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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-17-2024 (O&M)
Date of Decision: 06.08.2024

KIRTI GILL @ KIRTI APPELLANT

VS

STATE OF PUNJAB RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Pushp Jain, Advocate for the appellant.
Mr. Rajinder Singh Bhatta, DAG, Punjab.
Mr. Mehul Khanna, Advocate for the complainant.

GURBIR SINGH, J. (ORAL)

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1. This appeal has been filed under under Section 14A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Vide order dated 09.10.2023, bail application filed in case bearing FIR No.179 dated 18.08.2023 under Section 306 IPC and Section 3 of Scheduled Caste and Schedule Tribes (Prevention of Atrocities) Act registered at Police Station Navi Baradari, Jalandhar has been dismissed by Special Court, Jalandhar.
3. The aforesaid FIR was registered on the statement of Rahul Gill, elder brother of Ravi Gill (since deceased) that Ravi Gill married about 10-11 years ago and out of said wedlock, two daughters were born. His brother, namely, Ravi Gill had illicit relations with the appellant-Kirti Gill for the last about 5-6 years, who was working as Press Reporter and also used to visit

their house. The appellant instigated his brother (since deceased) to take divorce from his wife. The deceased used to give all the income to the appellant and also got the mortgaged house of appellant freed from financial encumbrances. The appellant asked Ravi Gill (since deceased) to send her brother-Shubham Gill to England but his brother could not meet her demand, so appellant with Shubham Gill, Sajjan Narwal and Rajesh Kapil started harassing his brother, due to which, his brother used to remain upset. His brother told the complainant about the same many times. On 18.08.2023, he received information that his brother had taken some poisonous substance in the Room No. 106 of Hotel City Hub, Jalandhar and he immediately rushed to that place and found his brother lying unconscious there in the room. He was holding one notebook in his hand and told the complainant that he had written the entire things in the notebook. The appellant-Kirti Gill, her brother- Shubham Gill, Gora alias Sajjan Narwal and journalist Rajesh Kapil are responsible for his death. He had taken the poison, the remaining poison was in the box(*dabbi*), which was lying on the bed. He alongwith his cousin took his brother to the hospital. However, during treatment, he died.

4. Learned counsel for the appellant has argued that the appellant was working as Journalist. Her aunt was living in U.K. and she used to help the family of the appellant. Her mother was working as Lab Attendant in the GNDU Campus and she expired on 17.03.2021. The sister of the appellant is practicing advocate and her husband is also an advocate. Earlier, mother of the appellant was paying the installments of the housing loan and after her death, appellant and her brother were paying the loan installments. Neither appellant nor her brother ever harassed the deceased. Neither she received any salary

from the deceased nor the deceased had paid any amount to redeem the house of the appellant. He further submits that neither her brother wanted to go to England nor she ever asked the deceased to send her brother to England. There was no instigation on the part of the appellant to the deceased to commit suicide. Even from the suicide note, it cannot be said that there was any instigation to commit suicide. He further submits that offence under Section 306 IPC would be attracted only if the deceased was instigated to commit suicide immediately before the commission of the same and said person is left with no other alternative but to commit suicide. Reliance has been placed on judgment passed in case titled as ***Gurcharan Singh Vs State of Punjab, 2017(1)SCC (Cri) 439*** by the Hon'ble Supreme Court of India. Provisions of SC/ST Act are not even attracted in this case but has been wrongly mentioned in the FIR. It is further submitted that the appellant is in custody for the last 11 months.

5. Learned State counsel has filed the custody certificate and the same is taken on record. Learned State counsel and counsel for the complainant have argued that appellant is fully responsible to force the deceased to commit suicide. She was raising more & more demands and even demanded that her brother be sent to England whereas deceased could not afford the same so she started extorting money from the deceased with the help of co-accused Shubham Gill, Gora alias Sajan Narwal and journalist Rajesh Kapil that they all started blackmailing the deceased by threatening that they had photographs, videos of the appellant with the deceased and they would leak the same and implicate him in a false criminal case including case of rape. Even a sum of Rs. 10 lacs was paid by the deceased on their demand.

Whatsapp chats of the deceased with the appellant prove that deceased was innocent in nature and appellant is a woman with cunning mind. The appellant was sending videos that she was taking intoxicant substances whereas those were fake in order to harass the deceased. Appellant earlier also came live on facebook and acted to commit suicide. The deceased also made one video for committing suicide, which is part of the challan. Even she used curse words to the deceased and he was badly hurt that the girl whom he had loved so much said those words.

5.1. Learned counsel for the complainant referred to the account statement of the deceased, whereby a sum of Rs. 1.50 lacs has been transferred in the account of Raghubir Singh son of Balwant Singh at the asking of the deceased. Reliance has been placed in case titled as ***Daxaben Vs. State of Gujarat and Others: 2022 AIR (SC) 3530.***

6. I have heard the submissions made by learned counsel for the parties.

7. As per version of the complainant, deceased was having illicit relationship with the appellant for the last 5-6 years. The appellant along with her co-accused was blackmailing the deceased. It is well known that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide. It transpires from the case titled as ***S.S.Chheena Vs. Vijay Kumar Mahajan and Another, (2010) 12 SCC 190.*** In the case in hand, there is allegation that the appellant is responsible but nothing is mentioned whether any immediate act

was committed by the appellant which led the deceased to commit suicide. Each person has his own ideas of self-esteem and self-respect. Moreover, appellant is in custody for the last 11 months and the completion of trial will also take a long time to decide the culpability of the appellant, so no useful purpose would be served by keeping the appellant behind bars for a long period.

8. Thus, without commenting upon the merits of the case, the present appeal is allowed and the appellant is directed to be released on bail, on her furnishing bail bonds/surety bonds, to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, concerned.

9. Pending application, if any, shall also stand disposed of.

06.08.2024
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(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>