

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-1821-MA of 2016 (O&M)

DATE OF DECISION: MAY 1, 2017

STATE OF HARYANA

...APPLICANT

VERSUS

SUNITA

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI.**

PRESENT: MR. ASHOK MUTHREJA, DAG, HARYANA.

M. JEYAPPAUL, J.

CRM-31408-2016

1. There is a delay of 65 days in filing the appeal. We are convinced with the reasons assigned for the delay. Therefore, the delay is condoned and the application is allowed.

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2. Aggrieved by the acquittal of accused Sunita who was charged under Section 302, 364 and 201 IPC, the State has filed the present application praying for leave to prefer an appeal.

3. The case in brief of the prosecution is that accused kidnapped deceased Vansh aged about 3 years on 21.7.2014 due to previous enmity, committed his murder and threw the dead body in a pond.

4. Learned DAG, Haryana vehemently submitted that the evidence of PW2 Jagbir was not evaluated in a proper perspective by the trial Court. The motive for the murder spoken to by PW4 was totally ignored by the trial Court. Therefore, it is his submission that leave as sought for may be

granted.

5. PW2 Jagbir was the star witness in this case. The prosecution has projected a version through PW2 that on 21.7.2014 at about 6.00 p.m., he had seen accused carrying a tasla filled with garbage on her head and was moving at a faster speed. He also witnessed accused throwing the above garbage from tasla in the pond.

6. Unfortunately, PW2 has failed to support the case of the prosecution and as a result of which the prosecution failed to establish that the dead body of the child was carried by accused Sunita in the guise of garbage and threw it in the pond. PW4 has, of course, deposed that accused Sunita was seen by her husband Sunil (PW3) with one Sandeep and Subhash in a compromising position. PW3 chose to pass on said sensitive information to Azad, the husband of the accused Sunita. Therefore, accused Sunita had a grudge against the family of PW3 and PW4.

7. It is found that PW4 has come out with the above motive attributed to the accused for the first time before the Court. Never had she stated anything about such a motive harboured by accused Sunita in her statement under Section 161 Cr.P.C. suffered by her during the course of investigation by the investigating official. Therefore, the above evidence of PW4 as regards the motive attributed to the accused cannot be safely relied upon by the Court of Law.

8. There was virtually no evidence against accused to convict her for the charges framed against her. The trial Court has rightly evaluated the evidence and come to a conclusion that the prosecution miserably failed to establish the charges framed against accused Sunita.

9. Therefore, leave sought for by the State is declined and the application is dismissed.

(M. JEYAPPAUL)
JUDGE

May 1, 2017
Gulati

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether Reportable	:	No
Whether Speaking/Reasoned	:	Yes