

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

**CRM 9607 of 2018 in/and  
CRA D-940-DB of 2017  
Date of Decision : May 14, 2018**

Swaran Kaur .....Applicant

Versus

State of Punjab and others .... Respondents

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

Present : Mr. Amit Dhawan, Advocate  
for the applicant/appellant.

**T.P.S.MANN, J.**

Judgment of acquittal dated 11.7.2017 passed by the learned Additional Sessions Judge, Jalandhar, stands challenged by Swaran Kaur, mother of deceased Baljit Singh by filing application under Section 378(3) Cr.P.C. and also the appeal.

According to the prosecution, Baljit Singh, the youngest son of the applicant was aged about 23 years and plied an auto rickshaw. On 9.6.2013 at around 11.00 a.m., he left the house in his auto rickshaw bearing no. PB-08-BZ-9679. While

leaving, he had told her that his friend Sarabjit Singh @ Sabi had called him and he was going to meet him. He had a love affair with Rajwinder Kaur and they wanted to get married. However, the applicant had been asking her son to mend his ways with regard to the relationship with Rajwinder Kaur. Rajwinder Kaur had also not called her son on phone, rather, she had told him that she had been engaged with a person, who was residing abroad. For the last six months, her son had been receiving calls from Sarabjit Singh @ Sabi, who had told him about his engagement with Rajwinder Kaur. Sarabjit Singh @ Sabi had been threatening the applicant's son to stay away from Rajwinder Kaur. Thereafter, he became friend with the applicant's son and used to have lengthy conversation with him on the mobile. On 9.6.2013, Sarabjit Singh @ Sabi had also called her son. The applicant kept on waiting for her son till 6.00 p.m., but both his mobile phones were switched off. On the following day, she came to know that the dead body of her son had been found near the railway line at Maqsudan and his auto was parked 500/600 yards from the railway line in a damaged condition. She suspected the involvement of Sarabjit Singh @ Sabi in the crime, who had killed her son with help of his close associates due to love affair with Rajwinder Kaur and in order to destroy the evidence, they had put

the dead body on the railway track.

During the investigation of the case, the dead body of Baljit Singh was subjected to postmortem. The site was inspected and blood stained pebbles were taken into possession from the spot. Call details between Baljit Singh and Sarabjit Singh @ Sabi were procured. Rajwinder Kaur was also joined in the investigation. She had handed over 2 GB memory card, in which, she had recorded the conversation of Sarabjit Singh @ Sabi threatening to kill Baljit Singh. Another 4 GB memory card, which had been given to her by Sarabjit Singh @ Sabi was also taken into possession. Sarabjit Singh @ Sabi accused was arrested on 14.6.2013..

On completion of investigation, challan was presented against Sarabjit Singh @ Sabi only. Later on, Rajwinder Kaur accused was summoned under Section 319 Cr.P.C. as additional accused. This was followed by framing of charges against both Sarabjit Singh @ Sabi and Rajwinder Kaur under Section 120-B, 302 and 201 IPC, to which, they pleaded not guilty and claimed trial.

After hearing learned counsel for the parties and sifting the evidence, which had come on the record, the trial Court acquitted the accused/respondents of the charges against them.

Such acquittal of the accused/respondents is subject matter of challenge in the present proceedings.

Learned counsel for the applicant has reiterated the submissions made on behalf of the prosecution before the trial Court. He also submitted that the accused/respondents have been wrongly acquitted as there was overwhelming evidence on record proving their involvement in the crime.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant acceptance.

As regards the motive in the case, the prosecution has examined complainant Swaran Kaur as PW2. She had stated that she was mother of the deceased. Her son Baljit Singh was friendly with Rajwinder Kaur but Sarabjit Singh @ Sabi accused used to tell him that he had been engaged with Rajwinder Kaur and, accordingly, Sarabjit Singh @ Sabi in connivance with Rajwinder Kaur had murdered her son. However, there is no material on record that the deceased was friendly with Rajwinder Kaur. Baljit Singh deceased and Rajwinder Kaur accused were residents of different villages and belonged to different castes. Further, Rajwinder Kaur accused was a house lady. The prosecution has not been able to prove the conversation between

Baljit Singh deceased and Rajwinder Kaur accused.

There is no direct evidence that Baljit Singh deceased was murdered by Sarabjit Singh @ Sabi and Rajwinder Kaur accused. Rather, the prosecution has based its case upon circumstantial evidence. It has been repeatedly held by the Courts of law that chain of evidence must be complete leading to reasonable ground for a conclusion consistent with the involvement of the accused in the commission of the crime and it must be such that in all human probability the act had been done by the accused. Here in the present case, the prosecution has tried to establish that the accused had motive to commit the crime and there used to be exchange of calls between the accused on the one hand and the deceased on the other. As mentioned above, the evidence examined in relation thereto has been found to be lacking. As regards the medical evidence, PW13 SI Baldev Singh testified that pursuant to the disclosure statement Ex.P7 suffered by Sarabjit Singh @ Sabi accused, a cement stone used in the commission of offence near the railway track in bushes was recovered, which was taken into possession vide memo Ex.P8. However, PW14 Dr. Sukhwinder Singh, who had conducted postmortem on the dead body of Baljit Singh deposed that the cause of death was due to crushing as described in postmortem

report Ex.P20 and from the pictorial diagram Ex.P21, it is made out that death was due to railway track accident. Thus, even medical evidence is not in conformity with the prosecution case.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. Criminal Miscellaneous 9607 of 2018 is, accordingly, dismissed and leave to appeal declined. Consequently, Criminal Appeal D-940-DB of 2017 is dismissed.

( T.P.S. MANN )  
JUDGE

May 14, 2018  
amit rana

(FATEH DEEP SINGH)  
JUDGE

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|---------------------------|--------|
| Whether reasoned/speaking | Yes/No |
| Whether reportable        | Yes/No |