



CRM-A-2402-MA-2018

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**115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-A-2402-MA-2018 (O&M)

Date of Decision: 28.01.2026

State of Haryana

..... Applicant

Versus

Mukesh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Tanuj Sharma, AAG, Haryana for the applicant.

Rajesh Bhardwaj, J.**CRM-37780-2018**

Prayer in the present application is for condonation of delay of 118 days in filing the appeal.

For the reasons mentioned in the application, the application is allowed. Delay of 118 days in filing the appeal is condoned.

Main case

1. The applicant-State has filed the application under Section 378(3) Cr.P.C. for grant of leave to file an appeal against the impugned order dated 13.03.2018 passed by learned Sessions Judge, Sonipat, acquitting the accused-respondents of the charges framed against them.

2. Succinctly facts of the case are that FIR No.307, dated 20.11.2013, under Sections 306 read with Section 34 IPC, at Police Station Baroda, Sonipat was registered on the statement of Darshan Singh against the accused-respondents. It was alleged that a telephonic message was received in the Police Station Post Butana that Devender (since deceased) had consumed poison and was admitted in BPS Government Medical College for Women, Khanpur Kalan. It was also informed that during



treatment, he passed away. Thereafter, police reached the hospital and collected the information-memo of the doctor and medico-legal report of Devender Singh. Statements of the relevant witnesses including the complainant, Darshan Singh, real brother of the deceased, were recorded. The complainant stated that his brother, Devender, was married to Monika (Respondent No.2). When his brother along with his wife visited her parental home, they were allegedly assaulted by her family members, due to which he was under depression and ultimately committed suicide by consuming poison. He further stated that his brother Devender also left a note, which can be found at home. On the basis of the statement made, formal FIR was lodged and the investigation commenced. Postmortem of the dead body was conducted and suicide note as well as empty pouch of poisonous tablets were collected from the place of occurrence. During the investigation, complicity of the accused-respondents was surfaced and resultantly, they were arrested. On completion of the investigation, challan was presented and on consideration of the material collected by the Investigating Agency, the respondents-accused were charge-sheeted for the offence under Section 306 read with Section 34 IPC and trial commenced. On the conclusion of the trial, finding nothing incriminating, learned Sessions Judge, Sonipat, acquitted the respondents-accused from the charges framed against them, vide impugned order dated 13.03.2018. Hence, aggrieved by the same, the applicant-State has approached this Court by way of filing the present application for grant of leave to file appeal.

3. It has been vehemently contended by learned State counsel for the applicant that the learned trial Court has miserably failed in appreciating



the evidence on record. He submits that as per the case as set up by the prosecution, a telephonic message regarding the admission of Devender son of Prem Singh in BPS Government Medical College for Women after he had consumed poison, was received, where he subsequently died during treatment. The Investigating Agency collected the medico-legal report, inspected the dead body, and recorded the statement of Darshan, brother of the deceased, on the basis of which the FIR was registered. He submits that the prosecution examined as many as 20 witnesses and led both oral and documentary evidence to establish the complete chain of circumstances. It is submitted that the suicide note recovered during investigation is a vital piece of evidence and the said admitted handwriting of the deceased was duly compared with the suicide note, and as per the finger print expert, the handwriting matched and thus, it was proved that suicide note was written by the deceased and was genuine. He further submits that as per the FSL report, cause of death was due to consumption of poison, which duly proved the suicide committed. It is submitted that learned trial Court failed to appreciate that abetment is not confined merely to a direct overt act of instigation, rather it can also be inferred from continuous harassment and other circumstances created by the accused. He further submits that the contents of the suicide note clearly shows the disturbed mental state of the deceased. It is submitted that the testimonies of prosecution witnesses, including PW-6 Mahipal (cousin of the deceased) and PW-7 Prem (father of the deceased), duly corroborate the prosecution version, however, learned trial Court failed to appreciate the same. It is, thus, submitted that learned trial Court in hyper-technical manner, misread evidence on record, resulting



in grave miscarriage of justice. He, thus, submits that the present application for grant of leave to file appeal be allowed and the accused-respondents be convicted and sentenced for the charges framed against them.

4. I have heard learned State counsel for the applicant and have perused the impugned judgment as well as the record with his able assistance. The scope of interference in an appeal against acquittal is limited. Unless the findings recorded by the learned trial Court are shown to be perverse, wholly unreasonable, or based on misreading or non-appreciation of material evidence, this Court would be slow to grant leave to appeal. If two views are possible on the basis of the evidence on record, the view favouring the accused must ordinarily be preferred.

5. In the present case, learned Sessions Judge, Sonipat, after appreciating the entire oral as well as documentary evidence, has recorded a categorical finding that the prosecution has failed to establish the essential ingredients of the offence under Section 306 read with Section 34 IPC beyond reasonable doubt. In the present case, though the factum of death by consumption of poison stands established, however, the essential ingredients of the offence under Section 306 IPC have not been proved on record. There is no cogent and convincing evidence to establish instigation, intentional aid, or active participation on the part of the accused in driving the deceased to commit suicide. To understand the controversy in hand, statutory provisions of Section 306 IPC and 107 IPC are necessary to be considered, which are reproduced as under:-



“Section 306 IPC- Abetment of suicide.— If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

“Section 107 IPC- Abetment of a thing.—A person abets the doing of a thing, who —

- (1) Instigates any person to do that thing; or
- (2) 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
- (3) 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.

Illustration A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.— Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

6. A further perusal of the impugned order reveals that, so far as the allegation of abetment is concerned, no substantive evidence was brought on record by the prosecution. Not a single prosecution witness deposed that any of the accused had instigated, provoked, compelled, or in



any manner forced the deceased to commit suicide. The entire thrust of the prosecution evidence is upon the plea that a situation was created for the victim that he was left with no other option, but to commit suicide.

7. As per the law settled, the appeal against conviction and that against acquittal rests entirely on different pedestal. As per the criminal jurisprudence, every accused is presumed to be innocent until proven guilty. As per the law settled by Hon'ble Supreme Court, once the accused is acquitted by the Court of law, there lies double presumption of innocence in his favour. Hence, an Appellate Court should not disturb the findings of acquittal arrived at by the trial Court in a cavalier manner and it is only in case of perversity of the findings, the Appellate Court should interfere in the acquittal order passed by the trial Court. In **Jafarudheen and others vs State of Kerala** 2022 SCC Online SC 495, it is held that Appellate Court has to be relatively slow in reversing order of trial Court rendering acquittal, relevant para of the same reads thus:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

8. Hon'ble Supreme Court in catena of judgments has held that



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conviction under Section 306 IPC is not sustainable on mere allegations of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled a person to commit suicide. Merely because the suicide and the writing of the suicide note stand proved, the same by itself is not sufficient to establish abetment unless there is clear and proximate evidence showing instigation or intentional aiding on the part of the accused. Learned trial Court has observed that such a nexus has not been proved beyond reasonable doubt. The appreciation of evidence by learned trial Court cannot be said to suffer from perversity, illegality, or material irregularity. Learned State counsel has not been able to point out any patent perversity or misreading of evidence which would warrant interference by this Court in exercise of its appellate jurisdiction against an order of acquittal.

9. In view of the above, no case for grant of leave to appeal is made out. Consequently, the present application filed by the State under Section 378(3) Cr.P.C. seeking leave to file appeal stands dismissed.

28.01.2026

sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No