

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

**CRM No. 7107 of 2016 in/and
CRA-D-990-DB of 2015
Date of decision : 12.4.2016**

Balwinder Kaur

.....Applicant/Appellant

v.

State of Punjab and others

.....Respondents

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

1. Whether Reporters of 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 : Ms. Gagan Deep Grewal, Advocate
for the applicant/appellant

RAMENDRA JAIN, J.

Daljit Kaur-Respondent No.3 is the step mother and Kuldeep Kaur-respondent No.4 is the wife of deceased Gurmail Singh. Mehtab-Respondent No.2 is said to had illicit relations with respondent No.4. They (in short “the private respondents”) were booked and tried under Sections 302 and 201 read with Section 34 IPC.

After going through the evidence led by the prosecution and the statements of accused-respondents under Section 313 Cr.P.C., the learned trial

Court did not find itself convinced with the prosecution story and acquitted the

respondents vide impugned judgment dated 5.5.2015.

Being not satisfied, the complainant filed the present application under Section 378 Cr.P.C. and appeal for conviction of the respondents by setting aside the impugned judgment.

Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. The Court below has failed to appreciate that four injuries were found on the person of deceased Gurmail Singh at the time of his post mortem examination which were sufficient to prove that he was murdered by the private respondents. Even otherwise, it was well proved on record that deceased Gurmail Singh was administered some poisonous substance by the private respondents as aluminium phosphate was found in his viscera which was declared sufficient to cause death in ordinary course of nature by PW5 Dr. Karnail Singh.

We have given our thoughtful consideration to the above submissions and find the present application and appeal completely meritless for the reasons to follow.

- (i) The complainant's version that her brother Gurmail Singh was killed by the private respondents by giving beatings has been falsified by the FSL report Ex.PF and further report Ex.PJ/1 by PW5 Dr. Karnail Singh that cause of death of deceased was the result of aluminium phosphate poisoning which was sufficient to cause death in ordinary course of nature.
- (ii) There is no eye witness account to the alleged murder of deceased Gurmail Singh. The entire case is based on circumstantial evidence. As per the prosecution story, the private respondents

made extra judicial confession before PW3 Sukhdev Singh qua administering of poison to the deceased. However, his deposition does not inspire confidence, because he remained silent for about 8 months after the alleged incident and came into picture after the receipt of report of Chemical Examiner detecting poison in the viscera of the deceased. Had he heard any conversation about committing murder of Gurmail Singh at the time of his alleged visit to the house of deceased for condolence, he would not have remained silent, rather would have reported the matter to the police immediately, or, at least, brought the matter to the notice of the complainant. Thus, the observation of the trial Court that it is quite improbable and not acceptable that any person accused of any offence would disclose his commission of crime at the time of mourning the death of the person killed by him to the knowledge and hearing of others” does not warrant any interference.

(iii) No evidence was led by the prosecution about alleged illicit relations between respondents No.2 and 4 and, thus, the entire prosecution story kept on hanging in the air. No weapon of offence i.e. stick was recovered from any of the respondents. The testimonies of PW3 Sukhdev Singh, PW4 Chand Singh and PW8 Bahadur Singh have rightly been disbelieved by the learned trial Court with the observation that they wanted to purchase the share of complainant Balwinder Kaur and Baljit Kaur at throwaway prices and thus, joined hands together to instigate the complainant and her sister to get a false case registered against the accused-respondents.

Learned counsel for the applicant/appellant has miserably failed to put any dent in any of the findings of the Court below. We have gone through the impugned judgment and found no illegality or perversity in the same.

Accordingly, the application, being completely devoid of any merit, is dismissed. Leave to appeal is declined. Appeal is also dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

12.4.2016
Ashwani