



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

CRA-AS-161-2015 (O & M)

Date of decision: 10.01.2025

SURENDER SINGH

...APPELLANT

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Reetesh Kumar, Advocate for the appellant.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rabinder Singh, Advocate for respondent No.3.

HARPREET SINGH BRAR, J. (ORAL)

CRM-36396-2015

This is an application for condonation of delay of 50 days in filing the present appeal.

For the reasons mentioned in the application, same is allowed.

Delay of 50 days in filing the appeal is hereby condoned.

CRM-16137-2017

This is an application filed for grant of special leave to appeal from the judgment/order of acquittal dated 29.05.2015 passed by learned Additional Sessions Judge, Rohtak.

Allowed as prayed for.

MAIN CASE

1. The present appeal is preferred against the judgment of acquittal dated 29.05.2015 passed by learned Additional Sessions Judge, Jhajjar, Rohtak, whereby respondent Nos.2 and 3 have been acquitted.



2. The instant prosecution has been launched at the instance of Surender Singh son of Randhir Singh, who moved application Ex.P1 and also deposed to the effect that his elder brother Suraj Bhan was an employee of Haryana Police. Suraj Bhan had three sons and his eldest son Yogesh aged about 26-1/2 years was working as Conductor in Haryana Roadways Delhi Depot. Yogesh was married with Savita d/o Jagdish (respondent No.2 herein) on 11.11.2009, however, Savita did not sire any child. Yogesh was got separated from his parents two month ago and he was residing on the upper floor of the house. On previous day i.e. on 06.09.2011 at about 9:30 pm, Suraj Bhan telephonically informed him that Pankaj (respondent No.3 herein) the brother-in-law of Yogesh had telephonically abused him and was coming to home to take his sister (Savita). On receipt of that information he went to the house of Yogesh and witnessed Pankaj along with two boys namely Bunty and Lambu accompanying him. They misbehaved with him, his sister in law and Yogesh and also extended threats to kill them. Pankaj had also informed to police, on which, the police had come to their house, but the matter was compromised. Pankaj along with his sister Savita had left their house. Thereafter, on 07.09.2011 at about 10:20 AM, Yogesh had consumed some poisonous tablets and on asking, he told that respondent No.1-Pankaj had telephonically called him and misbehaved with him besides giving threats to kill him. Yogesh was taken to the hospital but could not be saved. Hence, the FIR (supra) was registered.

3. Mr. Rabinder Singh, Advocate has put in appearance on behalf of respondent No.3 and filed his *vakalatnama* which is taken on record. Registry is directed to tag the same at the appropriate place.



4. Having heard the learned counsel for the parties and after perusing the record of the case with her able assistance, it transpires that the genuineness of the suicide has not been proved by PW-14 Dr. Harsh Vardhan, Assistant Director. Further, the main allegations against the accused are they extended threats to kill Yogesh and to implicate him in criminal case, however, this Court is of the view that these acts have no connection with the commission of suicide by Yogesh. Furthermore, there is nothing on record to prove that Savita had taken away 1 lakh rupees in cash and ornaments, while leaving her matrimonial home. There is no evidence on record to show that the aforesaid act falls within the mischief of abetment to Yogesh to commit suicide. As such, only vague allegations are levelled against the accused person and the evidence led by the prosecution do not inspire confidence of this Court.

5. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See *H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023*; *Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana vs. Ankit and others* passed in *CRM-A No.3 of 2022* decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.



6. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present appeal and the same stands dismissed.

7. Pending miscellaneous application(s), if any, also stand(s) disposed of.

January 10, 2025

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**(HARPREET SINGH BRAR)
JUDGE**

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No