

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

**Criminal Appeal D-790-DB of 2015
Date of Decision: November 5, 2015**

Randhir @ Dheera

.....Appellant

Versus

State of Haryana and others

..... Respondent

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

Present : Mr. Vikram Singh, Advocate
for the appellant.

T.P.S.MANN, J

The appellant, who is father of deceased-Karan has filed the present appeal for challenging the acquittal of accused/respondents No. 2 and 3 of the charges under Sections 302, 201 and 34 IPC as recorded by learned Additional Sessions Judge, Kaithal, vide judgment dated 30.4.2015.

According to the prosecution, on 13.8.2013, the appellant made statement before ASI Bilasa Ram that he was a labourer by profession and his eldest son, namely, Karan, who was 15/16 years' old and a student of 8th class had left his house on 12.8.2013 at about 11.00 p.m. after taking dinner. The appellant and other members of his family thought that Karan would go to sleep after returning home and, accordingly, did not search for him. In the morning, the appellant went to Pundri for getting the gas cylinder refilled, where he learnt that the dead body of his son was lying near the paddy field of Ramdhan. The appellant reached the spot and identified the dead body of his son. However, he and his family members did not suspect the involvement of anyone in the death of their son. The appellant prayed for subjecting the dead body to postmortem and taking

appropriate action. Accordingly, proceedings under Section 174 Cr.P.C. were conducted and dead body was subjected to postmortem. However, the cause of death was to be given after receipt of the report of Chemical Examiner. During investigation, the Investigating Officer initially arrested Karanjit, Jitender, Sharvan, Lovekush and Kirsra but they were found to be innocent. Later on, Pala Ram made statement on 29.7.2014 that he had last seen respondents no. 2 and 3 with the deceased. On 7.8.2014, statement of Gyana Ram was also recorded before whom respondents No. 2 and 3 allegedly made extra judicial confession and, accordingly, the two accused were arrested.

Having heard learned counsel for the appellant and on going through the impugned judgment of acquittal passed by the trial Court, this Court finds that Gyana Ram, before whom the two accused were said to have made extra judicial confession was examined by the prosecution as PW1. During his examination-in-chief, he supported the prosecution version. However, in his cross-examination, he testified that he went to the police station and the police obtained his thumb impressions on written papers. The police did not read out the contents of those papers nor explained to him as to what was written on them. He could not say as to what was recorded by the police in those papers and against whom. He deposed that he was called as a Panchayati. He categorically deposed that the two accused never met him in the village or at his house nor he had taken them to the police nor also they had confessed their guilt before him on or before 7.8.2014.

PW8 Pala Ram, the witness regarding last seen has been found by the trial Court to be a planted witness as the incident had taken place on 12.8.2013 while his statement was

recorded by the police almost a year later i.e., on 29.7.2014. Further, PW8 Pala Ram also did not disclose the fact of last seen to any person till 29.7.2014.

PW12 Rajesh testified about the two accused suffering disclosure statements and pursuant to the same leading the police party to the place of occurrence and getting the same demarcated. However, the place of occurrence already stood identified and, therefore, it cannot be said that PW12 Rajesh has been able to prop up the case of the prosecution in any manner.

In the statement Ex.PM made by the appellant before ASI Bilasa Ram, it was nowhere stated that he had any doubt or suspicion against any person in regard to the death of his son. Further, according to the prosecution, the accused had killed the deceased by strangulating him but in the postmortem report, no mark of strangulation has been mentioned. PW9 Dr. Ravinder Singh testified that he had noticed the following injuries on the dead body:-

1. No external injury mark was present on skull. On deeper dissection on opening skull bone, brain, membranes found tense. After opening the duramater, it contained about 600 cc of dark fluid and clotted blood. On removing the brain matter, at the base of skull petrous part of temporal bone on left side was found fractured. Clotted blood was present at fracture site.
2. Bilateral lungs were congested on cut section frothy fluid was present. Stomach contained 60 cc of fluid material and was congested.
3. Liver, spleen and bilateral kidneys were congested.

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-:4:-

Thus, the medical evidence contradicted the prosecution case regarding cause of death.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The appeal is without any merit and, accordingly, dismissed.

**(T.P.S. MANN)
JUDGE**

**November 6, 2015
amit rana**

**(GURMIT RAM)
JUDGE**