

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM A-702-MA of 2017

Date of Decision: September 1, 2017

Pushpa Devi	Versus	Applicant
U.T. Chandigarh and another		 Respondents

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

Present : Mr. R.S. Modi, Advocate
as legal aid counsel for the applicant.

T.P.S.MANN, J.

The applicant, who is the mother of deceased Santosh has filed the present application under Section 378 of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 27.9.2016 passed by Additional Sessions Judge, Chandigarh, whereby Parveen Singh accused, who is respondent No. 2 herein, stood acquitted of the charge under Sections 304/34 IPC.

According to the prosecution, applicant Pushpa Devi alongwith her two sons and daughters-in-laws' went to Shiv

Mandir to attend the marriage of daughter of one Vijay Pal. Her brother-in-law had also come from Delhi for attending the said marriage. The persons from the bridegroom side started beating her brother-in-law, upon which, her son Santosh asked them not to do so. Those persons started beating Santosh also. On hearing the commotion Vijay Pal came there and resolved the matter. After some time, the complainant alongwith her family members came out of Shiv Mandir and reached near the bus of Baratis where Golu, Parveen and Omvir came and opened an attack upon the complainant's sons with dandas and lathies. When her daughters-in-law tried to save their husbands, they were also beaten up and their sarees were torn. The complainant raised hue and cry and someone called the police. Pursuant to the same, four police vehicles reached the spot and took Subhash, another son of the complainant and seven Baratis to the Police Station. Vijay Pal reached the Police Station and got the matter compromised. The complainant got her family members treated from a private hospital. On 1.3.2015, her son Santosh complained of severe headache and, accordingly, she took him to General Hospital, Sector 16 Chandigarh, where his CT Scan was performed and as blood started coming out from his mouth, the doctor referred him to P.G.I., Chandigarh. On the way to P.G.I., Chandigarh, Santosh became unconscious and on

reaching P.G.I., he was declared brought dead. The complainant and her family members left for their native village and cremated the dead body of her son Santosh there. They came back to Chandigarh on 28.3.2015 and on the basis of her statement, FIR No.214 dated 2.6.2015 under Sections 304/34 IPC was registered against the accused and the matter investigated. During investigation Parveen and Golu accused were arrested. Upon completion of investigation, challan was presented only against accused Parveen as Golu was found to be a juvenile and inquiry against him was segregated.

Having heard learned counsel for the applicant and on going through the impugned of acquittal, this Court finds that at no stage Santosh, who was still alive, was medico-legally examined. The occurrence had taken place on 22.2.2015 and Santosh died on 1.3.2015. He was, however, cremated in his native village in U.P. on 3.3.2015. Subsequent to his death, even no attempt was made for postmortem on the dead body. Even no complaint was made to the police and the case apparently got registered after four months of the occurrence.

It may be noticed here that that on 1.3.2015 Santosh was admitted by PW7 Captain Dr. Manu Handa, but the MLR was issued only on 6.3.2015. As per report Ex.P2 of the Radiologist, namely, Dr. Shiv Kumar, who was examined by the prosecution as

PW8, possibility could not be ruled out of the injury being sustained on account of fall. As such, even cause of death is not established by way of any medical or expert evidence. Therefore, it is difficult to hold that the death of Santosh had resulted on account of receiving injuries at the hands of the accused.

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

(T.P.S. MANN)
JUDGE

September 1, 2017
amit rana

(MAHABIR SINGH SINDHU)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No