

(2013) 07 P&H CK 0881

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous A 713 MA of 2012 (O and M)

Hardeep Kaur

APPELLANT

Vs

Manjit Kaur and Another

RESPONDENT

Date of Decision: July 31, 2013

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313, 378, 386
- Penal Code, 1860 (IPC) - Section 107, 306

Hon'ble Judges: Rekha Mittal, J

Bench: Single Bench

Advocate: Rahul Vats, for the Appellant;

Final Decision: Dismissed

Judgement

Rekha Mittal, J.

The present appeal lays challenge to judgment dated 24.05.2012, passed by the Additional Sessions Judge, Sangrur, whereby Manjit Kaur-respondent has been acquitted of the offence u/s 306 IPC, charged against her. Brief facts of this case are that on 10.05.2011, on receipt of a telephonic information that Gurpreet Singh son of Krishan Singh has been admitted in Civil Hospital, Malerkotla on account of having consumed some poisonous medicine, HC Amrik Singh reached the Civil Hospital, Malerkotla and sought opinion of the doctor regarding fitness of the injured. The doctor informed the police that the victim has been referred to Rajinder Hospital. Later, information was received that Gurpreet Singh has died on 11.05.2011, Hardeep Kaur wife of Gurpreet Singh got recorded her statement on the allegations that she was married to Gurpreet Singh on 14.10.2003 and has two daughters out of her wedlock. Six months after her marriage, her mother-in-law started harassing her. She used to pass remarks that "she (complainant) had not brought adequate dowry." Her husband's younger brother Sukhjit Singh alias Gaggu and her father-in-law Krishan Singh had already died before her marriage. Her mother-in-law used to quarrel with her and for that reason, she had gone to her

parental place on several occasions, but was brought back to the matrimonial home after compromise with the intervention of respectables of the village. Her mother-in-law used to harass her husband and says "why he was keeping his wife and he should get rid of her." Gurpreet Singh had lot of love and affection for his daughters. On 10.05.2011, at about 4.00 pm, Gurpreet Singh feeling fed up with his mother, consumed some poisonous medicine and uttered "he being fed up with the behaviour of his mother was ending his life."

2. The complainant along with her brother Ranjit Singh and others from the village shifted the injured to Civil Hospital, Malerkotla, for treatment. He was later referred to Rajinder Hospital and died there.

3. The case was committed to the Court of Sessions as offence u/s 306 IPC is exclusively triable by the said Court.

4. Manjit Kaur was charged for offence u/s 306 IPC, to which, she pleaded not guilty and claimed trial.

5. To prove its case, the prosecution examined Hardeep Kaur (PW1), ASI Satwinder Singh (PW2), Ranjit Singh (PW3), Pargat Singh (PW4), Dr. Lakhwinder Singh (PW5), Dr. Zora Singh (PW6), HC Kuldeep Singh (PW7), HC Amrik Singh (PW8), Dr. Gursharan Singh (PW9) and HC Raj Kumar (PW10).

6. After evidence of the prosecution was closed, statement of the accused was recorded in terms of Section 313 Cr.P.C., wherein, she denied all the incriminating circumstances put to her and pleaded her innocence and false implication. She raised the plea that her son had love and affection for her and the deceased and her (accused's) daughter executed a power of attorney in her favour. There was a dispute between her son and his wife. She examined Mohammad Shakeel (DW1), Visakha Singh(DW2), Saudagar Ali, Registration Clerk (DW3) and Sandeep Kaur (DW4), in her defence evidence.

7. The learned trial Court formulated two issues for determination and the material issue reads as follows:-

1. whether the accused Manjit Kaur abetted Gurpreet Singh to commit suicide, and thereby committed there offence punishable u/s 306 of the Indian Penal Code.

8. On appraisal of evidence, particularly statement of complainant Hardeep Kaur, while examined in the light of the judgments relied upon by counsel for the respondent in State of Punjab Vs. Kamaljit Kaur alias Bholi and Another, and certain other judgments, the learned trial court recorded a finding that the prosecution has miserably failed to prove the ingredients of offence of abetment to suicide. It was further held that evidence on file depicts that the relations between the complainant and her husband were estranged and finally the Court recorded a finding of acquittal in favour of Manjit Kaur-respondent

9. Feeling aggrieved against the judgment of the learned trial Court, the present appeal has been preferred by the complainant (widow of deceased Gurpreet Singh).

10. I have heard counsel for the petitioner and gone through the judgment passed by the trial Court.

11. Before advertiring to the merits of the controversy, it is pertinent to mention at the outset that scope of interference in a judgment of acquittal passed by the trial Court is different from exercise of jurisdiction for intervention in a judgment of conviction recorded by the Court below. In this regard, a reference can usefully be made to a judgment in [Md. Ankoos and Others Vs. The Public Prosecutor, High Court of A.P.](#), In para 12 of the judgment, Hon"ble the Supreme Court has laid down as quoted herein below:-

12. This Court has, time and again, dealt with the scope of exercise of power by the Appellate Court against judgment of acquittal under Sections 378 and 386, Cr.P.C. It has been repeatedly held that if two views are possible, the Appellate Court should not ordinarily interfere with the judgment of acquittal. This Court has laid down that Appellate Court shall not reverse a judgment of acquittal because another view is possible to be taken. It is not necessary to multiply the decisions on the subject and reference to a later decision of this Court in [Ghurey Lal Vs. State of U.P.](#), shall suffice wherein this Court considered a long line of cases and held thus:-

69. The following principles emerge from the cases above:

1. The appellate court may review the evidence in appeals against acquittal under Sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.

2. The accused is presumed innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness" credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that the trial court was wrong.

70. In light of the above, the High Court and other appellate courts should follow the well-settled principles crystallised by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

A number of instances arise in which the appellate court would have "very substantial and compelling reasons" to discard the trial court's decision. "Very

substantial and compelling reasons exist when:

- (i) The trial court's conclusion with regard to the facts is palpably wrong;
- (ii) The trial court's decision was based on an erroneous view of law;
- (iii) The trial court's judgment is likely to result in "grave miscarriage of justice";
- (iv) The entire approach of the trial court in dealing with the evidence was patently illegal;
- (v) The trial court's judgment was manifestly unjust and unreasonable;
- (vi) The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.
- (vii) This list is intended to be illustrative, not exhaustive.

2. The appellate court must always give proper weight and consideration to the findings of the trial court.

3. If two reasonable views can be reached--one that leads to acquittal, the other to conviction--the High Courts/appellate courts must rule in favour of the accused.

12. Counsel for the petitioner has failed to advance any meaningful arguments much less to substantiate his plea that the judgment passed by the learned trial Court suffers from any error much less a serious one as would warrant interference by this Court. There is nothing on record to suggest that the learned trial Court has committed any fault in reading and appreciation of evidence. Even if the version of the complainant is taken as correct on its face value that the deceased was being harassed by his mother, which is otherwise against normal human conduct of a mother, who had already lost her younger son and husband, the allegations do not satisfy the ingredients of section 107 IPC which deals with abetment of a thing. Section 107 IPC 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.

13. As per allegations of the complainant, the mother caused harassment to the deceased which forced him to take extreme step to eliminate himself. In the case of

State of Punjab Vs. Kamljit Kaur alias Bholi and Another, a wife was not held guilty of abetment, despite the fact that a suicide note left behind by her husband stated that he was fed up with his wife who was of bad character and having illicit relation with three persons. It was held that bad conduct of wife was not for the purpose to incite the deceased to commit suicide. Similarly, in Hans Raj v. State of Haryana 2004 (2) RCR 58, it was held that the husband is not guilty of abetment to suicide by his wife merely on the allegations that she committed suicide due to cruelty by her husband. Further held that the Court should find out that cruelty was of such nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman.

14. This apart, in the instant case, it has been proved in defence that the complainant did not have cordial relations with her husband, mother-in-law and other family members and the matter was settled between them by way of compromise.

15. Keeping in view the entire evidence led on record when examined in the light of provisions of section 107 IPC and the judgments relied upon by the trial Court, I am of the considered opinion that no such finding can be recorded that the conclusions drawn by the trial Court, are erroneous much less illegal or perverse as would justify interference by this Court.

In the result, the appeal is dismissed in limine.