

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

**CRM _____ of 2018 and
Crl. Appeal AD-17 of 2016
Date of Decision : October 23, 2018**

Balbir SinghApplicant/appellant

Versus

State of Punjab and another Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present : Mr. Raghav Sharma, Advocate
for the applicant/appellant.

T.P.S.MANN, J.

The applicant/appellant, who happens to be the father of deceased Jaswinder Singh @ Jassa, has filed the present application/appeal for challenging the judgment dated 30.5.2015 passed by learned Additional Sessions Judge, Patiala, whereby, accused Gurpreet Singh, respondent No.2 herein, stood acquitted of the charge under Sections 302 and 201 IPC.

According to the applicant, his son Jaswinder Singh @ Jassa, who was aged about 38 years and married to Daljit Kaur used to ply a three wheeler. He would leave the house at 7.00 a.m. in routine and return at about 8.00/9.00 p.m. However, on 10.12.2012, he did not return. He was tried to be contacted on

his mobile but the same was found to be switched off. The applicant and his relatives started searching for him but no clue of his could be found. On 11.12.2012 at about 8.30 a.m., the applicant came to know that a driver of three wheeler was lying killed near Randhawa Eye Hospital, Patiala and his three wheeler parked at the spot. The applicant alongwith his brother-in-law Tarsem Singh went to the spot and found his son lying dead there. There were marks of multiple injuries on his head, neck and hands. Accordingly, the applicant made statement before Inspector Surjit Singh for registration of a case. Pursuant to the same, FIR No. 20 dated 11.12.2012 under Sections 302 and 201 IPC was registered at Police Station Sadar, Patiala.

This Court has heard learned counsel for the applicant and perused the impugned judgment of acquittal.

In order to connect the accused with the crime, the prosecution examined PW5 Jatinder Singh, who had overheard conversation between the accused and his friends. However, said Jatinder Singh did not support the case of the prosecution. Rather, he denied about the accused coming to his tea stall.

In order to prove the illicit relations of the daughter-in-law of the applicant with the accused, the prosecution examined PW4 Balbir Singh. However, he nowhere stated that the accused had been visiting his house in the absence of his son

or any incident creating suspicion in his mind in that regard.

Another circumstance relied upon by the prosecution to connect the accused with the crime was the extra judicial confession made by him before PW6 Jaswant Singh. Said Jaswant Singh was not the one, who could have rendered any help to the accused as there is no evidence that the accused was having any proximity with him. On the other hand, Jaswant Singh happened to be a close relative of the deceased.

As regards the recovery of hair from the right hand of the deceased, PW18 Inspector Surjit Singh deposed about the forensic experts observing the presence of some hair in the hands of the deceased but in his cross-examination he stated that he could not tell the name of the expert, who had pointed about the hair. He also did not mention the physical description of the said person or his designation. He stated that he could not say if the expert had given any report in writing to him. He clarified that no such written report was submitted to him by the expert. It may also be mentioned here that the accused had been kept in illegal confinement by the police since 14.12.2012 and the police officials had cut his hair with scissors, when he was in police custody. On the other hand, on 24.12.2012, when the police submitted application for obtaining police remand no request was made for taking sample of hair of the accused. As per the report

Ex.PX of the FSL, the hair recovered from the right hand of the deceased was not stained with blood. On the other hand, PW1 Dr. D.S. Bhullar and PW2 Dr. Kulbhushan Garg testified that there were a number of incised wounds on the right hand of the deceased. As such, the possibility of planting the recovery of hair cannot be ruled out.

As regards the call details, they do not indicate that the accused had called the deceased to the place of occurrence. The accused and the deceased lived in the same neighbourhood and mere exchange of calls between them cannot be said to be an incriminating circumstance.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The application for leave to appeal is, accordingly, declined and the appeal dismissed.

Office to assign appropriate number to the application for special leave to appeal.

(T.P.S. MANN)
JUDGE

October 23, 2018
amit rana

(HARINDER SINGH SIDHU)
JUDGE

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