

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No.D-1117-DB of 2014 (O&M)
Date of Decision: 17.03.2015.

Jagir Kaur

.....Appellant.

Versus

State of Punjab and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vijay Rana, Advocate for the appellant.

S.S. SARON, J.

The appellant - Jagir Kaur, who is the complainant in the case is aggrieved against the acquittal of Kamaljit Kumar and Surjit Kaur (respondents No.2 and 3) by the learned Additional Sessions Judge, Tarn Taran vide his judgment and order dated 08.05.2014. Therefore, she has filed the present appeal assailing the said acquittal of respondents No.2 and 3. It is prayed that the impugned judgment and order be set aside and the appeal be allowed by convicting and sentencing respondents No.2 and 3 for the offences for which they were charged.

SI Onkar Singh, SHO, Police Station Tarn Taran (PW7) along with other police officials was present at T-point of village Jodhpur in connection with a check-post that had been set up on 27.12.2012. At that time, Jagir Kaur (complainant) (PW1) wife of late Madan Lal resident of village Waryana, Police Station Maqsudan, Jalandhar made a statement (Ex. PA) before him to the effect that she was resident of the aforesaid village and she did household work. She had four daughters, besides, two sons. Her elder daughter Jaswinder Kaur (deceased in the case) was aged about 21 years. She

had passed her 10+2 examinations. She suddenly fell ill on 30.05.2012 and they took her to Civil Hospital, Jalandhar, where she was admitted. During the night, the complainant was sleeping outside in the veranda of the hospital while her daughter Jaswinder Kaur was inside the ward lying on her bed. In the morning i.e. on 31.05.2012 at about 6.00 a.m., when the complainant woke up, she saw that her daughter was not on her hospital bed. She had been taken away from the hospital during the night by their neighbour Kamaljit Kumar (respondent No.2), who is related to the complainant in the brotherhood as a younger brother of her husband. The complainant in this regard had given information at Police Station Division No.4, Jalandhar also; besides, she on her own also searched for her daughter. While searching for her daughter, the complainant got to know that Kamaljit Kumar (respondent No.2) had taken her daughter to the house of Laddi (PW2) son of Jagir Singh resident of Shahbajpur, Police Station Tarn Taran, as he was known to him. He (respondent No.2) was staying there with Jaswinder Kaur. The daughter (Jaswinder Kaur) of the complainant was ill, however, Kamaljit Kumar (respondent No. 2) did not get her proper medical treatment done. Besides, he had been careless and negligent in getting her medical treatment and on that account she had died. Then without informing the complainant, with the intention to destroy all the evidence, they cremated her dead body at the cremation ground of village Shahbajpur. All this had been done by Kamaljit Kumar (respondent No.2) in connivance with his mother Surjit Kaur (respondent No.3) wife of Piara Lal and brother Lakho. She had got her statement Ex.PA recorded with SI/SHO Onkar Singh (PW7) and she requested for action being taken.

The statement (Ex. PA) of the complainant Jagir Kaur (PW1) was recorded on 27.12.2012 by SI/SHO Onkar Singh (PW7). An endorsement was also made by SI Onkar Singh, SHO, Police Station Sadar Tarn Taran that on that day i.e. 27.12.2012, he (SHO Onkar Singh) and ASI Vipin Kumar, ASI Charan Singh (PW3), HC Surjit Singh and HC Dalwinder Singh in a 'Scorpio' Government Vehicle, which was being driven by Rajinder Singh in connection with setting up a check post were present at 'T' point, Jodhpur when Jagir Kaur, complainant came there and got her above statement (Ex. PA) recorded. The statement, after it was recorded, was read over and explained to her. She after accepting her statement as correct, signed the same in Punjabi, which was attested by SI/SHO Onkar Singh. From the said statement (Ex. PA), offences under Sections 304, 201 and 120-B of the Indian Penal Code ('IPC' - for short) were found to be made out. The statement (Ex.PA), was sent through Head Constable Davinder Singh to the Police Station for registration of a case (FIR). After registration of a case, the number of the same was asked to be intimated. The control room was also asked to be informed. Special reports were asked to be sent to the concerned officers. After giving necessary instructions to Jagir Kaur, she was discharged. The writing was received at the Police Station and FIR was registered by Gurpreet Singh SI vide Rapat No.42/43 and for further investigation, the copy of the FIR was sent to the spot. Special reports were being sent and control room was informed through wireless.

The case was investigated by SI Onkar Singh, SHO, Police Station Sadar Tarn Taran, who visited the place of occurrence at village Shahbajpur. They contacted Laddi (PW2) son of Jagir Singh at that place and his statement was reduced into writing. On the next day i.e. 28.12.2012, rough site plan (Ex.

PW-7/C) of the place of occurrence was prepared. Surjit Kaur @ Gurmit Kaur (respondent No.3) was arrested on 29.12.2012 vide arrest memo (Ex.P1). Intimation of arrest memo (Ex.P2) and personal search memo (Ex.P3) were prepared. ASI Kulbir Singh, the then In-charge Police Post Manochahal arrested Kamaljit Kumar (respondent No.2) in this case on 30.12.2012. ASI Kulbir Singh prepared arrest memo (Ex.PW6/A) and personal search memo (Ex.PW-6/B).

After completing the investigation, the police report ('challan') was filed in the Court of learned Additional Chief Judicial Magistrate, Tarn Taran.

The learned Additional Chief Judicial Magistrate, Tarn Taran, from perusal of the report under Section 173 of the Code of Criminal Procedure ('Cr.P.C' - for short) and documents on record vide her order dated 01.04.2013 found a *prima facie* case punishable under Sections 304, 201/120-B IPC to be made out against the accused. The said offences were exclusively triable by the Court of Session. Accordingly, the case vide order dated 01.04.2013 was committed to the Court of learned Additional Sessions Judge, Tarn Taran.

The learned Additional Sessions Judge, Tarn Taran initially on 24.04.2013 framed charges against Kamaljit Kumar and Surjit Kaur (respondents No. 2 and 3) for the offences punishable under Sections 120-B, 304 and 201 IPC. The case was taken on 31.05.2013, on which date, it was noticed that the charges in the case were not framed properly in the case. The learned Additional Public Prosecutor and learned counsel for the defence did not object to the re-framing of the charges. Besides, no evidence till that time had been led in the case. Accordingly, charges were re-framed on 31.05.2013

against Kamaljit Kumar (respondent No.2) and Surjit Kaur wife of Piara Lal (respondent No.3).

It was alleged that Kamaljit Kumar (respondent No.2), Surjit Kaur (respondent No.3) and Lakhoo (P.O. proceedings pending against him) agreed with each other to do an illegal act, that is, culpable homicide not amounting to murder of Jaswinder Kaur and also to cause certain evidence connected with the said offence to disappear with the intention to screen themselves from legal punishment and the above said accused in furtherance of their criminal conspiracy of each other did commit the above said illegal act and thereby committed an offence punishable under Section 120-B IPC. Besides, on the same date, time and place, the accused Kamaljit Kumar (respondent No.2), Surjit Kaur (respondent No.3) and Lakhoo (P.O.) agreed with each other to do an illegal act of culpable homicide and they committed culpable homicide not amounting to murder of Jaswinder Kaur and thereby committed an offence punishable under Section 304 IPC. Lastly, after 31.05.2012 in the area of Shahbajpur, Police Station Sadar Tarn Taran, Kamaljit Kumar (respondent No.2), Surjit Kaur (respondent No.3) and Lakhoo (P.O.) with criminal conspiracy of each other caused certain evidence connected with the above said offence to disappear with the intention to screen themselves from legal punishment and thereby committed an offence punishable under Section 201 IPC.

The contents of the above charges were explained to the accused Kamaljit Kumar (respondent No.2) and Surjit Kaur (respondent No.3) in simple Punjabi language which they fully understood. They pleaded innocence and claimed trial.

The prosecution in order to prove its case, examined Jagir Kaur – complainant (PW1), Laddi (PW2), ASI Charan Singh (PW3), Rishi Ram, Draftsman (PW4), Sukhrajbir Kaur, Multipurpose Health Worker at Primary Health Centre, Shahbajpur (PW5), HC Mangal Singh (PW6), Inspector Onkar Singh (PW7) and Dr. G.S. Powar, Senior Medical Officer, ESI Hospital, Jalandhar (PW8).

Jagir Kaur - complainant in her deposition as PW-1 reiterated the allegations as made by her in her statement (Ex. PA) on the basis of which FIR (Ex. PW7/B) was registered. She stated that her daughter Jaswinder Kaur was taken to Civil Hospital, Jalandhar on 03.05.2012 (sic. - 30.05.2012) for routine check up as she was feeling weakness due to loss of blood because of menstruate. She was admitted at the Civil Hospital, Jalandhar. Jaswinder Kaur was admitted in the hospital and was in the room of the hospital, while she (complainant) lay outside that room on the floor in the corridor. The complainant at 12.00 midnight saw inside the room and her daughter was lying on her bed. In the morning on 31.05.2012 at 6.00 a.m., she (complainant) went inside the room and saw that her daughter was missing from that room. She knew both the accused Kamaljit Kumar and Surjit Kaur (respondents No.2 and 3) present in the Court. Kamaljit Kumar (respondent No.2) is the cousin brother of her husband, while Surjit Kaur (respondent No.3) is the paternal aunt of her husband. It is alleged that Kamaljit Kumar (respondent No.2) used to harass her daughter and he wanted to marry her. He made a telephone call to her daughter that in case she did not marry him, he would not allow her to get married with anybody else. Thereafter, threats were also given by his friends on the same phone that in case she did not agree for marriage, then Kamaljit

Kumar (respondent No.2) would commit suicide and a false case would be planted upon her and her family members. Kamaljit Kumar (respondent No.2) in fact took away Jaswinder Kaur from the hospital during night hours. They informed the matter at Police Station Division No.4, Jalandhar. Their application was taken by the police officials and they ensured that they would take action as per law. Both the accused i.e. respondents No.2 and 3 in connivance with Lakhoo (P.O.) it was alleged had kidnapped her daughter and taken her to village Shahbajpur, Police Station Sadar Tarn Taran and killed her. They did not inform her regarding the death of her daughter and cremated her without informing them at village Shahbajpur. After killing her daughter, they destroyed her body in connivance with each other. The police recorded her statement (Ex. PA) which was signed by her.

Jagir Kaur - complainant (PW1) was cross-examined in which she stated that Jaswinder Kaur (deceased) was facing problem of weakness due to less blood for the last one and a half year from the registration of the case. They did not spend much amount on her treatment as it was not required. However, her daughter was doing all the routine duties and work during her illness. Her daughter was taking only medicines for recovering from the weakness. These were in the shape of tonic etc. and she was not taking any other medicines. They used to purchase the tonic from the market. It is stated as wrong to suggest that they used to quarrel with their daughter because of the expenses that were incurred for purchasing the medicines. Her (PW1's) daughter was admitted in a ward in Civil Hospital, Jalandhar. Certain other patients were also admitted in that ward at that time. She (PW1) did not remember as to whether she got recorded in her police statement that when she

saw inside the ward at about 12.00 midnight, her daughter was lying on the cot in that ward. She had presented an application at Police Station Muksudan at Jalandhar when Kamaljit Kumar (respondent No.2) was harassing her daughter. She could not tell the number of that application that was presented. It is stated as correct that Puppy was one of her neighbours and that her relations with him (Puppy) were not cordial. It is stated as correct that she got recorded an FIR against that Puppy. It is stated as wrong to suggest that she was demanding money from Puppy for a compromise. It is stated as wrong to suggest that she was having a dispute with Kamaljit Kumar (respondent No.2) and Surjit Kaur (respondent No.3) as they were throwing garbage in front of her house. It is further stated as wrong to suggest that Kamaljit Kumar (respondent No.2) did not have any concern with her daughter and in fact the dispute was that of throwing of that garbage. It is stated as wrong to suggest that in order to get money from the accused, she got the false case registered. It is further stated as wrong to suggest that she got the false case registered as she had a grudge against the accused as they were related to her in distant relationship. It is stated as wrong to suggest that she was deposing falsely.

Laddi (PW-2) stated that earlier he was doing job of cycle repair at Jalandhar. Lakhoo (P.O.), brother of Kamaljit Kumar (respondent No.2), was known to him and he used to come at his shop. He also stayed at his residence a number of times. Lakhoo (P.O.) belongs to village Waryana. Kamaljit Kumar (respondent No. 2) had come at his village Shahbajpur at the time of his marriage. Because of that, Kamaljit Kumar (respondent No. 2) came in contact with him and started getting to know him. Later on, Laddi (PW2) shifted to village Shahbajpur from Jalandhar. It is stated that Kamaljit Kumar

(respondent No.2) and one girl Jassi (Jaswinder Kaur) had come to him on 10.07.2012. Kamaljit Kumar (respondent No.2) disclosed that they had already contracted (sic. - solemnized) marriage by visiting 'Mata Chintapurni' but the marriage was without the consent of the parents of the girl. Kamaljit Kumar (respondent No.2) also informed him (Laddi - PW2) that Jassi was quite ill. They both stayed with him for about ten days. Jassi had remained ill even during those ten days. He (PW2) had suggested to Kamaljit Kumar (respondent No.2) to provide medicines to Jassi as she was quite ill. The medicines which were already available with them were given to Jassi at his residence. He (PW2) had no knowledge as to whether Kamaljit Kumar (respondent No.2) had contacted his family members i.e. his mother Surjit Kaur (respondent No.3) and his brother Lakhoo (P.O.). Kamaljit Kumar (respondent No.2) never informed him (PW2) that he could not purchase medicines for want of money. He had gone to attend his job/duty from his house on 20.07.2012. He (PW2) got a telephone call from Kamaljit Kumar (respondent No.2) that Jassi had died. He (PW-2) immediately went to his house. A number of people from his village had gathered at his residence. Then they all collected money for cremation of the dead body of Jassi. With their help, the dead body of Jassi was cremated on that day. They did not inform the matter to the family members of Jassi. He (PW2) had suggested to Kamaljit Kumar (respondent No.2) to inform the matter to the family members of Jassi, but he did not inform them. Rather he (Kamaljit Kumar - respondent No. 2) said that there was no necessity of it. He had no knowledge that Kamaljit Kumar (respondent No.2) in fact in connivance with his brother Lakhoo (P.O.) and mother Surjit Kaur (respondent No.3) had committed the

crime and killed Jassi. He (PW-2) did not know as to whether Jassi was known as Jaswinder Kaur but he knew that she belonged to Jalandhar and that fact came to his notice later on.

At this stage, the learned Additional Public Prosecutor made a request that the witness was suppressing some truth and he had even resiled to some extent from his previous statement that was made to the Police and therefore, he be declared hostile. The request of the learned Additional Public Prosecutor was allowed and he was allowed to cross-examine Laddi (PW2).

In cross-examination by the learned Additional Public Prosecutor, it is stated as correct that he (PW2) informed Karamjit Kumar (respondent No.2) that Jaswinder Kaur alias Jassi was quite ill and she should be taken to some doctor but the accused Kamaljit Kumar (respondent No.2), did not take her to a doctor. It is stated as wrong to suggest that the accused Kamaljit Kumar (respondent No.2) knowingly did not provide medicines to Jaswinder Kaur alias Jassi so that for want of medicines, she may die. However, it is stated as correct that Kamaljit Kumar (respondent No.2) was negligent in not taking Jaswinder Kaur alias Jassi to a doctor for providing medicines because she died for want of proper medicines, care and caution. At the time of cremation of the dead body of Jaswinder Kaur alias Jassi, the accused Lakhoo (P.O.) and Kamaljit Kumar (respondent No.2) were also present, while Surjit Kaur (respondent No.3) was not present. The dead body of Jaswinder Kaur was cremated with the consent of accused Lakhoo (P.O.) and Kamaljit Kumar (respondent No.2). He (PW2) did not know whether the entire incident was done with the connivance of Surjit Kaur (respondent No.3). He even did not know Surjit Kaur (respondent No.3). He made statement to the police to that

effect that accused Kamaljit Kumar (respondent No.2) and Lakhoo (P.O.) cremated the dead body of Jaswinder Kaur alias Jassi in order to destroy evidence but he did not make any statement regarding the accused Surjit Kaur (respondent No.3) to that effect. The attention of the witness was drawn towards his statement Mark 'A' from portion 'A' to 'A1' where it was so stated. It was stated as wrong to suggest that he knowingly had deposed falsely in order to save the accused having been won over by the accused. In the cross-examination by the accused it is stated as wrong to suggest that he disclosed the name of Kamaljit Kumar (respondent No.2) at the instance of the complainant Jagir Kaur (PW-1). It is stated as wrong to suggest that he never knew Kamaljit Kumar (respondent No.2).

ASI Charan Singh (PW-3) was posted at Police Station Sadar Tarn Taran on 29.12.2012. On that day, he along with HC Sukhwant Kaur and SHO Onkar Singh were present at 'T' point Jodhpur where the Investigating Officer got secret information that Surjeet Kaur @ Gurmeet Kaur, the accused in this case was waiting for a bus at 'T' point Rasoolpur. In pursuance of the secret information, a raid was conducted at that place and Surjeet Kaur @ Gurmeet Kaur (respondent No.3) was arrested. Memos of her arrest (Ex.P1), intimation of arrest (Ex.P2) and personal search (Ex.P3) which led to recovery of Rs.200/- were prepared. Rishi Ram, Draftsman, District Courts, Amritsar (PW-4) visited the cremation ground of village Shahbajpur on 28.11.2013. He prepared the scaled site plan (Ex.PW4/A) as per explanations of Jagir Kaur (PW-1) and as per the order of the police.

Sukhrajbir Kaur, Multipurpose Health Worker at Primary Health Centre, Shahbajpur (PW-5) deposed that the police officials came to their

office in order to get some record about the death of Jaswinder Kaur wife of Kamaljit Kumar (respondent No.2). She had shown them the record available with her and informed that there was no such entry in her record about the death of Jaswinder Kaur. However, her statement was not recorded by the Police on that day.

At this stage, learned Additional Public Prosecutor requested that the witness was suppressing some truth and she be declared hostile. The request was allowed and the Additional Public Prosecutor was allowed to cross-examine the witness (PW-5).

In cross-examination, she (PW-5) stated that it was neither a fact nor recorded before the police that Jaswinder Kaur wife of respondent No.2 - Kamaljit Kumar, resident of Waryana, District Jalandhar died on 20.7.2012 at village Shahbajpur and her cremation also took place at village Shahbajpur and there was an entry about her death in her record which she would produce in Court. The attention of the witness was drawn to portion 'A1' to 'A2' of her statement Mark 'A' where it was so recorded. It was stated as wrongful to suggest that her statement was recorded by the Police on 25.2.2011 (sic. 25.2.2013) in this case. It is stated as wrong to suggest that Jaswinder Kaur wife of respondent No.2 - Kamaljit Kumar died on 20.7.2012 at Shahbajpur. It was stated as wrongful to suggest that she had resiled from her statement to help the accused in the case. There was no cross-examination by the learned defence counsel to Sukhrajbir Kaur (PW-5).

HC Mangal Singh (PW-6) deposed regarding the arrest of accused Kamaljit Kumar (respondent No.2) from the Bus Stand, Wan and also proved the arrest memo (Ex.PW6/A) and personal search memo (Ex.PW6/B). In cross-

examination he stated that no witness from the public was joined at the time of arrest.

Inspector Onkar Singh (PW-7) recorded the statement (Ex.PA) of complainant Jagir Kaur (appellant) on the basis of which FIR (Ex.PW7/B) was registered at the Police Station by SI Gurpreet Singh. He (PW7) conducted the investigations in the case and also arrested the accused. In cross-examination he stated that it was correct that there was a dispute *inter se* the parties regarding stagnation of dirty water in front of the house of the accused and they alleged it was being done by Jagir Kaur (complainant). It is stated as wrong to suggest that because of such dispute, the accused were falsely involved in the case. It is stated as correct that they came to know during investigation that Jaswinder Kaur (deceased) used to remain ill and she used to be got admitted in the Hospital. It is also stated that he did not remember as to whether the death certificate of Jaswinder Kaur was taken in possession by the Police during investigation.

Dr. G.S. Powar (PW-8) was posted at Civil Hospital, Jalandhar. Jaswinder Kaur (deceased) was admitted in the hospital on 30.5.2012 as she was suffering from severe anemia. She was admitted for further investigation and treatment in the form of blood transfusion. On subsequent visit to the ward, the patient (Jaswinder Kaur) was not found on her bed. According to record, she was again missing from the bed on 1.6.2012 without any intimation to the Hospital staff. He had brought the original bed head ticket and file of Jaswinder Kaur. The attested copy of the same (Ex.PW8/A) was tendered in evidence. The medical treatment that was given was under his observation. The patient was declared as LAMA i.e. she left against medical advice.

The witnesses SI Gurdeep Singh, LC Satwant Kaur, HC Gurdev Singh were given up as unnecessary.

The statements of Kamaljit Kumar and Surjit Kaur (respondents No.2 and 3) were recorded in terms of Section 313 Cr.P.C. and the substance of the evidence appearing against them was put to them. In their defence, they stated that they were innocent and had been falsely implicated in the present case. The complainant was having a dispute with the accused as she was throwing garbage in front of the house of the accused and this false and frivolous case had been registered against the accused in order to extract money from them. Moreover, the complainant was a habitual complainant and she had also got other cases registered in the neighbourhood.

The learned Additional Sessions Judge as already noticed has acquitted the respondents No.2 and 3.

According to learned counsel for the appellant, the crime committed by respondents No.2 and 3 and the offences for which they were charged i.e. for the offences under Sections 120-B, 304 and 201 IPC have been duly proved and established by ocular and documentary evidence on the record. It is submitted that the deposition of the appellant/complainant Jagir Kaur while appearing as PW-1 has proved the prosecution case against respondents No.2 and 3. It is inter alia deposed by her that both the accused i.e. respondents No.2 and 3 in connivance with their co-accused Lakhoo (P.O.) had kidnapped her daughter and taken her to village Shahbajpur, Police Station Sadar Tarn Taran and had killed her. They did not inform her (Jagir Kaur) about the death of her daughter (Jaswinder Kaur) and cremated her dead body without informing the appellant at village Shahbajpur. Besides, a bare perusal

of the statement of Laddi (PW-2) shows that Kamaljit Kumar (respondent No.2) along with Jaswinder Kaur (deceased) stayed at his (PW2's) house and Kamaljit Kumar (respondent No.2) and his co-accused were negligent in not taking her to a doctor for providing medicines. She died due for want of proper medicines, care and caution. Therefore, the learned trial Court, according to learned counsel for the appellant, gravely erred in acquitting the respondents No.2 and 3.

We have given our thoughtful considerations to the entire matter and with the assistance of learned counsel for the appellant perused the record of the trial Court that was requisitioned.

The prosecution case as has been noticed above is that appellant – Jagir Kaur (PW1) had taken her daughter Jaswinder Kaur (deceased in the case) for routine check-up to Civil Hospital, Jalandhar on 30.05.2012. The daughter of the appellant was admitted in the hospital. During the night, the appellant had seen her on her bed. However, on the next morning i.e. 31.05.2012, the daughter of the appellant was not on her bed and she was missing from the hospital. According to the complainant/appellant, her daughter - Jaswinder Kaur had been enticed by Kamaljit Kumar (respondent No.2), who was her relation in brotherhood as a younger brother of her husband. Jaswinder Kaur, daughter of the complainant/appellant, was taken to the house of Laddi (PW2) where she stayed with Kamaljit Kumar (respondent No.2). Laddi (PW2) in his deposition stated that Kamaljit Kumar (respondent No.2) and one girl namely Jassi came to him on 10.07.2012 and disclosed that they had solemnized their marriage. Thereafter, Laddi (PW2) further deposed that on 20.07.2012 when he had gone to attend his job, he received a telephone

call from Kamaljit Kumar (respondent No.2) that Jassi (Jaswinder Kaur) had died. Laddi (PW2) immediately went to his house. A number of people from the village had gathered at his house. Then they all collected money for the cremation of the dead body of Jassi. With their help, Jassi was cremated on that day i.e. 20.07.2012.

It may be noticed that Jassi had gone with Kamaljit Kumar (respondent No.2) from the hospital on 31.05.2012 and she stayed with Kamaljit Kumar (respondent No.2) at the house of Laddi (PW2) from 10.07.2012 till 20.07.2012 when she died and was cremated. However, there is no evidence as to where Kamaljit Kumar (respondent No.2) and Jassi had stayed from 31.05.2012 till 10.07.2012 when they had gone to the house of Laddi (PW2). FIR No.334 (Ex.PW7/B) was registered on the statement (Ex. PA) of Jagir Kaur (PW1) on 27.07.2012 at Police Station Tarn Taran for the offences under Sections 304, 201 and 120-B IPC. The FIR, therefore, has been registered in respect of the incident that occurred on 31.05.2012 and in respect of the death of Jaswinder Kaur on 20.07.2012 on 27.07.2012. This leads to the drawing of an inference that Jaswinder Kaur @ Jassi had willingly remained with Kamaljit Kumar (respondent No.2). The learned trial Court has noticed that the prosecution case is based mainly on two material witnesses i.e. Jagir Kaur - complainant (PW1) and Laddi (PW2). Besides, there is no explanation for the delay in lodging the FIR. Although it is well known that prompt lodging of an FIR is not an unmistakable guarantee of its truthfulness and neither is delay always fatal, however, when the death of daughter of Jagir Kaur (PW1) namely Jaswinder Kaur had occurred seven days earlier to the lodging of FIR there has to be some explanation for the delay in lodging the FIR.

The complainant - Jagir Kaur, in her statement (Ex. PA), has stated that while she was looking for her daughter after she had left the hospital in the morning of 31.05.2012, she got to know that Kamaljit Kumar (respondent No.2) had taken her to the house of one of his acquaintances namely Laddi (PW2) at village Shahbajpur. It is alleged that Kamaljit Kumar (respondent No.2) had been negligent in her getting her treatment done. There is no allegation in the initial statement (Ex. PA) of Jagir Kaur (PW1) that Kamaljit Kumar (respondent No.2) had committed the offence of homicide not amounting to murder. It may also be noticed that Jagir Kaur (PW1), in her statement (Ex. PA), has stated that she gave information regarding Jaswinder Kaur being not traceable at Police Station Division No.4, Jalandhar. However, no evidence or material has been produced regarding Jaswinder Kaur being untraceable and information in that regard being given to Police Station Division No.4, Jalandhar. In fact, Dr. G.S. Panwar (PW8) stated that Jaswinder Kaur on 31.05.2012 was not found on her bed; besides, she was missing from her bed on 01.06.2012 without intimation to the hospital staff. It is stated that the patient was declared LAMA (Left Against Medical Advice).

The learned trial Court found that the complainant - Jagir Kaur (PW1) during trial improved her case by stating that Kamaljit Kumar (respondent No.2) used to harass her daughter and he wanted her to marry him. It is also deposed by her i.e. PW1 that Kamaljit Kumar (respondent No.2) called her daughter on telephone and held out threats that if she did not marry him, he would not allow her to marry somebody else. He also held out threats that in case she (PW1) did not grant permission for the marriage, he (Kamaljit Kumar) would commit suicide and a false case would be planted on Jagir Kaur (PW1)

and her family members. These aspects are not there in the initial statement (Ex.PA) of Jagir Kaur (PW1).

It may also be noticed that Laddi (PW2) partly supported the prosecution case and he stated that Kamaljit Kumar (respondent No.2) and a girl namely Jassi had come to their house on 10.07.2012. He (PW2) had suggested to Kamaljit Kumar (respondent No.2) to provide medicines to Jassi as she was unwell. Apart from that, Laddi (PW2) stated that the medicines already available with them were given to Jassi at his residence. In cross-examination, Laddi (PW2) stated that it was wrong to suggest that Kamaljit Kumar (respondent No.2) knowingly did not provide medicines to Jaswinder Kaur @ Jassi so that she may die for want of medicines. The learned trial Court noticed that the witness Laddi (PW2) also stated that when he was informed by Kamaljit Kumar (respondent No.2) regarding the death of Jassi, he came back to his house. A number of people had gathered there. Then they all collected money for the cremation of the dead body of Jassi. With their help, the death body was cremated. The learned trial Court held that there was no intention on the part of any of the accused to cause the death of Jaswinder Kaur for want of medicines.

The ailment with which Jaswinder Kaur was suffering with has not come on record. According to Jagir Kaur (PW1), Jaswinder Kaur was having weakness due to less blood. However, the nature of the particular disease which Jaswinder Kaur may be suffering from has not been brought on record. Jagir Kaur (PW1) has simply stated that her daughter was taking tonics etc. and there is no mention of any disease. Nothing has come on record as to the actual cause of death.

In the facts and circumstances, the learned trial Court having taken a possible view, would not warrant interference by this Court merely because another view may be possible.

Therefore, there is no ground to interfere with the judgment and order passed by the learned trial Court. Accordingly, the appeal of Jagir Kaur - complainant/appellant against the acquittal of respondents No.2 and 3 being devoid of any merit, is dismissed.

(S.S. SARON)
JUDGE

(SURINDER GUPTA)
JUDGE

17.03.2015
A.Kaundal