

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

Date of decision: 13.08.2015

CRA-D-252-DB-2015

Ginder Ram

..Appellant

Vs.

State of Punjab and another

..Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Mr. J.S.Pannu, Advocate, for the appellant.

HEMANT GUPTA, J. (ORAL)

The present appeal is directed against the order dated 29.09.2014 passed by Additional Sessions Judge, Patiala, whereby the accused namely Gurmeet Ram has been acquitted of the charges leveled against him for the offences under Sections 364,302 and 201 IPC.

The appellant is the uncle of Pammi Devi, who went missing on intervening night of 2/3-09-2013. As per prosecution, it is the accused, her husband who has committed murder of his wife Pammi Devi.

To prove its case, the prosecution has examined complainant Ginder Ram, the present appellant, as PW-1; Daryodan Singh as PW-2; Joginder Singh as PW-3; Dauli Ram as PW-4; Nikki Devi as PW-5; SI Satnam Singh as PW-6 and ASI Labh Singh as PW-7.

After considering the evidence on record, the learned trial Court found that all the prosecution witnesses have turned hostile. It has also been found that there is no evidence of death of Pammi Devi i.e. suicidal or homicidal and that the prosecution has not established the recovery of dead body, which is strong obligation of the prosecution. Consequently, while granting benefit of doubt to the accused, the learned trial Court acquitted him of the charges leveled against him, as mentioned above.

The present appeal has been preferred by Ginder Ram, uncle of the victim. In terms of Section 2 (wa) of the Code of Criminal Procedure, 1973, he is not a victim, entitled to file an appeal. Admittedly, the mother of Pammi Devi is alive, but stated to be in depression. The appellant is not the guardian of mother of Pammi Devi, which may entitle him to file the present appeal.

Even otherwise, we have examined the judgment of the trial Court and find no perversity or illegality in the impugned judgment. The prosecution witnesses have turned hostile and there is no evidence against the accused that he caused murder of his wife. The suspicion of strong presumption cannot take place the proof of death and of an offence by the accused. In the absence of recovery of dead body and even in the absence of any other circumstances that Pammi Devi has died, the learned trial Court has rightly found that the prosecution has failed to prove the death of Pammi Devi and that accused has caused crime.

In view of the above, we find that the view taken by the learned trial Court does not suffer from any illegality or irregularity or perverse. The findings recorded by the learned trial Court are based upon correct

appreciation of evidence and it could not be said that any evidence is misread or not taken into consideration. Therefore, in appeal against acquittal, we do not find any reason to take a different view than what has been taken by the learned trial Court.

Dismissed.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

13.08.2015
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