

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-438-DB of 2015

Date of Decision : September 24, 2015

Gurdial Kaur and another

.....Appellants

VERSUS

Gurtej Singh @ Goshi and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE T.P.S. MANN
HON'BLE MR.JUSTICE GURMIT RAM

Present : Mr. G.S. Sidhu, Advocate.

T.P.S. MANN, J.

Appellants-Gurdial Kaur and Rajinder Pal Kaur, who are mother and wife, respectively, of deceased Pal Singh @ Pali and, thus, 'victims' as defined under Section 2(wa) of the Code of Criminal Procedure have filed the present appeal for challenging the judgment dated September 25, 2014 passed by learned Sessions Judge, Barnala to the extent of acquitting respondent No.2-Jagsir Singh @ Joga of the charges against him. They have also prayed for enhancing the sentences of life imprisonment imposed upon respondent No.1-Gurtej Singh @ Goshi and respondent No.3-Amandeep Singh to death sentence.

Briefly put, the case of the prosecution is that on 22.3.2011, Shingara Singh son of Jit Singh suffered statement before Inspector Harmeeek Singh in front of the emergency ward of the Civil Hospital, Barnala that his cousin Pal Singh @ Pali, since deceased, was doing the business of commission agent. There was some dispute regarding

money transaction between his cousin and accused Gurtej Singh @ Goshi. In that regard, the deceased had moved an application against Gurtej Singh @ Goshi. The Superintendent of Police (D), Barnala had called the parties to enquire into the matter. Complainant Shingara Singh alongwith his brother Major Singh and deceased Pal Singh @ Pali on the one hand and accused Gurtej Singh @ Goshi as well as accused Amandeep Singh on the other, appeared before the Superintendent of Police and sought time for production of the documents. At that time, Jagsir Singh @ Joga, father of accused Gurtej Singh @ Goshi was standing in front of the office. After Gurtej Singh @ Goshi and his party-men left for their house, complainant Shingara Singh, alongwith Major Singh and deceased Pal Singh @ Palli went to the house of Rajesh Kumar, who was partner of Pal Singh @ Pali in the business of commission agent. After taking the documents from Rajesh Kumar, complainant Shingara Singh, his brother Major Singh and cousin Pal Singh @ Pali started on the return journey and when they were at some distance from Employment Office, accused Jagsir Singh @ Joga raised a lalkara not to spare Pal Singh @ Pali and to teach him a lesson for demanding money. Gurtej Singh @ Goshi fired a shot from his mouser, while Amandeep Singh fired shot from his .12 bore gun at Pal Singh @ Pali with an intention to kill him. The shots hit Pal Singh @ Pali and on account of same, he fell down. Both Gurtej Singh @ Goshi and Amandeep Singh fired more shots at Pal Singh @ Pali. On seeing the people gathering at the spot, the accused ran away with their respective weapons. Complainant Shingara Singh and his brother Major Singh tried

to look after Pal Singh @ Pali, who was gasping for breath. In the meantime, Rajesh Kumar also came there and after arranging a vehicle, shifted Pal Singh @ Pali to Civil Hospital, Barnala, where he was declared as having been brought dead.

Having heard learned counsel for the appellant and on going through the judgment under challenge, this Court finds that accused Jagsir Singh @ Joga was shown to be empty handed and not carrying any weapon at the time of the occurrence. No overt act had been attributed to him regarding the actual occurrence. The only one allegation against him was of exhorting his co-accused not to spare the deceased and to teach him a lesson for demanding money. He was aged about 70 years at the time of the occurrence. An enquiry was also conducted by the Superintendent of Police wherein he was found to be innocent. Moreover, neither PW3 Shingara Singh nor PW11 Major Singh had disclosed as to what was the conveyance used by accused Jagsir Singh @ Joga for coming to the spot and to escape therefrom after the occurrence. For these reasons, the prosecution case was highly improbable that accused Jagsir Singh @ Joga had shared the common intention of his co-accused Gurtej Singh @ Goshi and Amandeep Singh to commit the murder of Pal Singh @ Pali. Under these circumstances, no case is made out for any interference in the impugned judgment to the extent of acquitting accused Jagsir Singh @ Joga of the charges against him.

As regards the prayer made by the appellants for

enhancement of the sentences of imprisonment imposed upon convicts Gurtej Singh @ Goshi and Amandeep Singh, it may be noticed that the proviso to Section 372 Cr.P.C. does not confer any right upon the victim to file an appeal in order to seek enhancement of the sentences of imprisonment of the convicts. Only right given to the victim is to either challenge the acquittal of the accused or conviction of the accused for a lesser offence or for enhancement of the amount of compensation. On the other hand, right to file an appeal for enhancement of sentence of imprisonment is only given to the State under Section 377 Cr.P.C. Under these circumstances, the appellants cannot be heard in the present appeal that the sentences of life imprisonment imposed upon convicts Gurtej Singh @ Goshi and Amandeep Singh be enhanced to death sentence.

Resultantly, there is no merit in the appeal and the same is, therefore, dismissed.

However, the appellants shall be at liberty to avail of any other remedy under the law, if so advised, for seeking the enhancement of the sentences of life imprisonment imposed upon the two convicts.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

September 24, 2015
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