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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-795-MA-2017 (O&M)
Date of decision: 04.11.2024

Sunil Kumar

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Surender Lamba, Advocate
for the appellant.

Mr. Bhupinder Singh, DAG, Haryana.

Mr. Sudhanshu Makkar, Advocate
for respondent Nos.2 & 4.

Mr. Nandan Kumar, Advocate and
Mr. Anjum Ahmed, Advocate
for respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition challenge is thrown to the verdict of acquittal dated 15.02.2017 whereby respondents No. 2 to 4 were arrayed as accused in FIR No. 251 dated 12.04.2015, under Sections 306/34/506 IPC, registered at Police Station City Sirsa, has been acquitted from the charges framed against them.

2. Mr. Surender Lamba, Advocate, who causes appearance on



behalf of the appellant-complainant, while drawing attention of this Court towards the suicide note, submits that the deceased has committed suicide, as the respondents-accused, did not return the alleged disputed amount to the deceased. He further submits that the deceased was working as a daily wager in the S.P. Office concerned, and was a poor person, therefore, he was unable to take the burden of the amount, which he gave to the respondent-accused after taking the same on interest from elsewhere, and furthermore, the accused persons also extended threats to the deceased in this regard. He also developed his argument to the extent that, by not returning the said amount, which respondents-accused owed to the deceased, were harassing the deceased and they created such a scenario, that the deceased was left with no other option but to end his life by committing suicide, therefore, this would clearly attract the provisions of Section 107 of IPC, and the respondents-accused ought to have been convicted under Section 306 IPC, by the learned trial Court concerned. He finally submitted that the evidence as led by the prosecution has not been appreciated in its right perspective. Therefore, the verdict of acquittal requires interference of this Court.

3. Mr. Sudhanshu Makkar, Advocate, who caused appearance on behalf of accused-respondent Nos.2 & 4, assisted by Mr. Nandan Kumar, Advocate, who caused appearance on behalf of respondent No.3, jointly addressed the arguments. The prime argument, which has been adduced by learned counsel for the respondents-accused is that, even if we consider the contents of the FIR (supra), and the suicide note, as a gospel truth, no



offence whatsoever, under Section 306 IPC, is made out. He further submits that though this Court has the power to reappreciate the entire evidence in the case of appeal, challenging the verdict of acquittal, but there is no perversity in the impugned judgment, which require the interference of this Court.

4. Before this Court embark upon the rival submissions made by learned counsel for the parties concerned, and evaluate the legality of the impugned verdict, it is apt, to first deal with the fact of the present case.

5. In the instant case, the prosecution agency was set into motion upon a telephonic information received from S.P. Office, Control Room, Sirsa, on dated 12.04.2015, to the effect that one Satbir Singh – Water Carrier, has committed suicide by hanging himself. After receipt of the said information, SI Jasbir Singh, along with ASI Naresh Kumar and Constable Jagmender Singh reached at the spot, and called the family members of deceased Satbir Singh. The proceedings under Section 174 Cr.P.C. were carried out. During the period of investigation, the statement of one Om Parkash (complainant), was recorded, and the said statement became the bedrock for the registration of the instant FIR, registered under Section 306/34/506 IPC, qua the accused-respondents. The relevant extract of the statement of Om Parkash (supra) reads as under :-

“he runs a tea canteen at Bus Stand, Sirsa. His nephew Satbir Singh son of Sada Ram, who was doing as a job of a water carrier in Police Department, on D.C.rates, and was posted in tea canteen of S.P.Office, Sirsa. He (Satbir Singh) used to tell him (complainant) that he had given Rs.5,00,000/- to one Tyagi



and Dhanpat, on the assurance that they would get his son in a Govt job nor they returned his money. money back several times but both Tyagi and Dhanpat refused to return the same on one pretext or other On 12.04.2015 in the morning time, he (complainant) received information that Satbir Singh has committed He along with his brother Kamal Singh, committed suicide in S.P.Office. at the spot, they found that Satbir Singh was hanging with a generator pipe fixed under the S.P.Office. When the dead body was got down and they removed a suicide note lying in the pocket of wearing shirt of Satbir in which he had requested that his amount may be got recovered from Tyagi and Dhanpat and prayed for taking legal action against them.”

PROCEEDINGS OF INVESTIGATIONS

6. Initially, the FIR (supra), was registered under Section 306/34 IPC. During investigation, penal provision of Section 506 IPC, was added. The respondent No.2-accused Dhanpat was arrested on dated 20.4.2015, thereafter he suffered a disclosure statement, and got recovered Rs. 1,20,000/-, respondent No.3-accused Rishi Kant Tyagi- was arrested on 24.04.2015, who on the same passion suffered disclosure statement, and got recovered Rs. 2,20,000/-. Moving further, on dated 10.05.2015, a separate complaint was made by one Sunil son of deceased Satbir Singh, and on the basis of the said complaint, Section 120-B of IPC, was also added. Thereafter, statement of all the relevant persons were recorded under Section 161 Cr.P.C., and the final report under Section 173 Cr.P.C. was filed before the learned Illaqa Magistrate concerned, who on finding the instant case to be exclusively triable by the Court of Sessions, committed



the same to the latter concerned.

7. The learned trial Court after making compliance of provisions of Section 207 Cr.P.C., framed charges against the respondents No. 2 to 4-accused persons under Sections 306 and 506, read with Section 120-B IPC.

8. Accused did not plead guilty, and claimed trial, which led the prosecution to examine as many as 16 prosecution witnesses. The accused persons also in their defence examined three witnesses.

9. Learned trial Court concerned, after conclusion of examination of witnesses, by both the parties concerned, through the verdict drawn vide order dated 15.02.2017, acquitted all the accused-respondents No. 2 to 4, from the charges framed against them.

ANALYSIS

10. There is no dispute that this Court can re-appreciate the entire evidence while dealing with an order of acquittal. The High Court has full power to appreciate the entire evidence to reach its own conclusions, and it is also open for the High Court, to re-determine the question of facts and law. For this, we place reliance upon the judgment passed by Hon'ble Supreme Court in *State of Maharashtra vs. Sujay Mangesh Poyarekar, 2008 (9) SCC 475*.

11. Also, Hon'ble Supreme Court in *Chandrappa vs. State of Karnataka, 2007(2) RCR (Crl.) 92* laid down broad principles to be followed while dealing with an appeal against an order of acquittal, which are as under:

“(1) An appellate Court has full power to review, reappreciate and reconsider the evidence upon which the



order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court, based on the evidence before it, may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

12. On the touchstone of the above, this Court has examined the impugned judgment, and also considered the submissions made by the learned Court for the parties concerned, and is of the view that there is no perversity or illegality in the impugned order, requiring this Court to interfere in the same.

13. The basic ingredients of Section 306 IPC are : (i) the abetment;



and (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide.

14. To constitute abetment, intention and involvement of accused, either to aid or to instigate for commission of suicide, is one of the essential ingredient. And the above ingredients are absent, in the present case also, this would entitle the accused persons to be acquitted from the charges as framed under Section 306 IPC.

15. This Court has considered the submissions as made by the learned counsel for the parties concerned, and does not find that the respondents No. 2 to 4-accused, who allegedly taken the money from the deceased and did not return the same, have intention that the deceased should commit suicide. Therefore, the allegations, even if we consider as it is, do not constitute the offence under Sections 107 and 306 IPC.

16. The order of acquittal cannot be interfered with lightly. It is well established law, as laid down by the Hon'ble Supreme Court in **Harijana Thirupala vs. Public Prosecutor, High Court of A.P., (2002) 6 SCC 470**, that upon passing of an order of acquittal, presumption of innocence in favour of accused gets reinforced and strengthened.

17. Upon a cumulative reading and appreciation of the evidence on record, this Court comes to a conclusion that the reasoning given in the learned trial Court's judgment does not suffer from any gross perversity or absurdity of mis-appreciation and non-appreciation of the germane evidence on record. The learned trial Court has taken a holistic view in the matter and analyzed the evidence of all the witnesses in a wholesome and harmonious



manner. It is trite law that order of acquittal should not be disturbed unless there are substantial or compelling circumstances.

18. In view of the above, no further discussion is required regarding the varacity of the allegations or the probative value of the evidence and this Court is of the view that the allegations do not constitute any offence under which the respondents No. 2 to 4-accused were charged.

19. Therefore, this Court does not find any ground to interfere with the order of acquittal. In sequel, the **application for leave to appeal** is hereby, **declined**, it being bereft of merit, and, the **impugned order of acquittal**, rendered by the learned trial Court, is hereby **upheld**.

20. The case property, if any, be dealt with in accordance with law. The record be forthwith sent down.

04.11.2024
Satyawar

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No