

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

**CRM A-1662-MA of 2016
Date of Decision : August 21, 2018**

Rakesh KumarApplicant

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. Himanshu, Advocate for
Mr. Ashish Aggarwal, Advocate
for the applicant.

Mr. H.S. Sullar, Deputy A.G., Punjab
for respondent No.1-State.

Mr. H.S. Batth, Advocate for
respondents No. 2 and 3.

T.P.S.MANN, J.

Rakesh Kumar, who is brother of deceased, Suresh Kumar has filed the present application under Section 378(3) of the Code of the Criminal Procedure for grant of leave to appeal against the judgment dated 23.2.2016 passed by learned Additional Sessions Judge, Amritsar, whereby the accused Bhupinder Singh @ Bhinda and Harpreet Kaur, who are respondents No. 2 and 3, herein, were acquitted of the charges under Sections 120-B, 364, 302 and 201 IPC.

According to the prosecution, the deceased used to work as a helper in the operation theatre in Amandeep Hospital,

Amritsar. Accused Harpreet Kaur also worked as a staff nurse in the said hospital. On 10.5.2012, the deceased was on night duty from 8.00 p.m. to 8.00 a.m. in the operation theatre. Before reporting for duty, he had visited the applicant and both of them had meals together. After duty hours of the deceased, the applicant did not receive any call from him who also did not come back to his house. The applicant tried to contact his brother on his mobiles but his mobiles were found to be switched off. The applicant became suspicious and started looking for his brother but could not find him. On 15.5.2012, the applicant learnt from a reliable source that his brother was having illicit relations with Harpreet Kaur but she had severed the relations and solemnized court marriage with accused Bhupinder Singh @ Bhinda. Harpreet Kaur wanted to get rid of the deceased and both of them had a quarrel in Guru Nanak Dev Hospital. The deceased had told this fact to the applicant who did not pay much attention as it was only a trivial matter. The applicant also came to know that Bhupinder Singh @ Bhinda had also quarreled with the deceased about two months earlier in connection with accused Harpreet Kaur. Accordingly, the applicant suspected the involvement of the accused in the abduction of his brother, who had either killed him or got him killed from some one.

Having heard learned counsel for the parties and on

going through the impugned judgment of acquittal as well as the trial Court record, which stands requisitioned, this Court finds that there is no evidence on the record about the relationship of the deceased with accused Harpreet Kaur. Only bald statement of PW1 Rakesh Kumar is there on the record but that will not be sufficient to prove the said fact.

According to the prosecution, Suresh Kumar was killed by the accused with the help of parna. However, neither the dead body of Suresh Kumar has been recovered nor the parna, which was used to strangle him. Further, the deceased was in a possession of two mobiles but when the applicant tried to contact him, both the mobiles were found switched off. The mobile phones recovered from the possession of the accused also do not connect him with the commission of crime. There is no evidence that the mobile phone was ever used by the deceased or that the same was got issued by the deceased in his own name. On the other hand, the SIM in question was issued in the name of the applicant. The applicant also did not disclose as to from which number he had talked to Suresh Kumar. In fact, both the mobile numbers were issued in the name of the applicant. There is no explanation as to why the deceased was using the mobile numbers, which were got issued by PW1 Rakesh Kumar in his own name.

In view of the above, it cannot be said that the impugned judgment of acquittal is perverse, improbable or implausible. As such, the same does not deserve to be upset.

Resultantly, the application is devoid of any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

August 21, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

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