

CRM-10139-2016 and
CRA-AD-50-2015

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-10139-2016 and
CRA-AD-50-2015

Date of decision: 30.03.2016

Raghubir Singh

..... Applicant-Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. Ashok Bhardwaj, Advocate
for the applicant-appellant.

RAMENDRA JAIN, J.

Respondents No. 2 and 3 namely, Sumit @ Monu and Satyawar were booked and tried under Sections 302, 449 read with Section 34 of the Indian Penal Code (IPC) and Section 25 of the Arms Act, on the complaint of applicant-Raghubir Singh about the murder of his son Dharmender by unknown persons in the intervening night of 16/17.10.2013. However, since the prosecution could not prove its case

against them, therefore, the learned trial Court acquitted both respondents No. 2 and 3 vide impugned judgment dated 07.08.2015.

2. Being aggrieved, the applicant has moved the instant application/appeal under Section 378 (4) Cr.P.C. and the appeal.

3. Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. The learned trial Court failed to appreciate that respondent No. 2-Sumit @ Monu got recovered a knife used by him in commission of crime pursuant to his disclosure statement. Similarly, respondent No. 3-Satyawan had got identified the place of occurrence and, thus, involvement of both respondents No. 2 and 3 was well proved. The learned trial Court has erred in not considering the motive of respondents No. 2 and 3 in murdering Dharmender as they were apprehending threat to their lives from the deceased due to their earlier quarrels several times.

4. After giving our thoughtful consideration to the submissions made by learned counsel for the applicant, we find no merit in the instant application/appeal for the reasons to follow.

- (i) It was a blind murder case. There was no eye-witness account. Initially, applicant-Raghubir Singh, did not raise any suspicion on anyone. Subsequently, he moved an application dated 19.10.2013, Ex. PW-6/B raising suspicion upon respondents No. 2 and 3 in the murder of his son. He specifically mentioned therein that some other boys might also be involved in the murder of his deceased son. As PW-6, he testified that

he had come to know about the complicity of respondents No. 2 and 3 from some person, but he did not know his name. However, in the next breath, he deposed that the complicity of respondents No. 2 and 3 in the murder of his son was told by the son of Dharma, but he did not mention this fact in his complaint Ex. PW-6/B nor did he knew whether the police had recorded the statement of the said son of Dharma. Hence, there is no direct evidence to prove the guilt of respondents No. 2 and 3. The entire prosecution case hinges upon the circumstantial evidence.

- (ii) PW-12 SI/SHO Kuldeep Singh (Investigating Officer) has deposed that he never met any son of Dharma. Even PW-13 SI Ram Rattan has also corroborated PW-12 in this respect. In these circumstances, the deposition of applicant as PW-6 became hearsay. More so, in the absence of examination of said son of Dharma, the chain of events remained incomplete.
- (iii) Motive of respondents No. 2 and 3 to commit the murder of deceased-Dharmender is also not proved. The version of the prosecution that some scuffle or dispute had taken place in between the deceased and respondents No. 2 and 3 several times earlier and the matter was got compromised, time and again in

between them with the intervention of Panchayat and they were apprehending threat to their lives at the hands of deceased cannot be believed in the absence of any material on record in this respect.

- (iv) No independent witness was joined at the time of alleged recovery of knife from respondent No. 2. The blood group of the stains of blood on the knife was found inconclusive. Hence, the FSL report Ex. PX has no significance.

5. From the discussion above, no case is made out for any interference in the impugned judgment.

6. Consequently, the instant application and the appeal, being completely devoid of any merit are dismissed. Leave to appeal is declined and the appeal dismissed.

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

**(RAMENDRA JAIN)
JUDGE**

March 30, 2016

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