

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

Criminal Appeal No.D-382-DB of 2014

Date of Decision : August 12, 2015

Gurdev Singh

.....Appellant

Versus

State of Punjab and others

...Respondents

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

Present : Mr.P.S. Ahluwalia, Advocate
for the appellant.

Mr.A.S. Jattana, Additional Advocate General, Punjab
for respondent No.1-State.

Mr.H.S. Gill, Senior Advocate with
Mr.Nitin Rampal, Advocate
for respondents No.2 to 5.

T.P.S. MANN, J.

The appellant, whose father Kapoor Singh was done to death by respondents No.2 to 5 and, thus, a 'victim' as defined under Section 2 (wa) of the Code of Criminal Procedure, has filed the present appeal for challenging the judgment dated 11.11.2013 passed by the Sessions Judge, Jalandhar whereby respondents No.2 to 5 stand acquitted of the charges under Section 120-B IPC and Section 302 read with Section 120-B IPC.

It was the appellant, who had set the machinery of law into motion by making statement before Inspector Gurmit Singh, Station House Officer, Police Station Lohian to the effect that on 23.1.2012 at about 7.30 a.m. when he went to the Kotha of electric motor at his cattle

shed in the fields for serving tea to his father, he found his dead body lying near the water tank and blood was splattered all around. There were injuries on the head, face and nose on the dead body of his father, which were apparently inflicted with a sharp edged weapon. The appellant expressed suspicion against Sukhdev Singh-respondent of having a hand in the murder of his father with the help of some other persons as there was land dispute with said Sukhdev Singh.

Having heard learned counsel for the parties and on going through the impugned judgment and the trial Court record, this Court finds that the case is based upon circumstantial evidence. In order to establish that the deceased was last seen in the company of accused Sandeep Singh alias Don, Vipin and Pargat alias Paggi, the prosecution examined PW6 Surjit Singh son of Karnail Singh. Said Surjit Singh belonged to village Khosa, whereas the aforementioned three accused were residents of different villages. There is no material on the record that Surjit Singh son of Karnail Singh had any prior acquaintance with those three accused. It was about 7.00 p.m. on 22.1.2012 when Surjit Singh son of Karnail Singh was said to have seen the three accused with the deceased. It being almost the coldest day of the year and sun had already set, no light could be there in which Surjit Singh could have identified those accused. The prosecution tried to establish that Surjit Singh had seen the three accused in the moon-light, however, the fact was that it was a moonless night, it being just one night prior to Amavas. Under these circumstances, it was well nigh impossible for PW6 Surjit

Singh son of Karnail Singh to have seen the three accused with the deceased.

According to the prosecution, accused Sukhdev Singh met PW13 Surjit Singh son of Sadhu Singh and made extra-judicial confession. However, it was highly improbable for accused Sukhdev Singh, who is resident of village Khosa, to go all the way to village Ramewal, the village of PW13 Surjit Singh son of Sadhu Singh. Said Surjit Singh son of Sadhu Singh admitted that he was neither Member Panchayat nor Lambardar nor even Sarpanch of his village and accused Sukhdev Singh had no relationship with him, whatsoever.

As regards the motive for Sukhdev Singh accused to have committed the murder of Kapoor Singh by taking the help of others, the prosecution examined PW5 Gurdev Singh and PW7 Jarnail Singh. PW5 Gurdev Singh is none-else than the present appellant and the son of the deceased. Though PW7 Jarnail Singh testified that a Panchayat was held to resolve the dispute between the parties and at that meeting, the accused had issued threats to the appellant, however, neither any Member of the Panchayat has been examined nor any resolution of the Panchayat to that effect brought on record by the prosecution. PW7 Jarnail Singh could not tell the dates and months when he visited the Panchayat of village Khosa, more so, when he himself was an outsider.

Another incriminating circumstance brought on record by the prosecution is the recoveries of blood stained datars at the instance of accused Sandeep Singh alias Don, Vipan and Pargat alias Paggi

pursuant to their disclosures statements, besides the motorcycle from accused Sandeep Singh alias Don. PW14 Inspector Gurmit Singh admitted that when he prepared recovery memos. of the datars he did not record therein that the datars were stained with blood. Even no independent witness was joined at the time of suffering of disclosure statements or at the time of recovery of the datars, despite the fact that the recoveries were effected from the abadi of the village.

Another material brought on the record by the prosecution to connect the accused with the crime is the call details of the cell phones, which calls were said to have been exchanged between accused Sukhdev Singh on the one hand and accused Sandeep Singh alias Don, Vipin and Pargat alias Paggi on the other. However, neither PW15 S.P. Jain nor PW16 Damandeep Singh produced any material to prove the tower locations.

In view of the above, no fault can be found with the impugned judgment of acquittal passed by the trial Court.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

August 12, 2015
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