

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

**CRM A-303-MA of 2015**

Date of Decision : April 07, 2015

Ravinder Kaur

.....Applicant

***VERSUS***

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN  
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN**

Present : Mr. Sidakmeet Singh Sandhu, Advocate  
for the applicant.

**T.P.S. MANN, J.**

The applicant has filed the present application under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 1.12.2014 whereby the Additional Sessions Judge, Ludhiana acquitted respondents- Harbans Singh and Gurbax Singh of the charges under Section 304 read with Section 34 IPC.

According to the prosecution, complainant's husband Varinder Singh returned home from his duty on 9.9.2007 and told her that he had suffered an injury on his head for which he wanted to take rest. As he was only complaining of headache, the complainant did not take the matter seriously. However, when

he started weeping time and again and not talking with his family members and also not going to his duty, he was taken to Jiwanjot Clinic at Khanna on 12.9.2007 at 5.00 a.m. By that time, he had become unconscious. He was referred to D.M.C., Ludhiana where he did not recover and ultimately on 16.9.2007 when he was being shifted to Rajindra Hospital, Patiala he died on the way. Proceedings under Section 174 Cr.P.C. were carried out. The dead body was subjected to post-mortem. Despite the same, no action was taken by the police. The complainant then sent an application dated 12.4.2008 to the Director General of Police stating therein that when her husband was returning from his duty, on the way his scooter struck with the Maruti Car and respondents No.2 and 3, who were in that Maruti Car, gave severe beatings to her husband. The occurrence was witnessed by Balraj Singh and Nirmal Singh. Both the accused/respondents also visited the house of Jagjit Singh whose uncle Harbans Singh was the President of Employees Federation of P.A.U. and had say in the police. They suffered extra judicial confession before him. At that time, Harminder Singh son of Malkit Singh was also sitting in the house of Jagjit Singh.

On the basis of preliminary evidence led by the complainant, respondents No.2 and 3 were summoned to face trial under Sections 304 and 506 IPC. After procuring the

presence of the accused, the Illaqa Magistrate committed the case to the Court of Sessions where they were charged for committing the offences under Section 304 read with Section 34 IPC.

The trial Court after going through the evidence brought on the record came to the conclusion that the complainant/prosecution had failed to establish its case under Section 304 IPC against the accused beyond any reasonable doubt. Accordingly, both of them were acquitted in the case by giving them the benefit of doubt. Hence, the present application filed by the complainant seeking leave to appeal against the acquittal of the accused/respondents.

Having heard learned counsel for the applicant, this Court finds that the alleged occurrence had taken place on 9.9.2007 and the complainant's husband Varinder Singh remained alive upto 16.9.2007 but in the interregnum he did not inform his wife or other family members that he was given beatings by the accused. Till 12.9.2007, he was not even taken to any hospital. Even after the death of Varinder Singh on 16.9.2007, his father lodged DDR No. 13 dated 17.9.2007 at Police Station Sadar, Khanna upon which proceedings under Section 174 Cr.P.C. were conducted. During those proceedings, it crept up that Varinder Singh had received injuries in a roadside

accident. Dr. P.D.Singla, who had conducted the post-mortem, opined that the possibility of the injuries suffered by Varinder Singh being caused due to fall on hard surface could not be ruled out. Subsequent to the proceedings under Section 174 Cr.P.C. and the post-mortem, another application dated 20.9.2007 was moved by the father of Varinder Singh in which nothing was mentioned except that the cause of death be properly investigated. The names of the accused surfaced for the first time in the application dated 12.4.2008 i.e. after seven months of the occurrence, moved by the complainant. Even in that application, the names of the alleged eye-witnesses were not mentioned. The eye-witnesses were introduced for the first time on 9.1.2009 i.e. after thirteen months of the occurrence when the criminal complaint was filed by the complainant.

In order to connect the accused with the commission of the crime, the complainant relied upon the testimonies of PW2 Nirmal Singh and PW6 Balraj Singh, who were the alleged eye-witnesses of the occurrence. According to PW2 Nirmal Singh, the accused were not known to him and the names of the accused were told to him by Balraj Singh. He also admitted that he did not mention in his earlier statement dated 31.1.2009 that the accused were giving beatings to the deceased with soti or that the accused fled away while giving threats to kill him. PW6 Balraj

Singh testified that on 17.9.2007, when he came to know that Varinder Singh had died due to the injuries caused by the accused, he went to the house of Varinder Singh and talked with members of his family besides narrating the occurrence before the police officer but no action was taken against the accused. However, it was only on 12.4.2008 that the names of the accused were stated by the applicant in her application. There was no record from which it could be said that the applicant had come to know that her husband Varinder Singh was attacked in the presence of PW2 Nirmal Singh and PW6 Balraj Singh. Moreover, both PW2 Nirmal Singh and PW6 Balraj Singh belonged to Mohali whereas the alleged occurrence had taken place within the limits of Khanna. No reasons were assigned by these two witnesses with regard to their visit to Khanna on the day of the occurrence.

PW5 Jagjit Singh had deposed before the trial Court that the accused had come to his house on 28.4.2008 and suffered extra judicial confession before him. Said Jagjit Singh was neither member Panchayat nor Sarpanch nor Lambardar. He was not related to any of the accused. He also admitted that from 28.4.2008 to 31.1.2009, he did not move any application to any police official regarding the accused admitting their guilt before him. Even otherwise, there was no occasion for the

accused to admit their guilt before Jagjit Singh as they had already joined the police proceedings earlier to 28.4.2008.

The delay of thirteen months in institution of the complaint has not been explained satisfactorily. Even the various applications submitted by the complainant/applicant to the police were found to be false and frivolous and, accordingly, Calandra under Section 182 IPC was filed against her and her brother Jatinder Singh.

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

Resultantly, the application is dismissed. Leave to appeal is declined.

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

**April 07, 2015**  
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**( MAHAVIR S. CHAUHAN )  
JUDGE**