

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**Criminal Misc. No.23883 of 2017 in/and  
Criminal Appeal No. D-523-DB of 2017**  
Date of Decision : August 22, 2017

Chhinderpal Kaur

.....Applicant/appellant

**Versus**

Gurnam Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN  
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Jatinder Pal Singh Smagh, Advocate  
for the applicant/appellant.

**T.P.S. MANN, J.**

Complainant Chhinderpal Kaur has filed the present application under Section 378 of the Code of Criminal Procedure seeking leave to appeal against the judgment dated 20.1.2017 passed by learned Additional Sessions Judge, Ferozepur whereby accused Gurnam Singh and Subheg Singh @ Suhag Singh, respondents No.1 and 2 herein, stood acquitted of the charges under Section 302 read with Section 34 IPC and instead, convicted under Section 304 part II IPC.

According to the prosecution, complainant Chhinderpal

Kaur's husband Daulat Singh had been depositing an amount of Rs.5,000/- per month for the committee run by the accused. As the committee stood completed, complainant's husband demanded the refund of entire amount of Rs.80,000/- from the accused, who kept on postponing the matter on one pretext or the other. On 23.8.2011, the complainant, alongwith her husband, returned home from Chandigarh. At about 6.00 p.m., her husband Daulat Singh and father-in-law Har Singh was present when the accused while armed with sticks came out of their shop which adjoined their house. Suhag Singh raised a lalkara that the complainant party be taught a lesson for demanding the amount. Gurnam Singh gave stick blow on the head of her husband Daulat Singh whereas Suhag Singh gave stick blow on his chin. Suhag Singh gave another blow in the chest of her husband. Her father-in-law Har Singh tried to rescue her husband but Gurnam Singh pushed him due to which Har Singh fell on the ground. While he lay fallen, Gurnam Singh and Suhag Singh gave kick blows to him, who died at the spot due to the said injuries.

Having heard learned counsel for the applicant and on going through the impugned judgment of acquittal, this Court finds that though Har Singh had died due to the head injury, which was on account of Gurnam Singh accused giving a push resulting in his fall yet it cannot be said with certainty that while doing so Gurnam Singh accused had any intention to kill Har Singh. At the most, he had

knowledge that the injury caused by him would lead to his death. For that reason the learned trial Court was justified in exonerating the accused of the charge under Section 302 read with Section 34 IPC and instead, convicted them under Section 304 Part II IPC.

In view of the above, no case is made out for any interference in the impugned judgment to the extent of acquitting the accused respondents of the charge under Section 302 read with Section 34 IPC. Consequently, the application (Criminal Misc. No.23883 of 2017) for leave to appeal is without any merit and, therefore, dismissed. Leave to appeal is dismissed. Criminal Appeal No.D-523-DB of 2017 is resultantly, dismissed.

**August 22, 2017**

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**( T.P.S. MANN ) ( MAHABIR SINGH SINDHU )  
JUDGE JUDGE**

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO