

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-752-MA of 2016
Date of Decision: 23.05.2016

State of Haryana

.....Applicant

Versus

Parveen Kumar and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present: Mr. Kapil Aggarwal, Additional A.G., Haryana.

T.P.S. Mann, J.

The State has preferred the present application under Section 378(3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 21.09.2015 passed by learned Additional Sessions Judge (Exclusive Court) Jhajjar, whereby the respondents stood acquitted of the charges under Section 376D/302/201 IPC.

In brief, the prosecution case is that on 17.8.2014, on receipt of a telephonic information from MHC, Police Station, Beri, regarding dead body of a woman lying on Jogiwala rasta, SI Jai Singh, who along with his associates was at that time present at Bhagalpuri Chowk, Beri in order to maintain law and order, reached village Chimni, where Satpal alias Pappu met him and made a statement that he was Chowkidar of the village. He was

married and had six daughters. He had fixed the marriage of his eldest daughter, aged 19 years, about one year ago in Jhajjar. On 16.8.2014 at about 5/6 p.m., he took the cattle to Johar, whereas his wife was in the fields. At about 7/7.30 p.m., he returned home from Johar with cattle and enquired from his younger daughter about the eldest daughter, who told him that she had left home by saying that she was going to the shop of cosmetics. Meanwhile, his wife returned home and he informed her about the eldest daughter. When she did not return home till late night, he made inquiries in the neighbourhood and searched for her in the nearby agricultural fields, but in vain. On the next morning, he received information that dead body of his daughter was lying on the Jogiwala rasta. Accordingly, he along with his brother Balbir as well as their neighbours reached at Jogiwala rasta and found the dead body of his daughter lying in the ditches adjacent to the Jawar fields. According to the complainant, his daughter had been thrown there by some unknown person after killing her. On the basis of the aforementioned statement made by complainant Satpal alias Pappu, FIR No. 195 dated 17.8.2014 was registered at Police Station Beri under Sections 302/201 IPC.

During the investigation of the case and on receipt of the report from the Forensic Science Laboratory, offence under Section 376D was added to the FIR. Subsequently, when photo copy of Scheduled Caste Certificate pertaining to the deceased was taken into possession, offence under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989, was also added to the FIR and the accused were arrested. One car make Maruti Zen was taken into possession. Upon completion of the investigation and presentation of challan followed by commitment of the case to the Court of Sessions, charges under Section 376D/302/201 IPC were framed.

In support of its case, the prosecution examined 22 witnesses besides tendering report Ex.PX of the Forensic Science Laboratory.

When examined under Section 313 Cr.P.C., the accused denied the allegations levelled against them and claimed that they had been falsely implicated. However, no evidence in defence was led by them.

As mentioned above, the trial Court did not feel itself convinced about the truthfulness of the prosecution version and, accordingly, acquitted the accused of the charges against them.

Having heard learned State Counsel and on going through the impugned judgment of acquittal, this Court finds that PW12-Satpal Singh, PW13-Meena and PW14-Preeti @ Anju, father, mother and sister, respectively, of the deceased did not utter a single word against the accused in their respective testimonies. They denied about the harassment of the deceased at the hands of the accused. Even otherwise, there is no direct evidence of commission of murder of the deceased. Rather the evidence so brought on record by the prosecution only suggests that on 16.8.2014, the deceased had left her house in order to make purchases from the cosmetics shop, but did not return

home. On the next morning, her dead body was found lying on the Jogiwala rasta. There is no material that any of the accused was present at or around the place where the deceased had been done to death. So much so, in his cross-examination, complainant PW12-Satpal candidly admitted that he was seeing the accused for the first time in the Court and did not find any clue regarding their involvement in the death of his daughter. Similarly, PW13-Meena and PW14-Preeti @ Anju also failed to prove that the deceased had been murdered by the accused.

In order to connect the accused with the crime, the prosecution also relied upon the recovery of car make Maruti Zen from near the shop adjoining the house of accused Praveen. The said car stood registered in the name of Krishna Devi. However, Krishna Devi was not cited as a witness by the prosecution. Even the Investigating Officer SI Jai Singh while testifying as PW17 admitted that during investigation he did not join the owner of the car and while preparing the challan, he did not cite the owner as one of the prosecution witnesses.

The prosecution also relied upon the disclosure statements made by all the three accused. However, nothing was recovered at the instance of accused pursuant to the same. Only the place of occurrence was demarcated by them, but the place of occurrence was already in the knowledge of the police. Similarly, the medical evidence does not show any mark of external injuries on the private parts of the deceased. Even no mark of injury was found on the person of any of the three accused. This falsifies the

prosecution version that the deceased had been subjected to forceful sexual intercourse by the accused.

As regards underwears of the accused as well as Salwar of the deceased, which were found to be stained with semen, it may be noticed that they were taken into possession on 13.10.2014 and 17.8.2014, respectively. However, no attempt was made to get the semen stains subjected to DNA examination so as fix the identity of the accused.

In view of the above discussion, this Court is of the considered view that the trial Court while appreciating the entire evidence in its proper perspective, has rightly held that the prosecution had failed to prove its case against the accused beyond reasonable doubt. Thus, no case is made out for any interference in the impugned judgment.

The application is without any merit and is, accordingly, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

23.5.2016
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