

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-A-230-2019(O&M)

Date of order: 16.04.2024

Balvir Singh

.....Applicant(s)

Vs.

State of Punjab & Others

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rahul Vijay Singh Chugh, Advocate
for the applicant.

Ms. Aakanksha Gupta, AAG Punjab.

Nidhi Gupta, J.

Present application under Section 378(3) read with Section 372 Cr.P.C. is filed seeking grant of leave to file appeal against judgment dated 05.09.2018 passed by learned Additional Sessions Judge, Mansa; whereby respondents No.2 and 3 have been acquitted in case FIR No.83 dated 16.10.2012 registered under Sections 306 and 34 IPC at Police Station Bareta, District Mansa.

2. Learned counsel for the applicant/complainant inter alia submits that on the basis of the statement of the applicant, present FIR No.83 dated 16.10.2012 was registered under Sections 306 and 34 IPC at Police Station Bareta, District Mansa against the accused/respondents No.2 and 3 herein. It is contended that in view of the clear assertions made in the complaint/FIR, the learned trial Court is in manifest error in acquitting

the accused. It is submitted that the learned trial court has failed to take notice of the clear evidence produced by the prosecution and the impugned judgment is passed on assumptions and presumptions. Therefore, the findings of the learned trial Court are wrong and illegal. The learned trial Court has failed to appreciate that the story put forth by the prosecution was totally unassailable as marriage of daughter of the applicant was fixed for 09.03.2012. However, respondents No.2 and 3 had prevented the mother of the applicant from attending the marriage of daughter of the applicant. In this regard, the testimony of all prosecution witnesses is sufficient to prove that respondents No.2 and 3 are guilty of murder rather than abetment of suicide. Even medical evidence is sufficient to prove the guilt of respondents No.2 and 3 as poison was found to be the cause of death. However, these facts have not been taken into consideration by the learned trial Court. It is contended that once the offence stands proven by the testimonies of the applicant/PW1, corroborated by the testimonies of PW 2 and PW4/doctor, the accused could not have been acquitted. It is accordingly, prayed that the impugned judgment be set aside.

3. No other argument is made on behalf of the applicant.

4. I have heard learned counsel for the applicant and perused the case file in detail.

5. Perusal of record of the case shows that the applicant/complainant is the son of the deceased. It is the allegation of the applicant against his sister, her husband and their son that they had aided

and abetted the suicide of mother of the applicant who had died due to consuming some poisonous substance. Brief facts of the case as put forth by the prosecution, and as encapsulated in para two of the judgment, are that on 16.10.2012 ASI Parshotam Singh along with HC Sukhpal Singh, HC Harnam Singh and PHG Buta Singh were present at Bus Stand Mander, where complainant Balvir Singh, son of Pritam Singh, resident of village Bachhoana, Police Station, Sadar Budhlada got recorded his statement to the effect that he is an agriculturist by profession. His sister, Balwinder Kaur/respondent No.3 is married to Mithu Singh alias Darshan Singh/respondent No.2 son of Karnail Singh, resident of village Bhawa for the last about 18 years. His father had expired about 20 years ago. His father had 10 ½ acres of land at village Bachhoana. His uncle Maghar Singh also had 10 ½ acres of land and was unmarried. His uncle had got passed a decree qua the said land in his favour. He had sold 10 ½ acres of land and had spent the money for the treatment of his father and the marriage of his sister, Balwinder Kaur. His mother, Basant Kaur, and he himself inherited the land of his father after his death. In July 2011, his sister Balwinder Kaur had taken his mother along with her at village Bhawa. His sister got the documents executed qua 5 ¼ acres of land of his mother in her name. When the applicant came to know about this fact, he filed a case in order to stop the mutation proceedings in the court of SDM Budhlada, which is still pending. Marriage of the applicant's daughter, Amandeep Kaur, was to be solemnized on 09.03.2012, and he had gone to meet his sister Balwinder Kaur and his mother to invite them to the marriage. His mother, Basant

Kaur, was ready to come and attend the marriage. His sister Balwinder Kaur, his brother-in-law Mithu Singh alias Darshan Singh and his nephew Ranjit Singh, who were standing nearby, got infuriated and stated to Basant Kaur that in case she goes to attend the marriage of her granddaughter Amandeep Kaur, she would face the consequences. The applicant was pushed and asked to leave the home, stating that there is no relationship of the complainant with the family. On 10.03.2012, at about 11.00 A.M, applicant's brother-in-law Mithu Singh alias Darshan Singh telephonically informed that his mother has expired. Thereafter, the applicant along with his relatives and his family reached village Bhawa. Dead body of his mother was lying on a cot in the courtyard of the house. Applicant got suspicious about the death of his mother and he got recorded his statement to ASI Nardev Singh who got the postmortem of the dead body conducted from SDH Budhlada. Parts of the dead body were sent to the office of Chemical Examiner, Kharar and to Sh. Guru Gobind Singh Medical College, Faridkot. The death of Basant Kaur was found to be caused because of poison. His mother, Basant Kaur, had consumed some poisonous material as she was very upset because of the maltreatment given by Balwinder Kaur/respondent No.3, Mithu Singh alias Darshan Singh/respondent No.2 and Ranjit Singh. Basant Kaur wanted to attend the marriage of her granddaughter, Amandeep Kaur, fixed for 9.3.2010, but all the above said three persons had stopped her from attending the marriage. The said three persons were afraid of the fact that the deceased Basant Kaur could get canceled the registered document executed in favour of Balwinder Kaur.

Since his relatives were pressuring him not to pursue the matter as the above said three persons are his close relatives, as such he did not report the matter earlier, but since he could not tolerate the death of his mother, as such now he wants the action to be taken against the respondents.

6. However, the record reveals a case contrary to the assertions made on part of the applicant. As per the evidence on record, it is found that the deceased had gone to the house of her accused daughter as the applicant used to harass her. It has been admitted by the applicant before the learned trial Court that relations of the applicant with his deceased mother were strained, that there was litigation pending between the applicant and his deceased mother, and also that the deceased had filed a complaint against the applicant for fracturing her arms. Even the medical evidence adduced on record by the prosecution failed to prove that the deceased had died due to consumption of poison. Moreover, the learned trial Court, on detailed appraisal of all the pleadings and evidence on record, had given the finding that there was nothing on record to indicate that the relations between the deceased and the accused were not cordial.

7. Relevant findings given by learned Additional Sessions Judge, Mansa are reproduced hereinbelow:-

“28. Perusal of record shows that complainant Balbir Singh while appearing as PW1 has stated in his examination-in-chief that his mother committed suicide due to torture in the hands of Balwinder Kaur, Mithu Singh and Ranjit Singh as they stopped her from attending the marriage of his daughter. In

the cross-examination, this witness has specifically admitted that his wife and children have filed suit against him for restraining him from alienating the land to fulfill the lust of his addiction. This witness has further admitted in his cross-examination that initially the Court had restrained him from alienating the suit property, but thereafter he was allowed to alienate the property to clear all his debts. This witness has further admitted in his cross-examination that a case of Khasra Girdawari was pending between him and his mother. This witness has further admitted in his cross-examination that he was named in the application moved before the police with acquisition that he has fractured both arms of his mother. This witness has further stated in his cross-examination that he has not contacted his mother between 05.03.12 and 09.03.12. This witness has further stated in his cross-examination that only 7 kanals of land remains with him. This witness has admitted in his cross-examination that he has got recorded in his statement before PMJJB that he was having litigation with his mother Basant Kaur regarding land. This witness has further stated in his cross-examination that he told Atma Singh to accompany him on 04.03.12 in the evening. This witness has further stated in his cross-examination that Atma Singh accompany him on 05.03.12 till Budhlada. This witness has further stated in his cross-examination that he stayed at Budhlada for one hour and Atma Singh made him sit at crossing of Budhlada and thereafter he went somewhere, but he cannot tell name of said place. This witness has further admitted in his cross-examination that his mother had filed application against him before SHO P.S. Sadar Budhlada in October 2011 that he has stolen Rs. 90,000/- and gold ornaments from her house. This witness has further stated in his cross-examination that he remained at the house of Balwinder Kaur for 15 minutes. This

witness has further stated in his cross-examination that he did not have any conversation with Atma Singh while he was present in the house of Balwinder Kaur or when he returned back from her house.

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31.From the above evidence, it is clear that the relations of complainant and deceased were strain and the deceased used to reside with the accused persons. It is also clear from the evidence that even the family of complainant was against him due to his bad habits. It is also clear from the evidence that the the deceased has made various complaints to the police against the complainant and even litigation was pending between them. It is also clear that there is no evidence to prove that the relations between accused and deceased were not cordial. Statement of PW2 Atma Singh does not inspires the confidence of this court because there is no corroboration to the said statement. Even, the complainant PW1 Balbir Singh has not stated in his evidence that Atma Singh ever visited the house of accused to meet Basant Kaur. There is no evidence to establish the fact that the relations of Atma Singh witness were cordial with deceased and deceased was having such faith in the witness that she could repose confidence in him, especially when it has come on record that the witness PW2 Atma Singh is facing trial in a Murder Case. When the relations of deceased and complainant were strain, then the visit of complainant or Atma Singh to the house of accused for inviting deceased Basant kaur is improbable. There is no evidence that the complainant has earlier also visited the house of accused to meet his mother Basant Kaur. Even, there is no evidence that during the period of marriage of his daughter, the complainant had contacted his mother Basant Kaur. This court finds force in the contention of Id. Defence counsel that the story has been

concocted by the complainant afterwards due to the reason that the deceased has transferred her share to her daughter i.e. the accused.

32. Even, the medical evidence produced on record is vague and misleading. This fact has been admitted by the doctor examined by the prosecution in this case. PW4 Dr. Upkardeep Singh has specifically stated in his examination-in-chief that cause of death was organophosphorus compound which was sufficient to cause death in ordinary course of nature. This witness has further stated in his cross-examination that organophosphorus keep on storing in human body on the consumption of vegetables, rice etc. This witness further admitted in his cross-examination that half life of organophosphorus compound are 9-10 years and the same can be detected in the human body with a 9-10 years of its consumption. This witness further stated in his cross-examination that he cannot tell the specific organophosphorus compound in this case. This witness further stated in his cross-examination that in the chemical examination report no specific organophosphorus compound has been mentioned, only group was mentioned. This witness further stated in his cross-examination that no test has been conducted in this case in order to know the quantity of poison allegedly consumed by deceased. This witness further admitted in his cross-examination that chemical report is vague regarding quantity of poison. This witness agreed that in the absence of quantitative test the traces of pesticides and insecticide in viscera may mislead the probe."

(Emphasis added)

8. Learned counsel for the applicant is unable to controvert/dispute the above said findings. Nothing whatsoever has been

produced before this Court to cast a shadow of doubt on the above findings.

9. In view of the above, I find no merit in the present application and the same is accordingly, **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

16.04.2024
Sunena

(Nidhi Gupta)
Judge

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