

IN THE HIGH COURT OF PUNJAB & HARYANAAT CHANDIGARH

CRM-A-291-MA of 2018 (O&M)
Date of decision : 29.10.2018

State of Haryana

.....Applicant

vs.

Jai Kuwar and others

.....Respondents

**Coram: Hon'ble Mr. Justice T.P.S. Mann
Hon'ble Mr. Justice H.S. Madaan**

Present: Mr. Vikrant Pamboo, Deputy Advocate General, Haryana,
for the applicant

H. S. Madaan, J.

CRM-4306-2018

There is a delay of 745 days, in filing the present application for leave to appeal.

We find sufficient grounds to condone the delay in moving the application. The delay in filing the application stands condoned.

The application stands allowed accordingly.

CRM-A-291-MA-2018

Accused Jai Kuwar, Krishan, Rishi Pal, Bhupender and Nanu Ram, faced trial by the Additional Sessions Judge, Jind, in case FIR No. 177 dated 15.8.2012, for offences under Sections 302, 34, 379, 404, 411, 120-B IPC, registered with Police Station, Jind Sadar, and vide judgment dated 23.9.2015, they were acquitted of the charge framed against them.

Feeling aggrieved by the said judgment, the State of Haryana, has approached this Court moving an application under Section 378(3) Cr.P.C. seeking grant of leave to appeal against the impugned judgment.

Briefly stated facts of the case, as per the prosecution story are that the criminal machinery in this case was set into motion by complainant Karan Singh s/o Ram Kumar, working as JBT teacher in Sangatpura Government School, by way of making statement to SI/SHO, Police Station Jind Sadar, on 15.8.2012, in which he stated that on the said date at about 7.30 A.M., he had gone to Vaidic Primary School, Sangatpura turn, being run by them, to give meals to his father Ram Kumar, a retired Head Master from Primary School, who had recently returned from America after visiting his younger brother Anup Singh. However, he found his father dead on the cot in the *veranda*. His feet were tied with a cloth (*parna*) and there were multiple injuries on the head and other parts of the body of the deceased. Face of the deceased was hanging on one side of the cot. The complainant stated that some unknown persons had murdered his father by causing injuries to him with the handle of generator after removing it from the generator and using other weapons. On the basis of such statement formal FIR was registered.

The investigation in the case started. The accused were arrested in this case.

After completion of investigation and other formalities, they were sent up to face trial. During the trial they were charge sheeted

for offences under Sections 302, 379, 404 read with Section 34 IPC, as well as Sections 120-B and 411 IPC. The accused pleaded not guilty to the charge. The prosecution led the evidence. The accused were examined under Section 313 Cr.P.C. Then after hearing the arguments, the accused were acquitted of the charge framed against them, which left the State of Haryana aggrieved and it has filed the application under reference.

We have heard learned State counsel, besides going through the record and we find that there is absolutely no ground to grant leave to appeal.

The first and foremost reason for arriving at this conclusion is that there is no direct evidence of the incident and the circumstantial evidence adduced by the prosecution suffers from several infirmities and lacuna and chain of events is not complete.

As regards, the disclosure statements suffered by Rishi Pal and Krishan – accused, in the police custody, confessing their guilt with regard to the incident, those statements are clearly hit by Section 25 of the Indian Evidence Act, being statements made by the accused in custody before the police and cannot form basis for conviction of the accused.

With respect to recovery of the mobile phone, sim card, *parna* and other belongings of the deceased, from the possession of accused, those at the best can constitute a strong incriminating circumstance against the accused, but cannot result in conviction of the accused by itself, in absence of enough cogent, convincing and

reliable evidence, led by the prosecution to connect the accused with the crime.

Therefore, we do not find any illegality or infirmity in the impugned judgment, passed by the trial Court. The trial Court was justified in returning the verdict of acquittal of the accused. No interference in the said judgment is called for. Therefore, the application under reference stands dismissed.

(T.P.S. Mann)
Judge

(H.S. Madaan)
Judge

29.10.2018
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Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No