court, would have taken the other view. While reappreciating the evidence, the rule of prudence requires that the High Court should give proper weight and consideration to the views of the trial Judge. But if the judgment of the Sessions Judge was absolutely perverse, legally erroneous and based on a wrong appreciation of the evidence, then it would be just and proper for the High Court to reverse the judgment of acquittal, recorded by the Sessions Judge, as otherwise, there would be gross miscarriage of justice."

12. As an upshot of my discussion, I am of the opinion that in findings recorded by learned trial Court are based on correct appreciation of evidence and do not suffer from any infirmity and perversity much less illegality. Thus, no grounds for interference are made out. Application seeking leave to appeal is thus dismissed.

13. Pending application(s), if any, shall also stand disposed of.

AUGUST 02, 2023
Shalini

(ARUN MONGA)
JUDGE

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