

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

CRM A-1552-MA of 2016

Date of Decision : September 26, 2018

Khajani

.....Applicant

VERSUS

Kaka Singh and others

.....Respondents

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

Present : Mr. Lalit Pathak, Advocate
for the applicant.

Mr. R.S.Mamli, Advocate
for respondent No.1-Kaka Singh.

Particulars of respondent No.2-Jasbir Foji already
struck of vide order dated 25.10.2017.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S. MANN, J.

Smt. Khajani, who happens to be the mother of deceased-Anita, has filed the present application under Section 378(4) of the Code of Criminal Procedure for the grant of special leave to appeal against the judgment dated 1.6.2016 passed by learned Sessions Judge, Fatehabad whereby Kaka Singh, the sole accused, who is respondent No.1-herein, stood acquitted of the charge under Section 302 IPC.

According to the prosecution, on 18.1.2016, SI Krishan Kumar, who alongwith ASI Suresh Kumar and HC Bhupender Singh was on patrol duty, received a telephonic call that Anita wife of Jasbir Foji, resident of village Sadhanwas had been murdered. Accordingly, he reached the place of occurrence where Jasbir @ Foji was found present alongwith others. Jasbir @ Foji made a statement to the effect that he was a labourer. His three brothers and one sister were married whereas two brothers and one sister were still unmarried. The married brothers were residing separately whereas unmarried brothers and sister residing with his father. He himself was the eldest. The courtyard of their residential house and also the water connection were joint. On that day i.e. 18.1.2016 at about 2.00 p.m., when his wife was washing the clothes near the water tank in the courtyard, his brother Kaka Singh-accused came from outside and asked as to why she had spread the water of clothes in the courtyard. On this, a quarrel took place between Kaka Singh and his wife Anita. Kaka Singh brought a knife from the kitchen and thrust the same in her abdomen. Thereafter, he fled away from the spot while carrying the knife. The complainant tried to apprehend him but he managed to escape. Meanwhile, his father Ramphal came and after arranging the vehicle rushed Anita to Jakhal for treatment. The complainant's in-laws were telephonically

informed. When they reached near village Talwara, Anita expired. Accordingly, the complainant sought taking of legal action against Kaka Singh.

This Court has heard learned counsel for the parties besides perusing the impugned judgment of acquittal as well as the record which stands requisitioned.

In respect of the ocular account of the occurrence, the prosecution had examined complainant-Jasbir Singh @ Foji, husband of the deceased as PW4 and Ramphal, father-in-law of the deceased as PW5. However, neither of them supported the prosecution case. They were got declared hostile on the request of learned Public Prosecutor but despite cross-examining them, the prosecution could not bring any material on record from which it could be said that it was Kaka Singh, who had committed the murder of Anita. The prosecution had also examined deceased-Anita's brother Ramphal as PW6, who deposed that he had received telephonic message from Ramphal, father-in-law of his sister Anita that she had met with a road accident. Thereafter, he received another message on telephone from PW5 Ramphal that his sister Anita had expired. From a perusal of his statement, it is made out that he was not an eye-witness of the occurrence and his statement was hearsay in nature as he was informed by the police regarding murder of his sister by accused Kaka Singh.

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

The application is without any merit and, therefore, dismissed. Special leave to appeal is declined.

**(T.P.S. MANN)
JUDGE**

September 26, 2018
ajay-1

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No