



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

CRA-AS-131-2023 (O&M)

Date of Decision: 15.10.2024

Jagmal

...Appellant

versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Mittal, Advocate for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.(ORAL)

1. The present appeal is preferred against judgment of acquittal dated 02.02.2023 passed by the learned Additional Sessions Judge (Exclusive Court for Heinous Crimes against Women), Yamuna Nagar at Jagadhri in the case stemming from FIR No. 46 dated 03.12.2019 registered under Sections 306 and 506 IPC at Police Station GRP Jagadhri.

2. Briefly, the facts, as alleged by the prosecution, are that the wife of the appellant namely Poonam (deceased) was in the business of selling wood. In the month of September, the deceased and respondent No.2-accused, who was in the same business, had a dispute where the family members of the deceased sustained injuries. The matter was reported to the police and respondent No.2 also filed a case against the appellant and his sons. On 02.12.2019, around 8:00 PM, the deceased and her sister Rohini had gone to collect wood. When Rohini returned, she informed the appellant that they were assaulted and threatened by sons of respondent No.2 namely Sachin and Monu. At about 4:00 AM, the appellant found his wife-the deceased to be missing and started searching for her. Meanwhile, the police received an



information at about 4:30 AM that a dead body was found at the railway lines, which was identified by the appellant as Poonam.

3. Learned counsel for the appellant *inter alia* contends that the learned trial Court has failed to appreciate the statement of PW1-Rohini wherein she has categorically stated that she rescued the deceased from the clutches of accused and brought her back to the appellant. The deceased was instigated by respondent No.2 to commit suicide by threatening her and beating her family members. Furthermore, the prosecution has failed to disclose that medical examination was conducted upon the deceased regarding the alleged beatings given to her by the accused. However, the learned Court below has failed to consider that the prosecution is not obliged to explain the injuries in all cases. If the evidence available is enough for the Court to make out the truth of the matter, unexplained injuries would not in itself be fatal to the case of the prosecution. Lastly, the incident of suicide occurred at about 3:30 AM, which only indicates that the abetment was so potent that caused the deceased to be bothered by it for 7 hours before deciding to take her life.

4. Respondent No.2 was charged with offences under Sections 306 and 506 IPC. The prosecution examined 18 witnesses to prove its case. The statement of respondent No.2 under Section 313 Cr.P.C. was recorded wherein he pleaded innocence and claimed trial but did not lead any evidence in his defence. On assessing all the material available on the record, the learned trial Court acquitted respondent No.2 from the charges framed against him vide impugned judgment dated 02.02.2023.

5. Having heard the learned counsel for the appellant and perused the record of the case with his able assistance, it is evident that the deceased had succumbed to the injuries sustained by her on vital organs in a rail incident. Allegedly, on 02.12.2019, respondent No.2 and his sons gave



beatings to the deceased, which caused her to die by suicide. However, while PW1-Rohini deposed that she rescued the deceased from them and brought her to the appellant, the appellant, who appeared as PW4, claims to have rescued her himself. Neither the complaint nor the deposition of any other witness indicates that the appellant was present at the spot of the alleged scuffle. Moreover, the complaint only mentions that the sons of respondent No.2 stopped the deceased. The name of respondent No.2 himself does not find mention. As such, it is evident that material improvements have been made to the narrative put forward by the prosecution.

6. Admittedly, the son of the appellant was challaned under Sections 107/151 Cr.P.C. on a complaint made by respondent No.2 and his wife. Therefore, the relations between the parties were clearly strained and as such, the probability of false implication cannot be ruled out. Further, no suicide note was recovered in the present case. As such, respondent no.2 cannot be made liable for instigating the deceased to commit suicide merely because the relations between them were not cordial. As far as the alleged scuffle that occurred on 02.12.2019 is concerned, the family of the deceased failed to make any attempt to file a complaint about it. No medical evidence is available on record either to prove the injuries sustained by the deceased in the said scuffle.

7. In order to attract the offence under Section 306 IPC, the instigation requires active participation of the accused and thereby, necessitates direct action attributable to the accused. In the case at hand, there is no proximity between any act of the accused-respondent and suicide of the deceased. A two Judge bench of the Hon'ble Supreme Court in ***Gangula Mohan Reddy vs. State of Andhra Pradesh 2010(1) SCC 750***, speaking through Justice Dalveer Bhandari, held as follows:



"19. This court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), 2009(4) RCR (Criminal) 196 : 2009(5) RAJ 278 : 2009(11) SCALE 24 had an occasion to deal with this aspect of abetment. The court dealt with the dictionary meaning of the word "instigation" and "goading". The court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self esteem and self respect. Therefore, it is impossible to lay down any straight-jacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

20. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

21. The intention of the Legislature and the ratio of the cases decided by this court is clear that in order to convict a person under section 306 Indian Penal Code there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide"

8. Recently, a two Judge bench of the Hon'ble Supreme Court in ***Mohit Singhal and Another vs. State of Uttarakhand and others (2024)1 SCC 417***, speaking through Justice Abhay S. Oka, made the following observations:

"9...Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.

10. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that



purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide.”

9. Finally, the power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. (See: ***H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415***). A Division bench of this Court in the judgment passed in ***State of Haryana vs. Ankit and others passed CRM-A No.3 of 2022 decided on 06.07.2023*** has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

10. In view of the discussion above, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned Court below, which warrants any interference. Accordingly, the present appeal is dismissed, being bereft of any merit.

11. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

15.10.2024
manisha

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