

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

**CRM 33826 of 2017 in/and
CRA AD-13 of 2016
Date of Decision : August 29, 2018**

Amrit LalApplicant/appellant

Versus

State of Haryana and others Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present : Mr. K.B. Raheja, Advocate
for the applicant/appellant.

T.P.S.MANN, J.

Judgment dated 26.11.2015 passed by learned Additional Sessions Judge, Kaithal, while acquitting the accused, who are respondents No. 1 and 2 herein, of the charges under Sections 302 read with Section 120-B and Section 380 IPC stands challenged by applicant Amrit Lal, father of deceased Khushi Ram @ Khushia.

According to the prosecution, on 26.3.2015, the applicant moved application Ex.PD before Superintendent of Police, Kaithal, stating therein that on 23.3.2015 at about 7.00 a.m., accused Mukesh Devi who happened to be the wife of the deceased and daughter-in-law of the applicant had stolen Rs.2,000/- cash and some jewellery articles. On 22.11.2014 Khushi Ram @ Khushia was found dead. Before Khushi Ram @

Khushia was found dead, he was lying on a cot adjoining that of Mukesh Devi. On the next morning, when he did not wake up, the cloth on his face was removed and he was found dead. Mukesh Devi had run away from the spot alongwith accused Paramveer Singh saying that Khushi Ram @ Khushia was not speaking. Before this, though Mukesh Devi had raised hue and cry but no one had reached the spot as his son and daughter-in-law were sleeping. Accordingly, prayer was made for taking action against the two accused.

Though both the accused, namely, Mukesh Devi and Paramveer Singh were charged for the offence punishable under Section 302 read with Section 120-B IPC yet no cogent and convincing evidence was led by the prosecution to establish the said charge. According to the prosecution, the accused had made extra judicial confession before PW6 Bhan, who happened to be the brother-in-law of the applicant. It is the prosecution case that the accused did not go to his house/place, rather, when he had come to Kaithal and was passing in front of the gate of Mini Secretariat, then both the accused made extra judicial confession before him. At that time, accused Mukesh Devi had already filed an application for anticipatory bail. There was, thus, no occasion for the accused to have made statement before PW6

Bhan and admit their guilt in the commission of murder of Khushi Ram @ Khushia.

As regards the motive for commission of crime, the prosecution has not been successful in proving the same. Not a single prosecution witness has stated that there was illicit relationship between the two accused prior to the performance of marriage by them. PW3 Amrit Lal admitted that he and Bhan Singh had moved the complaint and made statement to the police after due deliberations. The FIR had been got registered by the applicant, when he alongwith his wife Murti Devi had moved application Ex.PD before the Superintendent of Police. This was after about four months of the murder of Khushi Ram @ Khushia and before that the accused had got married.

According to the prosecution, both the accused had suffered disclosure statements, pursuant to which, a pillow was got recovered by accused Paramveer, who also demarcated the place of occurrence. However, the place of occurrence was already in the knowledge of the police. As such, it cannot be said to be a discovery of fact. As regards the recovery of the pillow, there is the testimony of PW5 Constable Suresh Kumar and PW12 Inspector Mahavir Sandhu. However, there were material contradictions in the statements of both these witnesses as they

had stated that the accused had got recovered the pillow on 23.4.2015 while on the other hand the prosecution case is that the recovery was effected on 22.4.2015. Even the pillow in question has not been connected with the accused as PW12 Inspector Mahavir Sandhu stated that he did not put any specific identification mark over the same whereas PW5 Constable Suresh Kumar deposed to the contrary. Moreover, no independent witness was joined at the time of recovery despite being availability as the place was accessible to the public. The pillow also did not contain any blood stains despite the fact that when the dead body was seen, there was blood in dry condition over his mouth.

Under these circumstances, it cannot be said that the prosecution has been successful in proving the charge of criminal conspiracy to murder.

Coming to the charge under Section 380 IPC, suffice it say that the allegations of theft of gold jewellery by accused Mukesh Devi cannot be believed as the various articles had been given to her by her in-laws at the time of her marriage. Therefore, even the charge under Section 380 IPC is not established.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The

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application for leave to appeal (CRM 33826 of 2017) is devoid of any merit and dismissed. The appeal (CRA-AD-13 of 2016) has no substance and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

August 29, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

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