

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-600-DBA of 2003

DATE OF DECISION: AUGUST 23, 2016

STATE OF HARYANA

...APPELLANT

VERSUS

LAKHMI AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MRS. JUSTICE SNEH PRASHAR.**

PRESENT: MR. KAPIL AGGARWAL, ADDL.A.G., HARYANA.

MS, ANITA BALYAN, ADVOCATE
FOR THE RESPONDENTS NO.2 & 3.

M. JEYAPPAUL, J.

1. Respondent No.1 Lakhmi son of Maru Ram has passed away as per the Death Certificate produced by the State. Therefore, the appeal qua respondent No.1/accused Lakhmi son of Maru Ram abates.

2. The State of Haryana has preferred the present appeal challenging the acquittal of the respondents for the charge under Section 302 read with Section 34 IPC.

3. The brief facts of the case are that on 21.10.1999, PW13 Subhash son of Sita Ram was returning along with his father from the branch of Uco Bank. On the way, respondents-accused Lakhmi, Bijender and Tek Ram met them and took his father to the house of Lakhmi. At about 3.30 p.m., PW2 Balwan Singh arrived at the house of PW13 and informed him that the accused persons caused injuries to the father of PW13 with lathis and jelly. Thereafter, they threw him near the office of the Electricity

Board. PW2 Balwan Singh rushed to the said place and took his father to the hospital. But his father succumbed to the injuries.

4. The trial Court having found that PW2 Balwan Singh, the only eye witness has completely turned hostile to the case of the prosecution, returned a verdict of acquittal as stated supra.

5. It was vehemently submitted by the State counsel that the trial Court lost sight of the recovery of blood stains from the house of Lakhmi and the recovery of weapon from the accused. We also heard the submissions made by learned counsel appearing for the respondents/accused.

6. PW2 Balwan Singh is the sole eye witness to the occurrence. In fact, PW13 Subhash has projected a borrowed version in his complaint which culminated in registration of the case under Section 302 read with Section 34 IPC against the respondents. PW2 Balwan Singh is the competent witness to speak about the alleged attack launched by the accused. Inasmuch as he has failed to support the case of the prosecution, it could be safely concluded that the the prosecution failed to establish that accused in fact attacked Sita Ram, the father of PW13, and caused his death.

7. PW13 Subhash, of course, has stated that all the three accused invited his father to the house of Lakhmi. But it is to be noted that admittedly, there was no motive for the murder allegedly committed by the accused.

8. The prosecution has come out with a case that there was recovery of some blood stains from the house of Lakhmi. Of course,

accused Lakhmi is bound to explain the circumstances under which blood stains were found in his house. But the fact remains that the appeal qua Lakhmi has abated on account of his death.

9. The prosecution has set up a plea that the weapons were recovered on the basis of the disclosure statement suffered by the respondents-accused Bijender and Tek Ram. Admittedly, there were no blood stains found on those weapons. These type of weapons are normally kept in the houses of labourers/agricultural workers. When there were no blood stains on the weapon recovered, the recovery of weapon cannot also be connected to the offence allegedly committed by the accused Bijender and Tek Ram.

10. In the above facts and circumstances, in our considered view, the trial Court has rightly recorded a verdict of acquittal. Therefore, confirming the judgement of acquittal recorded by the trial Court, the appeal qua respondents-accused Bijender and Tek Ram stands dismissed.

(M. JEYAPPAUL)
JUDGE

August 23, 2016
Gulati

(SNEH PRASHAR)
JUDGE

Whether Reportable

Yes

Whether Speaking/Reasoned

No