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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-AS-108-2020 (O&M)
Reserved on: 20.05.2024
Pronounced on: 28.05.2024

Jagdish Gupta

...Appellant

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jai Bhagwan, 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 20.11.2019 passed by learned Additional Sessions Judge, Faridabad in FIR No.134 dated 10.10.2017 under Section 306 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station GRP, Ambala Cantt.
2. The facts, tersely put are that on 08.10.2017, at about 5:00 pm, an information was received in Police Station GRP, Faridabad, about the presence of a dead body of a female in the railway yard at Faridabad. Consequently, ASI



Sohan Pal along with other police officials reached the spot to take stock of the situation and commence investigation. Inquest proceedings were carried out at the spot and the dead body was transferred to B.K. Hospital, Faridabad for autopsy. The post-mortem examination was conducted in the morning of 09.10.2017 and it was opined by the doctors that the cause of death was shock and haemorrhage due to injuries on the vital organs and multiple fractures, which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. The Medical Board did not rule out the injuries as a result of rail hit.

3. The appellant-complainant, namely, Jagdish identified the dead body and presented a complaint in writing to the police on 10.10.2017, alleging that the dead body seized by the police on railway track on 08.10.2017 was of his daughter, namely, Manju. She was employed with Femina Beauty Parlour for a period of two months on a monthly salary of Rs.1500/-. Respondent No.2-accused was owner of the said parlour. His daughter was not satisfied with her remuneration and ultimately, quit her job on 30.09.2017. The victim then decided to join another parlour. Miffed by this, the accused had beaten up the victim and took her to an unknown destination. The complainant carried out a frantic search for his missing daughter. He visited the Police Station Kotwali the following day to lodge a report regarding his missing child, where he was informed of the dead body. The complainant rushed to the hospital and



discovered that it was indeed his daughter. Furthermore, it is alleged that since the accused was provoked by the victim for having left her job at parlour, she murdered the victim and dumped the body on the railway track.

3. On the aforesaid complaint, FIR was registered under Sections 302, 201 and 365 of IPC against respondent No.2-accused. After completion of the investigation, *challan* under Section 306 of IPC was presented against respondent No.2-accused. Following that, she was charged for the offence punishable under Section 306 of IPC, to which she pleaded not guilty and claimed trial.

4. The prosecution examined as many as 15 witnesses to prove its case. The statement of the accused under Section 313 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') was recorded, wherein respondent No.2-accused pleaded false implication, however, no witness was examined in order to prove her innocence.

5. After taking into account all the material on record, respondent No.2-accused was acquitted by learned trial Court vide judgment dated 20.11.2019.

6. Learned counsel for the appellant assails the judgment of acquittal on the ground that learned trial Court mechanically decided the case without due application of mind and recording any reasoned and concrete observations. The testimonies of PW-2, namely, Amit and PW-4, namely, Pinky elucidate



that the accused slapped the deceased in their presence, levelled allegations of theft and dragged the victim to her parlour. Such an act on the part of the accused is sufficient to hold her guilty of abetment of suicide. There is sufficient circumstantial evidence to link the death to the accused. Moreover, Dr. Sadan Parsad (PW-13) held that the cause of death as per the opinion of the Medical Board was shock and haemorrhage due to poly trauma which means that the deceased was subjected to multiple traumatic injuries and all these injuries were ante-mortem. Hence, it cannot be ruled out that the dead body was thrown in the railway yard after she had been murdered. Furthermore, all the inconsistencies of the testimonies of the witnesses are minor in nature which only goes to show that the witnesses were not tutored and that the evidence adduced is credible. The learned trial Court below completely disregarded the fact that the charge of offence punishable under Section 306 IPC, has been clearly and unimpeachably proved, thus leading to material irregularity and perversity.

7. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that there is nothing in the judgement of learned trial Court to indicate perversity or misreading of evidence in its judgement. In order to hold a person guilt under Section 306 of IPC, there has to be clear *mens rea* to instigate and aid the victim to take such a drastic step before a person can be said to be abetting. There ought to be an



active or direct act leading the deceased to die by suicide. In the instant case, *mens rea* was conspicuously missing. Words were exchanged in the heat of the moment as the accused was confronting the deceased regarding her lost goods. It is during this encounter that the accused also slapped the deceased. However, any act or words uttered in the spur of the moment cannot be equated with the accused possessing the guilty intention to push the victim to die by suicide.

9. Furthermore, the prosecution has failed to show the circumstances, which compelled the victim to take such an extreme step. The evidence on record does not suggest even remotely any act of cruelty, oppression, harassment or inducement so as to provoke or compel the deceased to lose all hope from life. Moreover, the argument on behalf of the appellant that the deceased was first murdered by the accused before being thrown on the railway track, cannot be accepted since the testimony of the Medical Officer reflects that in all likelihood, the deceased was hit by a running train. There is no evidence to suggest abetment of suicide. As such, the prosecution case remains uncorroborated based on the material available on record, affirming the innocence of respondent No.2-accused.

10. 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.

11. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by learned trial Court, which warrants interference by this Court. As such, there is no merit in the present appeal and the same is dismissed.

12. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

28.05.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No