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

CRA-S-4368-SB of 2013

Date of decision: January 20, 2018

Kuldeep Singh

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: None for the appellant.

Mr. Vivek Saini, DAG Haryana.

A.B. CHAUDHARI, J (Oral)

Being aggrieved by the judgment and order dated 30.11.2012/03.12.2012 passed by the Additional Sessions Judge, Sirsa, by which the appellant was convicted for offence punishable under Section 304-II of Indian Penal Code, 1860 (for short 'IPC') and sentenced to undergo Rigorous Imprisonment for 5 years and to pay fine in the sum of ₹5,000/-; in default of payment of fine, to further undergo Rigorous Imprisonment for 3 months, the present appeal was filed by the appellant.

None appeared on behalf of the appellant.

Mr. Vivek Saini, DAG Haryana appears on behalf of the State.

I have perused the impugned judgment and order so also the reasons contained therein. I quote the following paragraphs from the judgment of the trial Court:-

“29. After giving due deliberation to the contentions of all the sides as well as going through the evidence on record carefully, I am of the considered view that there is absolutely no doubt that the prosecution has proved its case beyond all

reasonable doubts against the accused having caused death of his wife Poonam by merciless beatings even though she was sick for the last 5-6 days and that too in the clear sight of PW1 Krishan Lal and PW2 Vijay who have categorically stated that they tried to catch hold the accused but he fled away from the spot on seeing them in his house.

30. *Further, the fact regarding condition of Poonam (since deceased) having deteriorated after the beatings, has also been proved by PW3 Dr. Shiv Charan and **PW4 Dr. Honeydeep** who has clearly declared that “**death of Poonam was caused due to rupture of spleen**”. Her oral testimony is coupled with Post Mortem Report of deceased as **Ex.PW4/C**.*

31. *Further several steps taken by the Investigating Officer during investigation as well as by formal witnesses, also prove the case of the prosecution.*

32. *Once the factum of death has been proved and it is also established that death of Poonam was caused due to beatings given by the accused. The only question remains as to whether the death was caused intentional or with the knowledge that the act of the accused was likely to cause death.*

33. *In the present case also, case falls in the third category and can be treated as culpable homicide punishable **under Section 304-II IPC**.*

34. *As regards the contentions made by the learned defence counsel that since mens-rea was not present, therefore, accused should be acquitted for the offence punishable under Section 304-II IPC. It may be specified that for conviction of accused under Section 304-II IPC **intention** to kill Poonam **is not at all material**. It would be sufficient if he has **knowledge** that the injured was suffering from fever for the last 5-6 days and any fist blow or kick blow administered by him, **was likely to further aggravate her condition and could even cause internal harm and even death**, it would be sufficient to hold that he was having **knowledge regarding the peculiar condition of health** of the deceased being her husband. The*

*accused was absolutely aware that deceased Poonam was **not having normal health condition** and, therefore, giving fist blows on her chest when she was already suffering from fever for the last 5-6 days, resulted into an enlarged liver/spleen. It cannot be claimed that he had no knowledge to commit culpable homicide of the deceased.”*

The reasons given by the trial Court are based on evidence and on the facts. I do not find any error committed by the trial Court since the reasons are based on evidence and there is no perversity. The view taken by the learned trial Court is legal, correct and proper. Learned State counsel has produced before me the custody certificate of the appellant and pointed out that the appellant has undergone the sentence awarded to him and had also paid fine. In other words, according to him, the appellant having undergone the entire sentence and also paid the fine, even, otherwise nothing remains to be done in the present appeal. However, I find that the conviction recorded by the trial Court is based on evidence and cannot be said to be wrong and illegal. The custody certificate is taken on record.

In that view of the matter, CRA-S-4368-SB of 2013 stands dismissed.

(A.B. CHAUDHARI)
JUDGE

January 20, 2018

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No