

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-1756-MA of 2017

Decided On : 13.03.2018

Krishna Devi		Applicant
versus		
State of Haryana and another		Respondents

CORAM : HON'BLE MR. JUSTICE T. P. S. MANN.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Bijender Dhankhar, Advocate
for the applicant.

* * *

DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (3) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of leave to appeal against the judgment dated 04.05.2017 passed by the Sessions Judge, Sonipat (for short – the trial court), through which respondent No.2 has been acquitted of the charges framed against him under Section 302 of the Indian Penal Code, 1860 (for short – IPC).

Briefly stated, the case of the prosecution is that on receiving a message that Rajender son of Raghbir Singh has been killed, the police investigated the matter during the course of which respondent No.2 was arrested. During interrogation respondent No.2 suffered a disclosure statement in pursuance to which he identified the place of occurrence and got recovered from his possession the deceased's Aadhar Card.

On completion of the investigation, report under Section 173 Cr.P.C. was prepared and presented before the competent court. Since the offence, for which respondent No.2 was charged, was exclusively triable by the Court of Sessions, the case was committed to the Sessions Court and it was that Court, which charged respondent No.2 under Section 302 IPC. On his pleading not guilty, respondent No.2 was put on trial.

The trial court, after sifting the evidence which had come on record, acquitted respondent No.2 of the charge levelled against him as the trial court was of the opinion that the prosecution had miserably failed to prove its case to bring home the guilt of respondent No.2. It is such acquittal of respondent No.2 which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made on behalf of the prosecution before the trial court, submitted that the trial court erred in acquitting respondent No.2 of the charge levelled against him as there was overwhelming evidence on record to prove his guilt and therefore, there was no reason in fact or in law with the trial court to acquit him.

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

There being no direct evidence the prosecution has based its entire case on circumstantial evidence. However, neither motive has been proved nor last seen theory has been established.

The entire case of the prosecution rests upon the alleged recovery of the deceased's Aadhar Card from the possession of the applicant after he allegedly suffered a disclosure statement. However, no credence to such evidence can be given. As per the seizure memo Ex. PW5/A from the place of occurrence itself the deceased's ATM Card and Metro Card were recovered. That being so, robbery could have not been the motive behind the murder of the deceased because if it was so then the accused would have taken the ATM Card and Metro Card of the deceased and not the Aadhar Card as the same would serve no useful purpose to him. The recovery has also shown to have been effected after an unexplained delay of 40 days after the incident. No independent witness was also joined at the time of interrogation of the accused and even at the time of the alleged recovery of the Aadhar Card.

In view of the above, the present application is found devoid of any merit and, therefore, dismissed.

Leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

March 13, 2018
Jyoti I

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>