

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-1276-MA of 2017

Date of Decision : July 21,2017

State of Haryana

.....Applicant

Versus

Balwan

....Respondent

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

Present : Mr. Praveen Bhadu, Assistant A.G., Haryana.
for the applicant.

T.P.S. MANN, J.

The State has filed the present application under Section 378(3) Cr.P.C. for grant of leave to appeal against the judgment dated 22.12.2016 passed by learned Additional Sessions Judge, Karnal whereby accused Balwan, respondent herein, stood acquitted of the charges under Sections 365, 201 and 302 IPC.

According to the case of the prosecution, complainant Balraj Singh submitted complaint at Police Station Sadar, Karnal that his brother-in-law Shish Pal was missing since 7.12.2015, who had gone alongwith the respondent and one Babli and was seen consuming liquor at Pingli road alongwith them. He further stated that during the night when his brother did not return home, he,

alongwith the family member of his brother, tried to trace him but could not succeed. He had also called his brother-in-law on his mobile but it was found switched off. Apprehending that the above named accused were responsible for abducting Shish Pal, the complainant sought taking of action against them. Accordingly, on the basis of the said complaint, FIR under Section 365 IPC was registered at Police Station Sadar, Karnal on 9.12.2015. During the investigation of the case, the dead body of Shish Pal was found floating in WJC on 12.12.2015 and, accordingly, Sections 302 and 201 IPC were also inserted.

Having heard learned counsel for the applicant and on going through the impugned judgment, this Court finds that though complainant Balraj Singh had submitted complaint Ex.P1 regarding missing of his brother-in-law Shish Pal yet while stepping into the witness box as PW2 he stated in his cross-examination that he did not witness the respondent and deceased Shish Pal consuming liquor at Pingli road. All those facts were disclosed to him by his wife and other family members of deceased Shish Pal. Similarly, PW14 Monika, wife of deceased Shish Pal, deposed during her cross-examination that her husband was not used to take liquor. Only occasionally he would take liquor. She further stated that the respondent and Babli were on visiting terms with her husband. She had come to know regarding taking of liquor by her husband with the respondent, on the bank of WJC. While in the company of the respondent, her relatives

had visited the house of the respondent but she did not know exactly regarding visit of her relatives. She also did not know the names of her relatives who had visited the residence of the respondent. She also did not know the date and day when her statement was recorded by the police. Her signatures were obtained by the police but she did not know whether the police had recorded any statement of hers. She had informed her relatives at about 12.00/1.00 o'clock during the night regarding missing of her husband and on the next morning she visited the house of the respondent and Babli in order to make enquiry about the whereabouts of her husband. PW4 Jasbir Pal, who was first cousin of deceased Shish Pal, deposed that he did not know the respondent and Babli. He was informed by his relatives about the accused and came to know about the missing of Shish Pal at about 6.00 p.m. He also stated that the deceased was in the habit of drinking and when he came to know about his missing, he searched for him here and there. He reached the house of the accused at about 8.00/9.00 p.m. and they were found present there. He denied knowledge about any dispute between the respondent and the deceased. PW6 Rameshwar stated in his cross-examination that his house and that of deceased Shish Pal were adjacent. The deceased was in the habit of drinking. However, there was no dispute between the deceased and the respondent. On that day, he was on his duty. He was informed by his wife about the missing of Shish Pal.

Babli, who, alongwith the respondent and Shish Pal, since

deceased, was said to be taking liquor was examined by the prosecution as PW3. He did not support the prosecution case and after being declared hostile, he was cross-examined by the learned Public Prosecutor. During such cross-examination, he deposed that he came to know about the death of Shish Pal in the morning when the respondent took him to the canal. He went on to state that the respondent did not push the deceased in his presence. He himself was unconscious on account of taking liquor. Apparently, PW3 Babli was a star witness of the prosecution but as he did not support the prosecution case and was declared hostile, it is difficult to hold that the crime had been committed by respondent-Balwan.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

	(T.P.S. MANN)	(MAHABIR SINGH SINDHU)
	JUDGE	JUDGE
July 21, 2017		
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Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO