

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-2292-MA-2017

Decided on : 23.03.2018

Sumitra Devi

..... Applicant

VERSUS

State of Haryana and others

..... 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, the applicant seeks grant of leave to appeal against judgment dated 18.07.2017, passed by the Additional Sessions Judge, Hisar (for short “the trial Court”) through which respondents No.2 to 4 have been acquitted of the charges framed against them under Sections 148, 364, 302, 325 and 307 read with Section 149 of the Indian Penal Code, 1860 (for short the “IPC”).

Briefly stated, the case of the prosecution is that on 22.05.2012 at about 10 a.m. Dheeraj was taken by Ajit and Babloo to their house and was beaten up. When the complainant-Sumitra Devi (mother of Dheeraj) came to know of this fact she alongwith her sister-in-law Bala Devi reached the house of Ajit and saw her son Dheeraj lying in the courtyard being beaten by Ajit with a danda on his head and leg whereas Babloo was causing an axe blow on his head. She also saw Monu @ Lala hitting her son with an iron rod on his private parts while Sonu had caught hold of Dheeraj. Dheeraj and Neeraj grand sons of Raj Kumar were also seen by her to be causing injuries to her son. When she raised hue and cry Babloo gave an axe blow on her right elbow. Monu @ Lala also inflicted injury upon her

left shoulder with an iron rod. Respondent No.2-Sumitra and Pushpa @ Lali, daughters of Raj Kumar and Chando Devi wife of Raj Kumar also caused injuries to Dheeraj. Ajit was also seen giving an injection to Dheeraj while Babloo and Sonu caught hold of him. Respondent No.2-Sumitra was also seen pouring poison in the mouth of Dheeraj. As a result of the above, Dheeraj had died. The motive behind the occurrence was that two years ago when Ajit was giving beatings to his wife Rekha she was rescued by the complainant-Sumitra's husband and due to this enmity her son Dheeraj had been murdered in the above fashion.

On completion of investigation, a report under Section 173 Cr.P.C. was filed as per which a prima facie case against Ajit Singh, Babloo, Sonu, Monu @ Lala, Sumitra and Chando Devi was found and accordingly, they were charge-sheeted. During the pendency of the trial, on an application moved by the prosecution under Section 319 Cr.P.C., Dheeraj, Ashish @ Neeraj and Pushpa @ Lali were also summoned to face trial. On the accused pleading not guilty they were put on trial.

The trial Court after sifting the evidence which had come on record acquitted respondents No.2 to 4 by giving them the benefit of doubt as the trial Court was of the opinion that the prosecution has failed to prove its case against them. It is such acquittal of respondents No.2 to 4 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 to 4 of the charges levelled against them as there was overwhelming evidence on the record to prove their guilt and therefore, there was no reason in fact or in

law with the trial Court to acquit them by giving them the benefit of doubt.

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

A perusal of the statement of PW-1 Sumitra Devi (complainant) shows that she involved respondents No. 2 to 4 only as an afterthought. In the earlier part of her statement, she specifically names all the other accused and attributes to each of them specific injuries on the person of the deceased. She then states that she raised hue and cry on which Babloo inflicted an axe blow upon her and Monu hit her on her left shoulder with an iron rod. Had respondents No. 2 to 4 inflicted injuries upon the deceased their role would have been described by PW-1 Sumitra Devi in the very first instance. No specific injury to the deceased is also found to be attributed to respondents No.2 to 4.

In view of the above as also for the reason that women seldom involve themselves in criminal activities especially when other male members were in the process of causing injuries to a lone young boy, the findings by the trial Court acquitting respondents No.2 to 4 by giving them the benefit of doubt need no interference.

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
23.03.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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