

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-16844-2018 in/and
CRM-A No.938-MA of 2018 (O&M)
Date of decision : August 03, 2018

Sunita Applicant-appellant

Versus

Sunil @ Joni and others Respondents

CORAM : HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Surender Saini, Advocate for the applicant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J.(ORAL)

CRM-16844-2018

There is delay of 126 days in filing the application for grant of leave to appeal.

For the reasons mentioned in the application, delay of 126 days in filing the application for grant of leave to appeal is condoned, subject to all just exception.

Application stands disposed of.

Main Case

Applicant-Appellant Sunita, who is wife of deceased Suraj Kiran @ Boda has filed appeal against the judgment dated 23.08.2017 passed by learned Addl. Sessions Judge, Sonapat, vide which both the accused were acquitted of the charges framed under Sections 302 and 201

read with Section 34 IPC. The application under Section 378(4) Cr.P.C. has also been filed for grant of leave to appeal against the said judgment of acquittal.

As per prosecution, one Suraj Kiran @ Boda, aged about 47 years was working and residing in the dairy of complainant Ravi. On 30.11.2016, Sunil @ Joni and Sandeep @ Sonu came to the dairy in drunkard condition and started consuming liquor with Suraj Kiran @ Boda and the complainant left the dairy leaving behind said three persons. On 01.12.2016 morning, Suraj Kiran @ Boda was found missing. Complainant Ravi suspected that said Sunil @ Joni and Sandeep @ Sonu had kidnapped Suraj Kiran @ Boda.

After investigation, the accused were arrested. On interrogation, Sunil @ Joni and Sandeep @ Sonu suffered disclosure statements Exs.PW3/D and PW3/E respectively, in which they had admitted their guilt and got recovered the weapon used in the crime. In pursuance to their disclosure statement, accused Sunil @ Joni led the police party to the place of occurrence, where the murder was committed. The police demarcated the said place of occurrence. They also stated that after committing murder of Suraj Kiran @ Boda, they put his dead body in Auto No.HR-69B-6780. In pursuance to the disclosure statement, accused Sandeep @ Sonu got recovered the axe, which was used in commission of crime. Both the accused also got the dead body recovered. The dead body was recovered on 07.12.2016.

As per the opinion of Dr. Pawan Mittal, PW9, the death was due to strangulation.

The learned Addl. Sessions Judge, Sonapat after examining the evidence found that the offence is not proved. PW3 complainant Ravi, who had last seen the deceased Suraj Kiran @ Boda with both the accused did not support the prosecution case. He denied that the deceased was working in his dairy. He also denied that he moved any missing complaint of Suraj Kiran @ Boda to the police nor he identified the accused in his cross-examination. Regarding the disclosure statement allegedly made by the accused in his presence, he stated that his signatures were obtained by the police on blank papers. In this way, complainant Ravi did not support the prosecution case and turned hostile.

Now, left with the disclosure statements of the accused admitting the commission of crime, the admission made before the police is not admissible. Only an axe was recovered in pursuance to the disclosure statement of one the accused, namely Sandeep @ Sonu. The said recovery of axe itself is not sufficient to hold that both the accused had kidnapped Suraj Kiran @ Boda and thereafter committed his murder.

Therefore, there is no illegality or infirmity in the impugned judgment dated 23.08.2017 passed by learned Addl. Sessions Judge, Sonapat, acquitting the accused for lack of any evidence. Consequently, there are no merits in the present application. As a result thereof, the application filed under Section 378(4) Cr.P.C. for grant of leave to appeal is dismissed.

(A.B. CHAUDHARI)
JUDGE

August 03, 2018

sarita

Whether speaking / reasoned

Whether Reportable:

No

No

(KULDIP SINGH)
JUDGE