

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

CRM No.A-721-MA of 2016 (O&amp;M)

Date of decision: May 18, 2016

Kamaljit Kaur

...Applicant

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Manbir Singh, Advocate  
for the applicant.

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**INDERJIT SINGH, J.**

Applicant-Kamaljit Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents State of Punjab and Sukhwinder Kaur @ Binder, challenging the impugned judgment dated 17.12.2015 passed by learned Sessions Judge, SBS Nagar, whereby the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that order of acquittal passed by learned Sessions Judge, SBS Nagar qua accused-respondent No.2 from the charges under Section 306 IPC, is illegal, against the law and deserves to be set aside. It is, therefore, prayed that leave to appeal be granted.

I have heard learned counsel for the applicant and have

gone through the record.

As per the record, the challan in the present case has been presented against Sukhwinder Kaur alias Binder in case FIR No.25 dated 26.03.2015 under Section 306 IPC. The brief facts of the case as noted down in the judgment passed by learned Sessions Judge, SBS Nagar, are as under:-

*“First information in this case was provided by Kamaljit Kaur to the effect that she got married with Makhan Lal in the year 1995 and they were parents of two daughters and a son. Sukhwinder Kaur alias Binder, the accused was a distant relation of her husband but was residing in the same lane. For the last 6-7 years, Makhan Lal and Sukhwinder Kaur had developed illicit relations even if Sukhwinder Kaur was herself a married female and a mother of two children. About two months before March 2015, Sukhwinder Kaur married off her daughter Seema Rani and had obtained a loan of ₹70,000/- from Makhan Lal in relation to that marriage. Makhan Lal had told about it to Kamaljit Kaur about a month before March 2015. Two days before 26.3.2015, Makhan Lal had gone to ask for return of money from Sukhwinder Kaur but only to be refused by her saying that no amount was to be paid by her to Makhan Lal. On 26.3.2015 at about 9 a.m. Makhan Lal was present in his house that Sukhwinder Kaur alias Binder and her son Narinder Kumar (a juvenile) came there and started assaulting Makhan Lal asking him as to which amount was being demanded by him and threatening him of being killed, they went away. After Sukhwinder Kaur and Narinder Kumar had left from there Makhan Lal also went away and returned at about 11 a.m. and started vomiting saying that having gone upset from Sukhwinder Kaur and Narinder Kumar and had consumed Sulfas. With the help of her neighbours, Kamaljit Kaur removed Makhan Lal to Civil Hospital Banga from where, on account of his deteriorated condition, he was shifted to Guru Nanak Mission Hospital Dhahan Kalan, where he expired in the same afternoon. Blaming Sukhwinder Kaur and Narinder Kumar for abetting Makhan Lal to commit suicide, Kamaljit Kaur asked for action being taken against them.”*

Learned Sessions Judge, SBS Nagar, after appreciating

the evidence, acquitted the accused-respondent.

I have gone through the impugned judgment passed by learned Sessions Judge, SBS Nagar. The findings given by learned Court below in the impugned judgment dated 17.12.2015 are correct, as per evidence and law. Learned Sessions Judge, SBS Nagar has appreciated the evidence in right perspective. In no way, the findings can be held as perverse i.e. against the evidence and law. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings given by the Court below are against the evidence and law.

From the facts of the case itself, no offence under Section 306 IPC is made out. The prosecution version as stated in the FIR shows that Makhan Lal deceased was stated to have illicit relations with the accused for the last 6-7 years. In the marriage of daughter of accused Sukhwinder Kaur @ Binder, Makhan Lal gave ₹70,000/- i.e. about two months earlier to the occurrence. As per prosecution version, Makhan Lal asked for the return of that loan and Sukhwinder Kaur @ Binder refused by saying that no amount was to be paid by her to him. This incident, in the facts and circumstances of the present case, in no way, amounts to abetment to commit suicide. Secondly, it is stated that Sukhwinder Kaur @ Binder and her son Narinder Kumar (a juvenile) came there on the date of occurrence at about 9.00 a.m. and started assaulting Makhan Lal asking him as to which amount was being demanded by him. The perusal of the post-

mortem examination report, as per the trial Court, shows no bodily injury on the person of Makhan Lal, which means that this version of giving beating was not supported by medical evidence. Otherwise also, no particulars have been given as to whether the accused or her son (juvenile) were armed with any weapon or gave any injury and on which part of the body. It is simply alleged that they have assaulted Makhan Lal and threatened to kill, which fact also does not amount to abetment to suicide.

The Court further held that this version of coming to the house and giving beating is doubtful qua juvenile because the argument has been raised before the trial Court, though independent proceedings are pending. The complainant gave the supplementary statement regarding *chappal* left on the spot by Narinder Kumar, after more than one month to the police. Learned Sessions Judge, SBS Nagar, in view of these facts, acquitted the accused.

In view of the above discussion, I find that the findings have been given by learned Sessions Judge, SBS Nagar, while appreciating the evidence in right perspective. In view of the above discussion, I find that the impugned judgment dated 17.12.2015 passed by learned Sessions Judge, SBS Nagar, is correct, as per law and evidence and does not require any interference from this Court.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

**May 18, 2016**

Vgulati

**(INDERJIT SINGH)  
JUDGE**