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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-72-MA-2015 (O&M)

Date of Decision:01.04.2024

Smt. Dulari

...Appellant

Vs.

Kali Ram and Others

...Respondents

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr. Pankaj Attri, Advocate for
Dr. Naresh Kaushik, Advocate
for the appellant.

N.S.Shekhawat J.

CRM-1635-2015

1. The applicant/appellant had filed the present application under Section 5 of the Limitation Act for condonation of delay of 56 days in filing the present appeal before this Court.
2. I have heard the learned counsel for the applicant/appellant and perused the record.
3. For the reasons mentioned in the application, the minimal delay of 56 days in filing the present appeal is ordered to be condoned.

Main case

1. The applicant has filed the present application under Section 378 (4) Cr. P.C with a prayer to grant special leave to appeal from the judgment dated 12.09.2014 passed by the Court of Additional Sessions Judge, Karnal, whereby the respondents were ordered to be acquitted of the charge under Section 306 of IPC.

2. The complaint under Section 306/34 of IPC was filed by the applicant/complainant against the respondents by alleging that Madan Lal (since deceased), her husband was working on a boring machine for the last few years with Kali Ram, respondent No.1/owner of the said machine. The respondents/accused are related to each other. The boring work was being carried out in U.P and Haryana on contract basis, where Madan Lal was also working on contract-cum-salary basis with respondent No.1. In the year 2005, all the accused and Madan Lal were boring a tubewell near Haridwar and in that process, one length of pipe got struck up under the ground and the respondent No.1 assessed the total loss of Rs.2.50 lacs. All the accused hatched a conspiracy and blamed Madan Lal for that loss and told him that a loss of Rs.2.50 lacs had occurred due to him and he was liable to pay the loss suffered by respondent No.1. As such an amount of Rs. 2000/- per month would be deducted from the salary of the Madan Lal, which caused mental stress to him. Even a *Panchayat* was convened, however, under the influence of respondents/accused no decision could be taken by the *Panchayat* and respondent No.1 threatened the Madan Lal. Madan Lal was working under great stress and Rs.2000/- per month being deducted from his salary. He remained mentally upset due to the humiliation and pressure of the accused. On 04.12.2006, again the boring work was going on at Village Kairwali and length of pipe again got struck in a pit of borewell and the boring machine had broken down and the accused had blamed Madan Lal and started harassing him. He was mercilessly beaten up by the respondents/accused also. At this stage, Madan Lal made a phone call to his wife, who is the applicant/complainant and narrated the whole story to her. On 04.12.2006, Madan Lal shared everything

with his brother namely Ram Pal.

3. As per the case of the complainant, in the night on 04.12.2006, respondent No.1 came to her house and told her that he had received a message that Madan Lal was ill. On this, Mohinder and Labh Singh, brother of the Madan Lal and respondent No.1 searched for Madan Lal and when they searched near Indri, respondent No.1 informed that he was further told by Sukhbir that Madan Lal had committed suicide by hanging himself. Respondent No.1 also confessed that Madan Lal had died due to the pressure exerted by him. The respondents threatened Mohinder and Labh Singh and not to report the matter to the police. But defying the pressure from the accused, the matter was reported and ultimately one FIR No. 31 dated 02.03.2007 under Section 306/34 of IPC was registered, but the police did not take any action against the accused.

4. Learned counsel for the applicant vehemently argued that the Trial Court had completely overlooked the evidence led by the prosecution in the present case and had only taken into consideration the evidence led by the respondents/accused. He further contends that due to the constant harassment by the respondents, Madan Lal had committed suicide by hanging himself. While referring to the testimony of PW-1 Dulari, learned counsel submitted that all the allegations were duly proved by the complainant in her evidence. Even as per her, the deceased was being confined and he was working under the direct control of the respondents as a bounded labourer. Even the information regarding death of Madan Lal was shared by respondent No.1. Apart from that, the testimony of PW-1, Dulari complainant had been supported by the Rampal son of Jai Singh. Even, from the testimonies of these two

witnesses, it was conclusively proved that the respondents had harassed and humiliated Madan Lal to such an extent that he was left with no other option but to commit suicide. Thus, the ingredients of the offence under Section 306 of IPC were fulfilled and the impugned judgment is legally unsustainable.

5. I have heard learned counsel for the applicant-appellant and perused the record.

6. In the present case, the main contention raised on behalf of the applicant was that the Madan Lal was under the employment of respondent No.1 and during the process of his employment, he was harassed, humiliated and tortured. However, the evidence led by the parties, clearly suggested to the contrary as it is clear from the testimony of Pahal Singh, the owner of the field, where the boring machine was working. It is apparent that the boring machine belonged to Sahab Singh resident of Village Kairwali, District Karnal and Madan Lal (since deceased) was foreman on the said machine. Even on 04.12.2006, the machine had not remained out of order and there was no such incident of malfunctioning of the boring machine and no pipe was struck. Even Madan Lal, Foreman, since deceased did not have any dispute or quarrel with any person. Rather on 03.12.2006, a call was received by Madan Lal (deceased) from his wife (who is the complainant) in his presence regarding dispute of distribution of property and family settlement of the house. On this Madan Lal, asked for money for the settlement from DW-6 Pahal Singh. However, DW-6 Pahal Singh told him that he should complete his work first and then he will make the payment to Sahab Singh Contractor, who will further pay the money to Madan Lal. Thus, it stands established from the evidence that Madan Lal was not working with respondent No.1 and the version of complainant did not

inspire confidence. Still further, the prosecution could not lead any evidence to prove that the respondents had created such an atmosphere and had humiliated and tortured Madan Lal to such an extent that he was left with no other option except to commit suicide. Even the testimony of PW-1 Dulari, complainant has been discussed in detail by the Trial Court and the Trial Court had rightly recorded that the complainant and other witnesses of the prosecution could not disclose the phone number on which the call was received by Madan Lal. Even, she stated that her husband had left suicide note, but no evidence was led by the complainant in this regard on the file. During the course of arguments, also she could not handover any suicide note to the police. Apart from that, the testimony of PW-2 Ram Pal was correctly discarded by the Trial Court. Even the statement of PW-2 Ram Pal remained totally uncorroborated. Still further, the evidence with regard to the holding of *Panchayat* was clearly missing in the present case.

7. Apart from that, I have perused the findings recorded by the Trial Court. In the present case, the Trial Court has correctly recorded that the complainant had failed to establish that the accused were responsible for the suicide of her husband, Madan Lal and had in any manner instigated, provoked or insited him to commit suicide. Even the case was investigated by the police in detail and the defence had examined DW-2 ASI Jatinder Kumar, DW-3 Siri Dutt Inspector, DW-4 Sube Singh Inspector and from the testimonies of these official witnesses, it was clear that no substance was found in the allegations levelled by the present applicant/complainant. Even otherwise, the Trial Court had recorded detailed findings based on correct appreciation of evidence and this Court finds no reason to deviate from the same. In view of the above

discussion, there is no illegality or perversity in the impugned judgment dated 12.09.2014 passed by the Court of Additional Sessions Judge, Karnal and the same is ordered to be upheld.

8. As a consequence, the present application is ordered to be dismissed and prayer for grant of special leave to appeal is ordered to be declined.

01.04.2024

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(N.S.SHEKHAWAT)
JUDGE

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