

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S No.3481 of 2023
Date of decision: 28.02.2024

Sunil Kumar ... Appellant

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mukesh Rao, Advocate,
for the appellant.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. This order shall dispose of the instant appeal which has been filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short “SC&ST Act”) by the appellant against the order dated 02.11.2023 as passed by learned Additional Sessions Judge, Rewari whereby an application filed by the appellant for grant of regular bail had been dismissed.
2. Shorn of unnecessary details, facts of the case are that the FIR No.426 was initially registered under Section 305 of IPC. On 11.08.2023, an information regarding the death of one young girl having taken place in suspicious circumstances in her school was received at the police station and it was also reported that the victim was got admitted in a local hospital. The police party reached at the hospital wherein the father of the

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victim recorded his statement that on the same day on receiving a call at about 9:30 AM from a teacher of the school qua critical condition of his daughter, he had rushed to the school. By that time, the victim had been taken to the hospital. On reaching there, he found her condition to be very serious and she had died at around 01:00 PM. The complainant also disclosed that two girls namely, Mahek and Naveen studying in the school of her daughter had told him that the present appellant who was teacher of history subject in the school had called the victim Ravita in the staff room on the same day and had said something to her, due to which, she was seen coming out of the staff room in anguished state and also informed that the victim had thereafter taken her notebook and pen from her bag and went towards the office of the Principal and then had gone back to the class room. He further recorded that Mehak had told him that the appellant followed the victim towards the class room after sometime and then she herself followed the appellant and had seen the victim while hanging with the fan of the class room by making a loop of dupatta in her neck. She had raised alarm on hearing which many students had reached there. He further recorded that Mehak had also told him that the victim had also left a suicide note in her copy and had also told him that the victim wanted to leave History subject which was being taught by the appellant whereas the appellant was exerting pressure upon her to not to do so. While alleging that the suicide by the victim was abetted by the appellant, he prayed for taking action against him. After registration of FIR, investigation proceedings were initiated. Postmortem examination

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of the dead body and inquest proceedings were conducted and the death was proved to have been caused due to ante mortem hanging.

3. During the course of investigation, statements of Prachi, sister of the victim and of Mehak and Jyoti under Section 164 of Cr.P.C. were got recorded. Prachi recorded her statement to the effect that one day prior to her committing suicide, the victim had told her that the appellant was keeping an evil eye upon her, and tried to touch and hug her and was pressurising her to meet her alone in some room. She also stated that this fact had been told by the victim to the Principal also but no action had been taken, rather she was scolded on that account. Jyoti and Mehak who are students of the same school wherein the victim was studying recorded in their statements that on the fateful day, the victim and themselves and other students of Class 11th and 12th, were sitting in the playground of the school on asking of the appellant. The appellant had sent the victim to the staff room for bringing attendance register but also followed her to that room. Both of them stated that sometime thereafter when the victim came out of the room she had a fallen face and she was walking in a very slow pace and was quite perplexed. Their statements further reveal that the victim thereafter went towards the office of the Principal and kept on sitting outside that office for sometime. They stated that thereafter she went to the class room. Sometime thereafter, the appellant also went to that room and then came outside and while showing that the victim was hanging, the witness Mehak stated that though the appellant had seen the victim while hanging but he did not make any effort to save her. On the

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basis of these statements, offence under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) was also added. Since the victim belonged to Scheduled Caste, therefore, offence under Section 3 (2) (v) of the SC&ST Act was also added. The appellant was arrested on 11.08.2023 itself. The Principal of the school namely, co-accused Snehlata was also joined into the investigation and was booked for offences punishable under Sections 202 and 203 of IPC. After completion of necessary investigation and usual formalities, challan was presented for trial of the accused and presently, he is facing trial.

4. The present appeal had been filed by the appellant on the grounds and his counsel has vehemently argued that the allegations as levelled against him in the FIR and the evidence collected during the course of the investigation do not make out any case for commission of offence punishable under Section 305 of IPC, Section 12 of POCSO Act and Section 3 (2) (v) of SC&ST Act as against him. There is no material at all on record to show that he had abetted the suicide by the victim. Merely because of the fact that she had held him responsible in the suicide note alleged to have been written by her shortly before she hanged herself, no conclusion could be drawn that it was he who had abetted the act of suicide by the victim.

5. It is further argued by learned counsel for the appellant that there is no eye-witness who could say that the victim had been sexually harassed by him at any point of time. Learned counsel for the appellant has further argued that the allegations as made in the FIR spell out that in

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no manner, the act of commission of suicide by the deceased was abetted by him and no material exists on record to show so and hence, it is urged that the further detention of the appellant in custody would amount to nothing but an abuse of process of law. He has further argued that even if the suicide note is taken to be correct, still, merely because of the fact that he was named in the said note, would not by itself establish guilt of the appellant until ingredients of the subject offence are made out. In this regard, he has relied upon **Harbhajan Sandhu v. State of Punjab and another**, 2022 (2) R.C.R. (Criminal) 317, wherein it was observed so.

6. It is further argued that he is in custody since 11.08.2023. The manipulations in the suicide note cannot be ruled out. The trial is likely to take time. No case for attracting the provisions of SC&ST Act has been made out against him. With these broad arguments, it is submitted that the appeal deserves to be allowed and the appellant deserves to be given concession of regular bail. To fortify his arguments, he has placed reliance upon authorities cited as **Geo Varghese v. State of Rajasthan and another**, 2021 (4) R.C.R. (Criminal) 361; **V.Sujatha Bai v. The State of Tamil Nadu**, 2022 (1) MLJ (Criminal) 436 and **Smt. Yashodamma C.K. v. The State of Karnataka and others**, Criminal Petition No.2756 of 2021 decided on 28.06.2022.

7. Per contra, learned State counsel has argued that the appeal does not deserve to be allowed as not only specific but grave allegations have been levelled against the appellant and it is apparent on record that the appellant had harassed the victim to such an extent that she was

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compelled to end her life. He has argued that the statement of eye-witness Mehak as recorded under Section 164 of Cr.P.C. reveals that within her sight, the appellant had asked the victim to bring attendance register from the staff room and then he himself went there by following there. She had also noticed the victim to be in an perplexed state of mind when she came out of the staff room and had been walking very slowly. Her statement also showed that the victim had even gone to the office of the Principal but after sitting outside of the office for sometime, she had again gone back to her class room.

8. It is also argued that the statement of Prachi, sister of the victim as recorded under Section 164 of Cr.P.C. also shows that prior to the incident, she had disclosed to her that the appellant was keeping an evil eye upon her, was harassing her and was forcing her to take History as her subject. He has argued that the entire act and conduct of the appellant just before the victim took extreme step of hanging herself, showed that he had played an active role in tarnishing the self esteem of the victim and had done such acts by his words or deeds which annoyed the victim to such an extent that she ended her life. Therefore, he has further argued that the appellant is prima facie proved to have created circumstances to drive the deceased to commit suicide and his act and conduct also proved that he had been sexually harassing the victim. With these broad submissions, he has argued that the appeal is devoid of any merits and deserves dismissal.

9. I have heard learned counsel for both the parties and have gone

through the material placed on record carefully.

10. The appellant has been booked for commission of offence punishable under Section 305 of IPC. The basic ingredients to complete the offence under Section 305 of IPC are as under:-

- (i) the commission of suicide by a person;
- (ii) the person who committed the suicide, was under eighteen years of age;
- (iii) that the accused abetted the commission of such suicide.

11. The abetment is defined under Section 107 of IPC which reads as follows:-

“107. **Abetment of a thing.** -- A person abets the doing of a thing, who --
First. -- Instigates any person to do that thing; or
Secondly. -- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or
Thirdly. -- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.”

12. Undoubtedly, the well settled proposition of law is that in cases of abetment of suicide, the prosecution must show some proof of direct or indirect act of incitement to the commission of suicide by the accused. There must be some material on record to show that some particular action on the part of the accused compelled the victim to commit suicide

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and the act of suicide was proximate to such offending action. It must be shown that the accused played some active role by the act of instigation or by doing certain acts to facilitate the commission of suicide. In **Ude Singh and others v. State of Haryana**, (2019) 17 SCC 301, it was observed by Hon'ble Supreme Court that in cases of abetment of suicide, there must be a proof of direct or indirect acts of incitement to the commission of suicide. It could hardly be disputed that the question of causes of suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court should look for convincing proof of the acts of incitements. Whether a person has abetted in the commission of suicide by another or not, can be gathered from the facts and circumstances of each case.

13. In the above cited case, it was also observed that human mind could be affected and could react in different ways and impact of one's action on the mind of another, might carry to be imponderable. Similar actions are dealt with differently by different persons, as far as a particular person's reaction to any other human's action is concerned, there is no specific yardstick to estimate or assess the same. Even with regard to factors related to a question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set ups and education etc. Even the response to the action of eve-teasing and its impact on a young girl could also vary on a variety of

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reasons, including those of background, self-confidence or upbringing.

14. In the instant case, though there is no direct material on record at this stage to show that the appellant abetted suicide by the victim and had mens rea to do so, however, the statements of the sister and other students of the school wherein the victim studied, as recorded under Section 164 of Cr.P.C. reveal that the appellant infact had been sexually harassing the victim. Even on the fateful day, he firstly sent her to bring register from the staff room and then immediately followed her wherein he remained with her for sometime and did such act which left the victim in a total perplexed state of mind when she had come outside. She did not even respond to the questions put by her friends. Within a short time of incident, she had died by hanging herself in a vacant class room. The acts alleged to have been committed by the appellant were quite proximate to the action taken by the victim of ending her precious life. She belonged to a rustic background and obviously could not muster the courage to even go to the Principal and complain about some act and conduct of the appellant which he might have done with her inside the class room though it has come on record that she kept on sitting outside the office of Principal for a while. Obviously, there is no occasion for this Court to enter into meticulous consideration of the allegations as levelled against the accused but on consideration of the material placed on record, this Court is certainly of the considered view that no case for extending benefit of bail to the appellant has been made out at this stage. The material witnesses are yet to be examined. The authorities which have

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been cited by learned counsel for the appellant cannot be stated to be applicable due to difference in the peculiar facts and circumstances. The allegations against the appellant are serious in nature and keeping in view the gravity of the same, it is held that he does not deserve to be given concession of bail at this stage. Accordingly, finding no merit, the appeal is dismissed.

15. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

28.02.2024
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(MANISHA BATRA)
JUDGE

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