
(2012) 07 P&H CK 0184
In the Punjab And Haryana At Chandigarh
Case No : CRM No. A-107 MA of 2012

Ved Parkash

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-07-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(4)
Penal Code, 1860 (IPC) — Section 306, 34

Citation : (2012) 07 P&H CK 0184

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Advocate : Kulbhushan Raheja, for the Appellant;

Final Decision : Dismissed

Judgement

Mehinder Singh Sullar, J.—The contour of the facts, which needs a necessary mention, for the limited purpose of deciding the core controversy, involved in the instant petition, for special leave to appeal and emanating from the record, is that, on 28.8.2010, a dead body was found lying on railway line between Karnal & Bhaini Khurd, which was subsequently identified by complainant-petitioner Ved Parkash (for brevity "the complainant"), to be of his son Karan Singh (deceased). The complainant made his statement before the police to the effect that the marriage of his son was solemnized with Rekha accused 1-1/1/2 years, prior to the present occurrence. She used to maltreat her husband. The complainant claimed that on 27.8.2010, Piare Lal, accused maternal uncle of Rekha accused, came to his house and went away after talking with Rekha. Thereafter, at about 9 PM, Piare Lal accused again came to the house of complainant. On 28.8.2010, he took away Rekha and Karan Singh, on the pretext of some urgent work. The case of the prosecution further proceeds that on that day, one Raju telephonically informed the complainant that Karan Singh has been run over by a train near Uchana Railway Station. Levelling a variety of allegations and narrating the sequence of events, in all, according to the complainant that on 28.8.2010, his

son Karan Singh committed suicide and his wife Rekha & her maternal uncle Piare Lal -accused abetted the commission of offence. In the background of these allegations and in the wake of complaint of the complainant, the instant case was registered against the accused, vide FIR No. 51 dated 29.8.2010, on accusation of having committed the offence punishable u/s 306 read with section 34 IPC by the police of Police Station GRP Karnal.

2. Having completed all the codal formalities, the trial Court acquitted the accused, by virtue of impugned judgment of acquittal dated 15.11.2011..

3. The petitioner-complainant did not feel satisfied and filed the present petition for special leave to appeal against the impugned judgment of acquittal, invoking the provisions of section 378(4) Cr.PC.

4. After hearing the learned counsel for the complainant-petitioner, going through the record with his valuable help and after deep consideration over the entire matter, to my mind, there is no merit in the instant application.

5. Ex facie, the contention of learned counsel that assuming for the sake of argument that there is no evidence of active abetment, but passive abetment is proved on record against the accused, is neither tenable nor the observations of Jaipur Bench of Rajasthan High Court in case Pawan Kumar v. State of Rajasthan 2010(3) RCR (Cri) 518 are at all applicable to the facts of the present case.

6. As is evident from the record, that having analyzed the entire evidence and legal position on record, in the right perspective, the trial Court has recorded the valid reasons in acquitting the accused, by means of impugned judgment of acquittal, the operative part of which is as under (paras 25 & 26):-

25. In the instant case, the dead body of husband was found between Bhaini Khurd and Karnal at 127/27 KM. The dead body was taken to Mortuary where father of the deceased had identified the dead body of his son. Statement of the complainant Ex.P.4 was recorded by the police which has been reiterated by him before the court. Now the prosecution has led evidence accordingly. But from the evidence, as discussed above, it is clear that it was not a case of demand of dowry. Had it been a dowry case, there would have been some harassment to wife Rekha. There was no complaint either by Ved Parkash or by his son either to any Panchayat or to the police or to any villager regarding the harassment of his son Karan Singh by his wife Rekha and maternal uncle Piara. Even there is no evidence to the effect that Karan Singh and deceased were at loggerheads prior to the occurrence and a panchayat was convened to settle the matter. It is not proved as to what was the reason for any dispute between Rekha and Karan Singh deceased, if any. It is proved from the evidence that Rekha had not stayed at her matrimonial home for a longer period. Moreover, it has come in evidence that complainant Ved Parkash had not lodged any complaint either with the panchayat of the village or with the police to the effect that Rekha and her maternal uncle were torturing his son Karan Singh. The death of Karan Singh had not taken place under mysterious circumstances. The complainant and his family

members have stated that the death of Karan Singh had taken place due to the harassment meted out to him by Rekha and her maternal uncle but there is no evidence of harassment to Karan Singh deceased prior to the occurrence. The authority relied upon by learned Public Prosecutor for the State is quite distinguishable on facts of this case. In that case, it was wife who had committed suicide. In that context, Hon''ble Rajasthan High Court held that death of wife had taken place because there was demand of dowry and she was harassed soon before her death and her abandonment was only due to demand of dowry and the same was the reason which compelled the wife to commit suicide. But in the instant case, there is no dispute between husband and wife, there being no evidence or prior dispute between them, there is no suicide note left by husband from which it can be said that the husband had committed suicide because of wife or her relative Piara who had abetted the deceased to commit suicide. There is only evidence of Nirmala, who is Bhabhi of the deceased that Piara had asked her to arrange for wood and cow dung cakes for Karan Singh. Apart from this, there is no evidence against Rekha and Piara. This evidence does not lead to the conclusion that Rekha and Piara had abetted the deceased to commit suicide.

26. If the in-laws of Karan Singh were torturing him, he could have come to his house earlier to 26.8.2010. It is not clear from the evidence that he was detained there or he was beaten up. It is beyond one''s understanding as to why the first baby would be got aborted by accused Rekha in collusion with her mother. There is no evidence to the effect that first babu (sic. baby) was deaf and dumb or was handicapped i.e. why the first babu (sic. baby) was got aborted by Rekha and this type of averments now appearing in the evidence has no bearing in the complaint of the complainant. This court fails to understand that there is no evidence regarding any prior dispute between the parties to the case and Rekha had stayed in her matrimonial home for a few days. Even Rekha was not at her matrimonial home at the time of death of husband Karan Singh. Now it can be said that Rekha and Piara were responsible for causing the death of Karan Singh, deceased. Thus, the prosecution story is based upon conjectures and surmises and the prosecution case fails.

7. Meaning thereby, the trial Court has recorded the cogent grounds in this regard. Such impugned judgment of acquittal, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited jurisdiction u/s 378(4) Cr.PC, unless and until, the same is illegal, perverse and without jurisdiction. Since no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner-complainant, so, the impugned judgment deserves to be and is hereby maintained in the obtaining circumstances of the case.

8. No other point, worth consideration, has either been urged or pressed by the learned counsel for the applicant-appellant. In the light of aforesaid reasons, as there is no merit, therefore, the instant petition for special leave to appeal is hereby dismissed as such.