

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

CRM-A-1436-MA of 2015(O&M)

Date of decision:29.9.2015

State of Haryana

....Appellant

VERSUS

Aarif and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. S.S. Pannu, Senior DAG, Haryana for the appellant.

HEMANT GUPTA, J.(Oral)

The State is in appeal against the order of acquittal recorded by learned Additional Sessions Judge, Mewat on 27.03.2015 whereby the respondents-accused were acquitted of the charge of causing death of Abrar son of Guljar on 06.12.2006 at about 9 PM.

The prosecution was lodged against the accused on the basis of the disclosure statement Ex-PW11/C on 19.02.2012 of Aarif, during custody consequent to his arrest, made in pursuance of statement made to Delhi Police on 05.02.2012, that the dead body of Abrar was thrown in a village Well at village Salamba and the head in another Well.

The headless body was recovered on 07.06.2006 after the digging of Well with the help of JCB machines, whereas, the head was recovered from another Well on 20.02.2012. Accused Sabbar surrendered before the Chief Judicial Magistrate, Nuh on 27.04.2012. During

investigations, blood samples of parents of the deceased were taken as deposited by SI Satpal–PW11. Thereafter on completion of the investigations, the prosecution was lodged against the accused. In evidence, the prosecution produced DNA report (Ex.PX) from the Forensic Science Laboratory, Madhuban pertaining to Mandible and DNA report (Ex.PY) from the Centre for DNA Fingerprinting and Diagnostics, Hyderabad. The report Ex-PX is that Mandible is not biologically related to DNA profile of Gulzar (father) or Noorjahan (mother). Another DNA report Ex-PY is of clavicle of the deceased. The report is it did not yield any DNA suitable for analysis. The Court thus found that profile of the parents of Abrar did not match with DNA of dead body.

Learned counsel for the appellant has vehemently argued that since the accused have demarcated the place of throwing the dead body in the well and the severed head in the other well, therefore, even in the absence of matching of DNA profile, the accused are proved to have committed offence of causing death of Abrar.

We do not find any merit in the said argument. The dead body was recovered on 07.12.2006. The accused were arrested almost 6 years later when a disclosure statement Ex.PW11/C was recorded on 19.02.2012. There was no fact discovered in pursuance of the statement of the accused which alone would be admissible in evidence in terms of Section 27 of the Indian Evidence Act, 1872. The head was recovered from the Well, but it did not yield any result. The DNA profile of dead body did not match with the DNA profile of parents of Abrar, therefore, it cannot be

said that dead body was of Abrar, the death of whom can be said to be caused by the accused.

Learned Trial Court has considered the entire evidence in proper perspective. We do not find any perversity or illegality in the order passed by learned Additional Sessions Judge, which may warrant interference in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 29, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE