

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-A No. 1542-MA of 2015 (O&M)

Date of Decision : October 30, 2015

State of Haryana		Appellant
Vs.		
Sanjay		Respondent

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Vivek Saini, AAG, Haryana
for the appellant – State.

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DEEPAK SIBAL, J. :

Notwithstanding the delay of 94 days in filing of the appeal, we have heard the learned State counsel on the issue whether leave to appeal should be granted against the judgment of acquittal passed in favour of the respondent by the Sessions Judge, Ambala.

The respondent-accused was prosecuted under Sections 302 and 377 IPC for committing carnal intercourse against the course of nature

with one Dinesh and then committing his murder. As there was no direct evidence, the entire case of the prosecution was based on circumstantial evidence. The only reliance of the prosecution was upon the extra-judicial confession allegedly made by the accused before PW-3 Surinder Singh and the alleged disclosure statement made by him before the police leading to the identification of the crime scene.

After sifting the evidence brought on the record by the prosecution and analysing the law on the subject, as settled by the Apex Court, the Sessions Judge, Ambala discarded the extra-judicial confession sought to be relied upon by the prosecution as the case of the prosecution was that the extra-judicial confession had been written and signed by PW-3 Surinder Singh and produced by him before the Investigating Officer, along with the accused, whereas in his cross-examination, PW-3 Surinder Singh, while contradicting the case of the prosecution, testified that he was an illiterate person and that the extra-judicial confession was, in fact, recorded in the Police Station by ASI Karan Singh. This fact was corroborated by PW-4 Baldev Singh, in whose presence the extra-judicial confession was taken into possession by the police. Nothing was also found on the record of the case to suggest so as to why the accused would depose faith in PW-3 Surinder Singh to make before him the extra-judicial confession.

The disclosure statement was also considered unworthy of any credence by the Sessions Judge, Ambala as the same did not lead to the

disclosure of any new fact, which already was not known to the Investigating Agency. In view of the provisions of Sections 25 and 27 of the Indian Evidence Act, 1872, the disclosure statement was thus held to be not admissible.

The learned counsel appearing on behalf of the State has not been able to persuade us from taking a view contrary to what has been held in the judgment, against which leave to appeal is sought for.

In view of the above, not only on the issue of delay, but also on merits, we do not find the present case to be a fit case for being granted leave to appeal and unhesitantly order dismissal of the same.

(HEMANT GUPTA)
JUDGE

(DEEPAK SIBAL)
JUDGE

October 30, 2015
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