

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

CRM-A-848-MA of 2017

Date of Decision: July 14, 2017

State of Punjab	Versus	Applicant
Bakshish Singh and others		 Respondents

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

Present : Mr. Jagmohan Ghumman, Deputy A.G., Punjab.

T.P.S.MANN, J.

The State of Punjab has filed the present application under Section 378(3) of the Code of the Criminal Procedure for grant of leave to appeal against the judgment dated 16.3.2016 passed by the learned Additional Sessions Judge, Gurdaspur.

Vide impugned judgment, the learned trial Court acquitted the accused/respondents of the charges under Sections 148, 364, 302, 404, 201 read with Section 149 IPC.

According to the prosecution, complainant-Balwinder Singh, who stood retired from the Police Department had one son Guriqbal Singh and two daughters. His son was aged 23 years and was unmarried. However, he was making preparations to go

abroad. On 29.9.2010 at about 12.00 noon, when all the family members were present in the house, Guriqbal Singh left on Bullet motor-cycle of black colour bearing registration No. MH-31-C-8089 in connection with his personal work but he did not come back. The complainant tried to call him on his mobile, but it was switched off. On 6.10.2010, the complainant's daughter Gurkirpal Kaur received a call and the caller asked her as to who she was. She replied that she was sister of Guriqbal Singh and, therefore, she be allowed to talk to him. However, the phone was disconnected. The complainant and his family members kept on searching for Guriqbal Singh in their relations but all efforts were in vain. On 21.10.2010, the complainant met Gurnam Singh, Sandoo (brother-in-law) of his brother Ajit Singh near Suhag Palace, Batala, who asked him as to why he was looking pulled down. On this, the complainant stated that his son Guriqbal Singh was missing since 29.9.2010. Gurnam Singh told him that on 29.9.2010, he had seen Guriqbal Singh sitting on the pillion seat of the motor-cycle driven by Bakhshish Singh, when they were going towards Dera Baba Nanak Road, Batala. Guriqbal Singh was quite thick with Bakhshish Singh. The complainant suspected Bakhshish Singh of having abducted Guriqbal Singh with intent to kill him. Accordingly, the complainant got recorded his statement before SI Balwinder Singh on 21.10.2010, who at

that time had set up a barricade near Suhag Palace near Gandhi Camp, Batala and on its basis FIR No. 244 dated 21.10.2010 was registered at Police Station Civil Lines, Batala.

It may be mentioned here that complainant-Balwinder Singh also preferred a private criminal complaint against the accused/respondents stating therein that on 5.12.2012, he was informed by Dilbagh Singh and Rattan Singh that they had 'last seen' Guriqbal Singh with all the accused at the tubwell motor of Bakhshish Singh accused, when they were discussing about love affair between Bakhshish Singh accused and Shinderpal Kaur and a motor-cycle was also standing there. However, after two hours, when they happen to again pass the tubewell motor of Bakhshish Singh accused, all the accused were present there, however, Guriqbal Singh was not there.

Having heard learned State counsel and on going through the impugned judgment of acquittal, this Court finds that there is no direct evidence regarding the murder of Guriqbal Singh, however, the prosecution case is based on circumstantial evidence. According to the prosecution, Guriqbal Singh was last seen in the company of Bakhshish Singh on 29.9.2010 and said Gurnam Singh met SI Balwinder Singh on 21.10.2010 and informed him about having seen the deceased in the company of Bakhshish Singh. However, when said Gurnam Singh was

examined by the prosecution as PW6 he deposed that he had accompanied complainant-Balwinder Singh on 29.9.2010, when he left for the Police Station to lodge missing report. However, no such facts of last seeing the deceased with the accused was mentioned by Gurnam Singh PW6 to SI-Balwinder Singh PW1. If PW6 Gurnam Singh had seen the deceased with Bakhshish Singh on 29.9.2010, then nothing stopped him from informing SI-Balwinder Singh PW1 about said fact. Gurnam Singh PW6 was closely related to complainant-Balwinder Singh, being Sandoo (brother-in-law) of his brother Ajit Singh. Further, in the private criminal complaint instituted by complainant-Balwinder Singh, it was stated that on 5.12.2012, he was informed by Dilbagh Singh and Rattan Singh that they had 'last seen' all the accused with the deceased at the tubewell motor of accused Bakhshish Singh. However, neither Dilbagh Singh nor Rattan Singh was examined by the prosecution in support of its case at the trial. Under these circumstances, it cannot be said with certainty that the deceased was 'last seen' by PW6 Gurnam Singh in the company of Bakhshish Singh accused or in the company of all the accused including Bakhshish Singh by Dilbagh Singh and Rattan Singh.

Apart from the evidence of 'last seen', the prosecution relied upon the disclosure statements suffered by the accused

and various recoveries effected pursuant to the same but even if those statements leading to various recoveries are considered, it would not be sufficient to base the conviction of all the accused.

While passing the impugned judgment of acquittal, the learned trial Court has appreciated the entire evidence led by the prosecution and come to the conclusion that the prosecution had miserably failed to prove its case beyond reasonable doubt. The view taken by the learned trial Court is neither perverse nor erroneous and, therefore, does not call for any interference.

Resultantly, the application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

July 14, 2017
amit rana

(MAHABIR SINGH SINDHU)
JUDGE

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