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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-694-MA-2018 (O&M)
DECIDED ON: 31st JANUARY, 2023

SUMAN SINGH

.....APPLICANT/APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Jasbir Mor, Advocate
for the applicant.

SANDEEP MOUDGIL, J (ORAL)

The applicant/appellant has invoked the jurisdiction of this Court under Section 378(4) read with Section 482 Cr.P.C., for granting leave to appeal against the order of acquittal dated 14.12.2017 passed by the Additional Sessions Judge, Jind, whereby the accused-respondents were acquitted of the charges under Section 306 read with 34 IPC and Section 216 IPC.

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Pursuant to the registration of the FIR, an investigation was conducted and report under Section 173 Cr.P.C. was submitted.

Finding a prima-facie case Under Sections 306 read with 34 and 216 IPC against the accused, they were charge-sheeted thereunder by the court vide order dated 25.08.2015 to which he pleaded not guilty and claimed trial.

To prove its case the prosecution examined as many as 18 witnesses.

In defence the accused have examined as many as two witnesses and, thereafter closed the defence evidence.

The statements of the accused were recorded under Section 313 Cr.P.C., wherein all the incriminating circumstances were put to them, to which they pleaded false implication.

The Trial Court came to the conclusion that taking the evidence lead and the allegations to be true, no *mens rea* on the part of the accused was proved to commit the offence in question and thereby acquitted him vide judgment dated 14.12.2017 leading to the filing of the present appeal.

Learned counsel for the applicant/appellant has contended that the trial Court has failed to appreciate the suicide note and dairy which were recovered from the spot by the police wherein the names of the accused-persons were specifically mentioned and it was alleged that they are responsible for the death of Vikas. The trial Court has also failed to appreciate the statements of the witnesses recorded under Section 164 Cr.P.C. and also the fact that accused-Amir Singh has suffered the disclosure statement for admitting their guilt in committing the suicide by the deceased-Vikas.

The learned counsel for the applicant/appellant contends that PW-1-complainant, PW-5-Mewa Devi and PW-6-Umed have reiterated their version before the police while deposing in Court and have categorically stated that Vikas (deceased) had committed suicide on account of continuous harassment and threats extended by the accused.

It is further contended that though the handwriting appearing on suicide note, which was duly recovered from the dead body of Vikas (deceased), was found matched by an expert of FSL with his standard handwriting/signatures even then the learned trial Court has acquitted the accused-persons by giving them benefit of doubt. He, thus, contends that the judgment of acquittal is perverse on the face of it and is liable to be set aside and the acquitted accused is liable to be convicted for having committed the offence in question.

I have heard the learned counsel for the applicant/appellant at length.

Before proceeding further it would be apposite to examine the provisions of Section 306 IPC and 107 IPC which are reproduced hereinbelow:-

Section 306 IPC reads as under:-

“306. Abetment of suicide. - *If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”*

Section 107 IPC reads as under:

“Abetment of a thing: *A person abets the doing of a thing, who:*

First-Instigates any person to do that thing; or,

Secondly: Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing.”

To instigate means to goad, urge, provoke, incite or encourage someone to do an act. It is not necessary that express words should be used in order to instigate. The offence of abetment by instigation depends upon the intention of the person who abets and not upon the act which is done by the person who has been so abetted. The basic spirit behind all these words i.e. to goad, to urge, to provoke, to aid, to instigate or encourage, lies in the actions or omissions which the accused did by words or gestures so as to bring the person abetted to such a mental state that under such circumstances, he could think nothing more except to end his life being so compelled by the circumstances.

When the present case is examined in the background of Sections 107 IPC read with Section 306 IPC, it is apparent that no offence whatsoever is made out.

The evidence led by prosecution neither proves any mens rea on the part of the accused to commit the offence nor proves any direct or active act which led the deceased to commit suicide.

As regards the legal position in an appeal against acquittal and the scope of interference called for by the Court, the Supreme Court in “C. Antony Versus K.G. Raghavan Nair, 2002(4) R.C.R. (Criminal) 750, held as under:-

“6.This Court in a number of cases has held that though the appellate court has full power to review the evidence upon which the order of acquittal is founded, still while exercising such an appellate power in a case of acquittal, the appellate court, should not only consider every matter on record having a bearing on the question of fact and the reasons given by the courts below in support of its order of acquittal, it must express its reasons in the judgment which led it to hold that the acquittal is not justified. In those line of cases this Court has also held that the appellate court must also bear in mind the fact that the trial court had the benefit of seeing the witnesses in the witness box and the presumption of innocence is not weakened by the order of acquittal, and in such cases if two reasonable conclusions can be reached on the basis of the evidence on record, the appellate court should not disturb the finding of the trial court. See Bhim Singh Rup Singh v. State of Maharashtra (1974(3) SCC 762) and Dharamdeo Singh & Ors. v. The State of Bihar (1976(1) SCC 610).

[Emphasis supplied]

The Hon'ble Supreme Court has held in the case of Nagbhushan V. State of Karnataka, (2021) 5 SCC 222,

No case is made out of legal or factual error, much less perversity in the judgment of the Court below in acquitting the respondents. The view taken by the trial court is plausible view.

No case is made out for grant of leave to appeal.

The application for leave to appeal stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

31st JANUARY, 2023.
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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No