

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

**CRM-A-147-MA of 2016
Date of decision : 27.4.2016**

Sheela

.....Applicant

v.

The State of Haryana and another

.....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 : Mr. Surinder Gandhi, Advocate
for the applicant

RAMENDRA JAIN, J.

The complainant/applicant has preferred the present application under Section 378 (4) Cr.P.C. against impugned judgment dated 18.11.2015 passed by the Additional Sessions Judge, Hisar.

Respondent No.2 was booked and tried under Section 307 IPC on the allegations that on 12.11.2011, he along with his co-accused caused injuries to the applicant and set her ablaze after pouring petrol with an intention to commit her murder. The motive behind the occurrence was of refusal of the applicant to accompany the assailants to the marriage of daughter of her Jeth.

On appreciation of evidence led by the prosecution, the trial Court

did not find itself convinced with the prosecution story and thus, acquitted respondent No.2 vide impugned judgment dated 18.11.2015.

Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. The ocular version of the prosecution that respondent No.2 along with his companions had set ablaze the applicant was very much supported by the medical evidence as the applicant was found to have received 25% to 35% burn injuries by PW7 Dr. Ajay Kapoor, PGI, Rohtak. Considering above aspect of the case, the Court below ought to have convicted respondent No.2.

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

(i) As per the prosecution story, twelve persons conjointly had set ablaze the applicant. However, no specific role was attributed to any of them. During investigation, eleven out of those twelve persons were found innocent except respondent No.2. It has been brought to our notice by the learned counsel that during trial an application under Section 319 Cr.P.C. was also moved for summoning those eleven persons as additional accused, but the same was dismissed. No further appeal or revision was filed against the said order of dismissal and resultantly, the same has attained finality.

No specific role was attributed to respondent No.2 by the applicant before the Court as in her cross examination, she testified that she could not notice that who had sat her on fire or

who threw the inflammable substance. Therefore, the case of respondent No.2 has to be treated at par with those eleven persons, declared innocent by the police.

(ii) The prosecution introduced three different versions. PW10 Dr. Ritesh Kumar, who medico legally examined the applicant testified that the applicant was accompanied by her brother Manjeet, who told him that the applicant had also taken treatment from Dr. Sushil Sharma at Hansi before coming to him. Contrary to it, the applicant as PW7 stated that she was shifted to a private clinic at Hansi by her husband and neighbour Mahabir and further, to Civil Hospital, Hansi. However, her father Vikram as PW8 testified that he and his wife shifted the applicant to Civil Hospital, Hisar from the clinic of Dr. Sunil Sharma. The above major contradictions have rendered the prosecution case doubtful.

(iii) DW1 Dr. Sunil Sharma completely falsified the entire prosecution story by testifying that the applicant was never admitted in his clinic, contrary to the testimony of the applicant that she was initially brought to his clinic.

(iv) PW2 Azad, husband of the applicant did not support the prosecution story. He contradicted the applicant's version in the complaint by testifying that due to mental depression, she herself had set her ablaze. None of the assailant named by the applicant (initially respondent no.2) set her blaze nor ever forced her to join the marriage ceremony of daughter of his brother Kalu.

(v) PW8 Vikram- father of the applicant tried to introduce another

version by testifying that his daughter had told him that Santosh had poured petrol on her body and Kalu set her ablaze. Thus, complicity of respondent No.2 in setting ablaze the applicant has been falsified by own prosecution witness.

(vi) Applicant as PW7 testified that police had already recorded her statement before recording the statements of her parents and relatives in the hospital as she was conscious, however, her father as PW8 had deposed that he and his wife had shifted the applicant to Hisar from Hansi, where ASI had recorded their statements and thereafter, she was referred to PGI, Rohtak. From the above contradictory version, it can safely be inferred that the things did not happen in the manner as narrated by the prosecution.

Learned counsel for the applicant-complainant has miserably failed to put any dent in any of the findings of the trial Court. We have also gone through the impugned judgment and find no illegality or perversity in the same.

In view of the discussion above, the instant application being completely devoid of any merit is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

27.4.2016
Ashwani