

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

**CRM-A-537-MA-2017
Date of Decision : 18.04.2023**

Baldeep Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Manoj Kumar, Advocate
for the applicant.

VIKRAM AGGARWAL, J (ORAL)

Prayer in the present applicaton is for the grant of leave to file appeal against the judgment dated 23.12.2016, passed by the Addl. Sessions Judge, Shaheed Bhagat Singh Nagar vide which respondents No.2 to 7 were acquitted in a case arising out of FIR No.95 dated 13.07.2014, registered under Section 306 IPC, at Police Station City Nawanshahr.

The facts, briefly, put are that on 13.07.2014, one Gurwinder Singh committed suicide by consuming some poisonous substance. He left behind a suicide note. He was taken to the hospital by his brother Baldeep Singh (applicant here) and on his complaint, FIR was registered. It was alleged by Baldeep Singh that the marriage of Gurwinder Singh was solemnized with Kulwinder Kaur (respondent No.2) on 05.10.2013. After two months of marriage, she went to her parents at Greece and two months prior to the incident, she started residing with Gurwinder Singh at his House.

As per Baldeep Singh, the parents of Kulwinder Kaur had been pressurizing Gurwinder Singh to give divorce to his wife and were also demanding Rs.15,00,000/- which had been spent on the marriage. Kulwinder Kaur was taken away from the matrimonial home and a Panchayat was convened on 10.07.2014 wherein pressure was again exerted upon Gurwinder Singh for giving divorce to Kulwinder Kaur and a demand of Rs.15,00,000/- was again raised. On 13.07.2014 at about 5:00/6:00 am, Gurwinder Singh told complainant Baldeep Singh that he was harassed and pressurized by the parents of his wife and other relatives (all respondents in the present case and accused in trial) and that he could not bear this insult and thereafter went away from home. He thereafter came to know that Gurwinder Singh had consumed some poisonous substance and was admitted in Raja Hospital, Nawanshahr. He could, however, not survive but before his death he gave a suicide note to his brother. On the statement given by Baldeep Singh, the FIR in question was registered. Investigation commenced. After completion of the investigation, final report under Section 173 Cr.P.C. was submitted. Charges were framed and trial commenced. Prosecution examined 09 witnesses. In defence also, one witness was examined. After considering the matter, the trial Court acquitted the accused leading to the filing of the present application.

I have heard learned counsel for the applicant and have perused the paper book.

Learned counsel for the applicant has submitted that the trial Court erred in acquitting the accused. It has been argued that there was sufficient evidence on record to prove the guilt of the accused. Learned

counsel has submitted that the trial Court erred in ignoring the suicide note executed by deceased Gurwinder Singh. Learned counsel has read out the impugned judgment and has submitted that the trial Court did not consider the relevant aspects of the matter and acquitted the accused. Reference has also been made to the statements given by various witnesses as referred to in the judgment. It has also been submitted that the trial Court gave undue importance to the statement given by DW1 Dr. J.S.Sandhu. It has been contended that under these circumstances, leave to file appeal against the said judgment deserves to be granted.

I have considered the submissions made by learned counsel for the applicant.

Unfortunately, Gurwinder Singh expired on 13.07.2014 after having committed suicide. He left a suicide note stating that he had been harassed by his wife, her parents and other relatives who were arrayed as accused. The trial Court has not found the suicide note to be trustworthy. As per the report of the FSL, no definite opinion could be given regarding the suicide note having been executed by deceased Gurwinder Singh. The trial Court also found that it was quite strange that the deceased, in a semi-conscious state, took out a note and handed over the same to his brother instead of doing so when he was in his senses. I do not find any illegality in this finding of the trial Court and the trial Court, in the considered opinion of this Court, did not commit any error in not placing any reliance upon the suicide note.

In so far as the other evidence led on the record of the case is concerned, it was a case of a matrimonial discord and as per the accused side,

the deceased had some physical as also mental issue whereas, as per the complainant side false allegations were levelled against deceased Gurwinder Singh which led him to commit suicide. The prosecution did not give any immediate cause which could have driven Gurwinder Singh to commit suicide. Still further, no evidence was brought on record to show that accused incited, goaded or aided the commission of suicide by Gurwinder Singh. It was, therefore, rightly held that the ingredients of Sections 107 and 306 IPC did not stand fulfilled. Learned trial Court referred to the bare provisions as also the law on the subject and also examined the evidence led by the prosecution in extenso. The prosecution had not been able to prove its case against the accused beyond reasonable doubt. I have not found any infirmity in these findings of the trial Court and in the considered opinion of this Court, the judgment is well reasoned covering all aspects.

Even otherwise, it is now well settled that Courts have to be extremely careful while hearing appeals against acquittal and the judgments of acquittal should not be interfered with lightly. In the case of **Sadhu Saran Singh Vs. State of U.P. and others, 2016 (2) RCR (Criminal) 319**, the Hon'ble Apex Court reiterated that generally an appeal against acquittal has always been altogether on a different pedestal from that of an appeal against the conviction. It was held that in an appeal against acquittal, where the presumption of innocence in favour of the accused is re-enforced, the Appellate Court would interfere with the order of acquittal only when there was perversity of fact and law. A word of "caution" was also added by the Hon'ble Apex Court that the paramount consideration of the Court was to do substantial justice and avoid miscarriage of justice, which could arise by

acquitting the accused, who is guilty of an offence. Though, in this case the Hon'ble Apex Court reversed a judgment of acquittal but the principles carved out would definitely be binding and would be applicable as per the facts of each case. As stated above, in the present case, there is no perversity on facts or law. Still further, in the case of **State of Maharashtra Vs. Fazal Rehman Abdul, 2014(7) SCC (Criminal) 01**, the Hon'ble Apex Court laid few parameters to be kept in mind while entertaining appeals against judgments of acquittal. It was held that the Appellate Court should not ordinarily set aside a judgment of acquittal in a case where two views are possible, though the view of the Appellate Court may be the more probable one. It was held that while dealing with a judgment of acquittal, the Appellate Court has to consider the entire evidence on record so as to arrive at a finding as to whether the view of the trial Court was perverse or otherwise unsustainable. It was also held that the Appellate Court should bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters presumption of his innocence. The part of the Judgment dealing with this issue is reproduced here-in-below:-

“9. This Court has laid down parameters for interference against the order of acquittal time and again. The appellate court should not ordinarily set aside a judgment of acquittal in a case where two views are possible, though the view of the appellate court may be the more probable one. While dealing with a judgment of acquittal, the appellate court has to consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial court were perverse or otherwise unsustainable. The appellate court is entitled to consider whether in arriving at a finding of fact, the trial court had failed to take into consideration admissible evidence and/or had taken into consideration the evidence brought on record contrary to law. Similarly, wrong placing of burden of proof may also be a subject-matter of scrutiny by the appellate court. In exceptional cases where there are compelling

circumstances, and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the trial court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is "against the weight of evidence", or if the finding so outrageously defies logic as to suffer from the vice of irrationality."

This view was also taken by the Hon'ble Apex Court in a case

State of Rajasthan Vs. Madan alias Madaniya, 2019 CrI.L.R. (S.C.) 09. It

was held by the Hon'ble Apex Court that in an appeal against acquittal, the

Appellate Court would only interfere where there exists perversity of facts

and law. While arriving at these conclusions, the Hon'ble Apex Court relied

upon the Judgment in the case of **Rabindra Kumar Pal alias Dara Singh**

Vs. Republic of India, 2011(2) SCC 490.

In view of the aforementioned facts, I do not find any merit in the present application and the same is hereby dismissed.

(VIKRAM AGGARWAL)
JUDGE

18.04.2023

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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No