

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1614 OF 2019
(ARISING OUT OF SLP(CRL.) NO.4091 OF 2019)

HARISH DAHIYA @ HARISH & ANR.

APPELLANT(S)

VERSUS

THE STATE OF PUNJAB & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

The appellants assail order dated 20.03.2019 passed by the High Court declining to interfere with the order of the Additional Sessions Judge refusing to discharge the appellants in a prosecution case under section 306 read with section 34 of the Indian Penal Code.

Learned counsel for the appellants submits that there is no specific attribution to the appellants in the suicide note. The appellants are the sister-in-law of the deceased and her husband.

Learned counsel for the respondent - State informs that in the trial, the prosecution evidence is over and the defence evidence is virtually at closure. She further submits that there is a reference in the charge-sheet to some compromise petition also signed by the deceased the contents of which are not known at this stage.

Be that as it may, we find that the order dated 26.10.2018 refusing to discharge the appellants suffers

from abdication of jurisdiction. Merely because an earlier application to quash the entire prosecution under section 482 of Cr.P.C. may have been dismissed, the Additional Sessions Judge could not decline to consider the application for discharge on that ground. The grounds for quashing a criminal proceeding and the reasons for allowing or disallowing an application for discharge preferred by the accused are completely different. The grounds falling for consideration in the two jurisdictions are completely different.

Without expressing any opinion on the merits of the matter, we set aside the impugned orders and remand the discharge application to the Additional Sessions Judge, Hoshiarpur for fresh consideration and to pass a reasoned and speaking order to his satisfaction keeping all aspects of the matter in mind, including the submissions made before us on behalf of the respondent - State. The appeal is allowed.

.....J
[NAVIN SINHA]

.....J
[B.R. GAVAI]

NEW DELHI;
OCTOBER 23, 2019.

ITEM NO.12

COURT NO.14
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION II-B

Petition(s) for Special Leave to Appeal (CrI.) No.4091/2019

(Arising out of impugned final judgment and order dated 20-03-2019 in CRR No.9860/2018 passed by the High Court Of Punjab & Haryana At Chandigarh)

HARISH DAHIYA @ HARISH & ANR.

Petitioner(s)

VERSUS

THE STATE OF PUNJAB & ORS.

Respondent(s)

(With IA No. 71706/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 71707/2019 - EXEMPTION FROM FILING O.T. and IA No. 75289/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS /FACTS/ANNEXURES)

Date : 23-10-2019 The matter was called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) **Mr. Rajesh Sharma, Adv.**
 Mrs. Neeraj Singh, Adv.
 Mr. Firoz Saifi, Adv.
 Ms. Sundri, Adv.
 Ms. Shalu Sharma, AOR

For Respondent(s) **Ms. Jaspreet Gogia, AOR**

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(DIPTI KHURANA)
COURT MASTER (NSH)

(Signed Order is placed on the file)