

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

CRA-S-2846-SB-2017 (O & M)

Date of Decision:-10.01.2019

Ritu

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Ashok Arora, Advocate
for the appellant.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. P.S. Poonia, Advocate
for respondent No.2.

MANOJ BAJAJ J.

Ritu w/o Ashok Pannu has preferred this appeal against the order dated 05.4.2017 passed by learned Additional Sessions Judge, Fatehabad, whereby application under Section 452 Cr.P.C. filed by the appellant was dismissed. The proceedings under Section 452 Cr.P.C. were relating to the Sessions Case No.RBT 66 of 2014, FIR No.663 dated 21.11.2013, under Sections 302, 201, 379, 404 read with Section 34 and 120-B IPC and Section 25 of the Arms Act, registered at Police Station City Fatehabad.

Learned counsel for the appellant has contended that the trial in question related to the alleged murder of Smt. Kamla Devi i.e. mother of the appellant Ritu and accused Sunil s/o Abhimanyu. According to the

appellant, sessions trial ended in acquittal vide judgment dated 27.11.2015. After conclusion of the trial, the application was moved by the appellant under Section 452 Cr.P.C. for releasing of the locker key pertaining to Locker No.26, Allahabad Bank, G.T. Road, Fatehabad. The said application was contested by accused Sunil, who is brother of the appellant and staked his claim in respect of the locker as it belong to his mother. The trial Court proceeded to disposed off the application with the observation that the parties may stake their rival claims before the Civil Court and refused to adjudicate the application moved under Section 452 Cr.P.C. on merits.

The status of the locker as pleaded reveals that it could be operated by “either or survivor”. It is contended that during the proceedings of the investigation/trial, contents of the aforesaid Locker No.26, which was in the name of appellant Ritu and her mother Kamla Devi (deceased), were taken away by the accused and the key of the said locker was recovered from the accused and is in possession of the police, which was produced during the trial. Learned counsel further contends that since the locker is in the name of the appellant, the keys deserves to be delivered to her.

On the other hand, learned counsel appearing on behalf of accused Sunil i.e. brother of the appellant, opposed the application and has supported the decision dated 05.4.2017 passed by the trial Court relegating the parties to the Civil Court.

After hearing learned counsel for the parties and going through

the contents of the application under Section 452 Cr.P.C., the reply filed by the accused and the order dated 05.4.2017, this Court is of the opinion that the issue raised in this application ought to have been decided by the trial Court on merits. The judgment, which has been relied upon by the trial Court is absolutely on different set of facts and may not be applicable in the facts and circumstances of the present case as in that case, the rival claim was in respect of the ownership of the property, whereas in this case, it is only the locker keys, which the appellant has alleged to be in her name jointly with her mother (now deceased). Besides, it is not disputed by learned counsel for the parties that there is no civil litigation pending between the parties of any kind and, therefore, it was improper on the part of the trial Court relegating the parties to Civil Court for adjudication in respect of delivering of the locker keys.

In view of the above, the impugned order dated 05.4.2017 is set aside and the matter is remanded back to the trial Court to pass a fresh order on merits adjudicating the application under Section 452 Cr.P.C. in accordance with law.

The parties are directed to appear before the trial Court on 05.3.2019.

Disposed off.

January 10, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No