

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

CRM-A-2075-MA-2016 (O&M)

Decided on : 08.04.2024**Hari Chand****...Applicant****Versus****State of Haryana and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Karan Pathak, Advocate
for the applicant.

MANISHA BATRA, J. (Oral)

1. The present application has been filed by the applicant/complainant under Section 378(4) Cr.P.C. for granting leave to file appeal against the judgment dated 12.09.2016, passed by the Additional Sessions Judge, Gurugram in Sessions Case No. 201 of 2014, titled as ***State vs. Ravinder***, arising out of FIR No. 1000 dated 03.12.2013, registered under Section 306 of IPC at Police Station City Gurugram, whereby the accused/respondent No. 2 had been acquitted of charge framed against him.

2. Broad contours of the case as set up by the prosecution in this case, which are relevant for the purpose of disposal of this application, are that on 03.12.2013, on receipt of an information at the police station regarding one female student, namely Suman, having consumed poison in the premises of Govt. Girls Senior Secondary School, Jaicumpura, Gurugram, a police party had reached there, wherein it was informed that victim Suman had been taken to hospital for treatment. The victim had then been shifted to Medicity Hospital, Gurugram and was declared unfit to make statement and had died on the same day. Her father then recorded his

statement alleging therein that accused/respondent No. 2 Ravinder, who was residing in his neighbourhood had been stalking and eve-teasing his daughter along with one Sonu. He had complained about the act and conduct of respondent No. 2 and abovesaid Sonu to their parents and since then, they were nursing grudges against his daughter and on the fateful day, when his daughter was going to her school, they had administered some poisonous substance to her. Investigation proceedings were initiated after registration of a case under Section 306 of IPC. Inquest proceedings and post-mortem examination of the dead body of the victim was conducted. A suicide note and a plastic bag containing Celphas tablets were recovered from the dead body while conducting post-mortem examination. Respondent No. 2 was arrested. However, other person named in the FIR was found to be innocent. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented against respondent No. 2. He was chargesheeted under Section 306 of IPC. He pleaded not guilty and claimed trial.

3. As per case of the prosecution, as many as 15 witnesses were examined by it in support of its case. Thereafter, statement of the accused was recorded under Section 313 Cr.P.C. He did not adduce any evidence in his defence.

4. After appraising the evidence produced on record and considering the contentions raised by both the sides, the trial Court acquitted the accused/respondent No. 2 of charge as framed against him under Section 306 of IPC, vide impugned judgment dated 12.09.2016. Feeling aggrieved of the same, the instant application has been filed by the complainant/father of the deceased victim seeking grant of leave to file an appeal against the said

judgment of acquittal.

5. It is submitted in the grounds of appeal and it has been argued by learned counsel for the applicant that there was overwhelming evidence on record to prove that the suicide by the victim was abetted by respondent No. 2, who had been harassing her from the last two years and had also been exerting pressure upon her to perform marriage with him. However, the trial Court did not appreciate the evidence produced on record in a proper perspective and committed grave error in acquitting respondent No. 2. Therefore, it is argued that the present application deserves to be allowed and the applicant deserves to be granted leave to file an appeal against the said judgment of acquittal of respondent No. 2.

6. I have heard learned counsel for the applicant at considerable length and have also gone through the material placed on record as well as the impugned judgment.

7. It is proved from the medical evidence produced on record in the form of testimony of PW-2-Dr. Yudhvir Singh, who had conducted the post-mortem examination of the dead body of the victim as well as FSL report Ex. PX that the death of the victim had occurred due to consumption of Aluminium Phosphide, commonly known as Celphas. Recovery of the same very tablets had been effected from the under garments of the victim at the time of conducting post-mortem examination. The applicant in his sworn deposition had stated that on receipt of an information from the school of her daughter, he had reached there and had found his daughter to be alive and on asking, she had disclosed that respondent No. 2 had administered poison to her and even in the FIR, he had also alleged so. However, during cross-examination, he stated that this fact had wrongly been mentioned by him in

his examination-in-chief. Meaning thereby, the victim did not tell the complainant that it was respondent No.2, who had administered some poisonous substance to her. Even otherwise, Celphas tablets cannot be administered forcefully as it contains pungent smell. The applicant also deposed that the Principal of the school of his daughter had told him that the victim had been abused by some boy in the school. However, PW-1 Sheel Kumari, who was the Principal of the school of the victim, did not say so. The post-mortem examination report did not show that there was any forcible administration/ingestion of Celphas tablets to the victim by any person. Therefore, the plea that some Celphas tablets had been administered to the victim had rightly been disbelieved by the trial Court.

8. Further, according to the applicant, the victim had committed suicide as respondent No. 2 had been stalking her and had been harassing her, due to which, she was very much perturbed. At this juncture, it may be mentioned at the cost of repetition that a suicide note had been recovered from the dead body of the victim at the time of conducting post-mortem examination and the said suicide note had also been proved in evidence by the prosecution as Ex. P4. The trial Court had discussed the transcript of this suicide note in paragraph No. 10 of the impugned judgment and on a perusal of the same, it is revealed that the victim had mentioned that she was in love with respondent No. 2 and that she was giving her life for her love and was dying as a winner. The trial Court had observed that from this suicide note, no inference could be drawn that respondent No. 2 had abetted the suicide by the victim. On a careful assessment of the evidence produced on record in the form of the testimonies of the applicant/complainant, who was the most material witness of the case, Principal of the school of the victim as well as

the statement of PW-12 Prem Chand (uncle of the victim), it is clear that the same were not sufficient for the purpose of proving that it was respondent No. 2, who was responsible for suicidal death of the victim. The allegation as levelled against respondent No. 2 was that he had been stalking and harassing the victim and had made her to end her life, thereby abetting her suicide. However, the suicide note proves that the victim was in love with him. Now, it is to be seen that as to whether the evidence produced on record is of such nature, which shows that respondent No. 2 had actually done any such act and conduct, which amounts to abetting suicide by the victim.

9. The well settled proposition of law is that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without any positive action on the part of the accused to instigate or aid in committing suicide, the conviction cannot be sustained. There must be clear *mens rea*, active participation or direct act and intention to provoke, instigate or encourage to do an act by the accused, which is proved to have led the victim to commit suicide. No doubt, the testimony of PW-1 proves that as on day of occurrence, respondent No. 2 had reached the school of the victim and had been caught by PW-1. However, from this fact, it is not proved that there was any instigation on his part to stimulate or incite the suicidal death of the victim. In the suicide note, there is no reference to any act or incident, whereby respondent No. 2 was alleged to have instigated the deceased for committing the act of suicide. Rather, the entire suicide note is full of love on the part of the victim towards respondent No.2. There is also no allegation in the suicide note that respondent No. 2 was, in any way, harassing the victim. It appears that the deceased was hypersensitive to ordinary petulance, discord or difference in

her life and the trial Court had rightly observed so. Respondent No. 2 had gone to her school on that day but that cannot be stated to be an act of instigating the victim to commit suicide. No positive, cogent and convincing evidence had come on record to show that respondent No. 2 had goaded, urged or instigated the victim to commit suicide. The trial Court had rightly given benefit of doubt to respondent No. 2 and committed no error in acquitting him of the charge framed against him under Section 306 of IPC.

10. In view of the discussion as made above, I find no ground to grant leave to the applicant to file appeal against the impugned judgment of acquittal. Accordingly, the present application is dismissed.

08.04.2023
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>