

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

Crl. Appeal No.S-3120-SB of 2015 (O&M)

Date of Decision: July 11, 2018

Seema

...Appellant

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.K.Chugh, Advocate
for the appellant.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant Seema against State of Haryana and other respondents, challenging the judgment dated 04.05.2015 passed by learned Addl. Sessions Judge, Karnal, whereby the accused-respondents were acquitted of the charges framed against them.

From the record, I find that challan was presented against Virender and other accused in case FIR No.317 dated 25.12.2010 under Sections 506, 120-B IPC and Section 25 of the Arms Act. The brief facts of the prosecution case are that FIR was registered on the complaint Ex.PA, lodged by Seema. As per the allegations, Seema, who is Lady Constable at Law Staff, Madhuban Complex, appeared as a witness in the honor killing highlighted case as 'Manoj-Babli', in which learned Addl. Sessions Judge, Karnala, convicted seven persons. Out of them, two were undergoing

punishment in District Jail, Karnal whereas, others in Ambala Jail.

Complainant Seema was a witness in that case and was sister of deceased Manoj. It is further stated that accused Virender alias Billu was released on parole from Ambala Jail on 21.12.2010. He came to Madhuban Complex, met staff members namely Virender and Sandeep and enquired about the complainant. When the complainant was passing by, accused Virender threatened to kill her as well as her family members. It is also alleged that accused Virender talked on phone with a person named Rishi and told him that he had been assigned two tasks, one of Delhi and other of Madhuban and further asked him to meet as good amount of money had been promised for the task at Delhi. It is further stated that complainant's family was provided with police protection as per order of this Court and four police officials were deputed for the purpose but the complainant was putting up alone for duty in Madhuban. Accused Virender told about completion of assigned task within the period of parole. After necessary investigation, challan was presented.

On presentation of challan against accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Sections 506, 120-B and Section 25 of the Arms Act, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined 17 witnesses. At the close of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. They denied the correctness of the evidence and pleaded themselves as innocent.

Learned trial Court, after appreciating the evidence acquitted

the accused-respondents vide judgment dated 04.05.2015.

I have learned counsel for the appellant and have gone through the record.

The perusal of the findings given by learned Addl. Sessions Judge, Karnal, shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by learned trial Court. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court. The perusal of the findings shows that learned Addl. Sessions Judge has appreciated the evidence in right perspective.

The Court held that there is no evidence to show that Virender was given ₹25 lakhs by other accused nor there is any evidence to prove the criminal conspiracy nor it can be inferred from the evidence on record. Further, I find that this amount of ₹25 lakhs has not been recovered during investigation, which means that these allegations are not supported by any cogent evidence. Moreover, as per allegations of the complainant Seema, she had not raised any alarm when accused Virender threatened her nor reported the matter to her superior officers present there. She stated that on the next day also she had not made complaint to anybody. Otherwise also, it looks doubtful that accused Virender entered the police complex at Madhuban so easily and threatened the complainant. The Court discussed that Seema came to know about name of accused Virender from her colleagues namely Constable Sandeep and Constable Virender but PW-2 Constable Virender has not stated anywhere that accused had disclosed his identity to them. He simply deposed that accused had only enquired about

complainant.

Learned trial Court further discussed the statement of complainant PW-5 that she had gone to Central Jail, Ambala on 24.12.2010 and verified about parole of Virender and then reported the matter to the police but she deposed in cross-examination that she does not remember as to whether she made entry in visitor's register maintained at Jail gate regarding her visit. She also stated that she had not moved any written application to verify above facts. Learned Court discussed all these facts and the evidence and found that case of the prosecution has not been proved beyond doubt. There is delay in lodging the FIR. The occurrence took place in police complex and police station is at a distance of half kilometer but in spite of that, matter was not reported immediately. No satisfactory explanation has been given as to why the matter was not reported immediately to the police officers in the complex.

Further, learned trial Court held that police failed to join Rishi with whom accused Virender had allegedly talked on telephone in the presence of complainant. It is further held that mobile number 9996318186 does not belong to accused Virender. It is also found that investigating agency failed to verify location of said mobile number as to whether it was used in the area of Madhuban or somewhere else. Learned trial Court has also not relied upon the call details. PW-14 Rajesh also turned hostile and has not supported the prosecution version.

All these facts show that prosecution has failed to prove the guilt of the accused beyond reasonable doubt and the judgment dated 04.05.2015 passed by learned Addl. Sessions Judge, Karnal, is correct, as

per evidence and law and does not require any interference from this Court.

Though, no application has been filed for seeking leave to file appeal but at the time of arguments, learned counsel for the appellant argued that leave to appeal be granted. From the above discussion, I find that findings given by learned trial Court are correct and as per law, therefore, no ground is made out for grant of leave in this case.

Resultantly, finding no merit in the present appeal, the same is dismissed.

July 11, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No