

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-413-MA of 2017
Date of Decision: 13.11.2017

State of Haryana

....Applicant

Versus

Sukhvinder @ Bhagta & Others

.....Respondents

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

Present: Mr. Praveen Bhadu, Assistant A.G., Haryana.

T.P.S. MANN, J.

The respondents were tried for committing the offences punishable under Sections 148, 452, 366, 302 read with Section 149 IPC. Ramphal-respondent No.14 was also tried for committing the offence punishable under Section 216 IPC, whereas their co-accused Govind was charged for the offence punishable under Section 376 IPC and Section 25 of the Arms Act. Vide judgment and order dated 1/2.6.2016, learned Additional Sessions Judge, Rewari, acquitted Govind accused of the charges under Sections 376 and 366 IPC. However, he was convicted and sentenced under Sections 148, 302 and 452 IPC and also under Section 25 of the Arms Act. The respondents were acquitted of the charges framed against them.

In order to challenge the acquittal of the accused-respondents of the charges against them, the State has filed the present application for grant of leave to appeal.

According to the prosecution, Karan Singh, submitted a complaint to the police on 15.8.2013 that he worked for Hindustan Copper Limited in Khetri. He had three daughters out of whom, the eldest was already married. He received an information on telephone at his place of work that Govind accused had murdered his wife Narayani before kidnapping the prosecutrix. Further, Govind had come to his house with 15/20 youths in a Scorpio vehicle and two other vehicles. Accordingly, he reached the village and was told by his daughter and other villagers that Govind had come to their house alongwith his accomplices at around 12 noon and tried to kidnap the prosecutrix. When his wife and daughter Rachna objected, one of the youths, gave a knife blow on the left hand of his wife and slaps and fist blows to his daughter. On raising of hue and cry by his wife and his daughters, Govind accused alongwith other accomplices forcibly put the prosecutrix in the Scorpio vehicle. In order to rescue the prosecutrix, his wife had caught hold of the door of the vehicle, but was given knife blows on the left side of her neck. Due to those injuries, she fell down on the road. Two vehicles crushed her while coming from behind and then fled from the spot. On hearing this noise, many villagers had assembled there and took his wife to Max Hospital, Kosli. On reaching there, the Doctor declared her dead. Govind accused was keeping an evil eye on the prosecutrix

and was, thus, scolded by her family. In his absence, Govind accused alongwith other accomplices had earlier come to his house and threatened his wife and daughters in respect of which his wife had lodged an FIR. Govind accused alongwith his accomplices, after hatching a conspiracy, had come to his house and murdered his wife before kidnapping the prosecutrix. He also stated that when he had reached his village, the villagers had blocked the road by putting on it the dead body of his wife. The villagers were very annoyed by the incident and it took a lot of time to pacify them and it was only thereafter that the dead body of his wife Narayani was taken to the General Hospital, Rewari.

Having heard learned State counsel and on going through the impugned judgment to the extent of acquitting the accused-respondents of the charges against them, this Court finds that the prosecutrix was more than 18 years of age and was known to Govind accused, who was her Maasi's son. DW1-Smt. Deepti Rustogi had testified that prior to 15.8.2013, the prosecutrix had left hostel at Jaipur without any intimation and roamed around with Govind accused at various places for 14/15 days till both of them were apprehended by the Rajasthan Police and were produced at Jaipur Court because of the missing report of the hostel authorities at Jaipur. It is also established that the prosecutrix had to leave her hostel. Thus, there had been a relationship between Govind accused and the prosecutrix, which was, however, not to the liking of the parents of the prosecutrix.

As regards the kidnapping of the prosecutrix, from 15.8.2013 till she was apprehended along with Govind accused on 17.8.2013, they had stayed together in hotel Apna Shyam at Khatu Shyam Ji, which fact is proved by PW5-Rakesh Sharma, owner of the hotel. It was not the case of the prosecutrix that she was kept intoxicated or incapacitated because of one or the other reason by Govind accused and, thus, was unable to report her kidnapping to hotel staff or to the people staying in the adjoining room of the hotel. She also made no attempt to run away from there. The arrest of Govind accused on 17.8.2013 while in the company of the prosecutrix and, that too, during a broad day light from a public road, is also a factor showing that the prosecutrix had willingly stayed with the accused, as she had done earlier, at Jaipur.

Coming to the prosecution case regarding the injuries received by Smt. Narayani Devi, caused by Govind accused which proved fatal, the medical report testified the fact of running over of the body of Smt. Narayani Devi by a vehicle. Neither there were crush marks on the dead body nor of dragging at the spot. There is also no ocular account as who was driving the following vehicles or who exhorted Govind accused to run over Smt. Narayani Devi. There is, thus, no evidence against the accused-respondents with regard to their involvement in the offence of murder of Smt. Narayani Devi nor the evidence on record proves their common object to kill Smt. Narayani Devi.

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 charges against them.

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

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

13.11.2017
ds

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No