

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

**CRM-A-2588-MA of 2018(O&M)
Date of decision: 15.01.2019**

State of Haryana

.... Appellant

Versus

Ram Rati and others

....Respondents

**CORAM : HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Kapil Aggarwal, Addl. A.G. Haryana.

ARUN KUMAR TYAGI, J

CRM-41233 of 2018

Present application has been filed under Section 5 of the Limitation Act read with Section 482 Cr.P.C. for condonation of delay of **56 days** in filing the appeal.

For the reasons stated in the application which is supported by an affidavit, the delay of **56 days** in filing the application for grant of leave to appeal is condoned.

Application stands disposed of accordingly.

CRM-A No.2588-MA of 2018

1. State of Haryana has filed the present application under Section 378(3) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of leave to file appeal against judgment dated 24.05.2018 passed by the learned Additional Sessions Judge, Sonapat in sessions case No.231 of 2017 titled as 'State V/s Ram Rati and others' whereby accused Ram Rati

and Dharmender-parents and Sunny brother of the deceased-Neelam @ Sakshi were acquitted of the charge of her murder due to her love affair with complainant-Vicky and destruction of evidence for screening themselves from punishment.

2. Briefly stated the factual matrix of the case as emerging from report filed under Section 173(2) of the Cr.P.C. and referred to in the impugned judgment is that complainant-Vicky submitted complaint to the police alleging that he had love affair with Neelam @ Sakshi who was aged about 17-18. On 26.03.2017 at about 3:00 a.m. she came to him when he was alone in his house and sat on his cot. Her mother accused-Ram Rati also came after 15-20 minutes and slapped him and Neelam @ Sakshi and took Neelam @ Sakshi with her. After sometime accused-Ram Rati came and threatened that they would kill their daughter Neelam @ Sakshi and he should take care of himself. At about 10:00 a.m. accused-Ram Rati again came to his house and threatened to kill Neelam @ Sakshi and went away. Thereafter, he went to bus stand out of fear. At about 4:00 p.m., he came to know that Neelam @ Sakshi hanged herself and died. He left for Rohtak. When he was at bus stand Gohana, he was informed on his mobile that Neelam @ Sakshi had been cremated. Neelam @ Sakshi was killed by her father accused-Dharmender and his family members and cremated on 26.03.2017. On the basis of the complaint, FIR No.72 dated 27.03.2017 was registered at P.S. Sadar Gohana, Sonipat. The police investigated the case and on completion of investigation filed report under Section 173 Cr.P.C. against the accused for their trial under Sections 302 and 201 IPC.

3. On commitment of the case, charges under Sections 302 and 201 read with Section 34 of the IPC were framed against the accused to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined PW-1 ASI Satpal; PW2 Vicky @ Vikram; PW3 Lady Constable Renu; PW4 Lady Constable Monika; PW5 Constable Rajesh; PW6 Constable Jaidev; PW7 EASI Rajesh Kumar; PW8 Constable Dal Singh; PW9 Dr. Randeep; PW10 ASI Manisha and PW11 ASI Mahabir and produced documents complaint submitted by complainant-Vicky Ex.PW-1/A; FIR Ex.PW-1/B; endorsement on the complaint made by PW1-ASI Satpal Ex.PW-1/C; disclosure statement of accused-Ram Rati Ex.PW-3/A; memos of demarcation of place of occurrence by accused Ram Rati Ex.PW-4/A and Ex.PW-4/B; disclosure statements of accused-Dharmender and Sunny Ex.PW-5/A and Ex.PW-5/B; memos of demarcation of place of occurrence by accused-Dharmender and Sunny Ex.PW-5/C, Ex.PW-5/D, Ex.PW-5/E and Ex.PW-5/F; piece of Chunni Ex.PW-5/G; sickle (Darati) Ex.PW-6/A; burnt bones of deceased with ash Ex.PW-6/B; scaled site plan prepared by PW-7 EASI Rajesh Ex.PW-7/A; Sworn affidavit of PW-8 Const. Dal Singh regarding depositing the case property in Malkhana Ex.PW-8/A; report of PW-9 Dr. Randeep Ex.PW-9/A; recovery memo of ash of burnt Chunni Ex.PW-10/A; Jar containing ash of burnt chunni of deceased Ex.MO/1; rough site plans prepared by PW-11 ASI Mahvir Ex.PW-11/B and Ex.PW-11/D and FSL report Ex.PY.

5. On conclusion of prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded wherein they denied commission of alleged offence and asserted their false implication. However, the accused did not produce any defence evidence.

6. On consideration of the material on record and submissions made by learned Public Prosecutor for the State and learned defence Counsel, the learned Additional Sessions Judge vide impugned judgment

held that the prosecution has failed to prove its case beyond reasonable doubt and acquitted the accused of the charges framed against them. The impugned judgment is now sought to be appealed against by the State of Haryana.

7. We have heard learned Counsel for the parties and gone through the record.

8. Mr. Kapil Aggarwal, learned Addl. A.G. Haryana has argued that accused Ram Rati-mother of the deceased-Neelam @ Sakshi caught her while meeting PW-2-Vicky and threatened to kill her. Subsequently, deceased-Neelam @ Sakshi, who was young, hale and hearty girl, died and was cremated in a hurried manner. The accused did not inform the police or other authorities regarding death of the deceased-Neelam @ Sakshi and have not given any explanation as to how Neelam @ Sakshi died or what was the cause of her death. The learned trial Court did not appreciate the facts in the light of cogent and convincing evidence which incriminated the accused for commission of charged offences. The impugned judgment has resulted in grave miscarriage of justice. Therefore, leave to appeal against the impugned judgment may be granted.

9. In the present case, the accused are alleged to have murdered Neelam @ Sakshi due to her love affair with complainant-Vicky and to have destroyed evidence for screening themselves from punishment. However, the prosecution has miserably failed to produce any reliable evidence to prove that Neelam @ Sakshi had any love affair with Vicky. Vicky, when examined as PW-2, did not support the case of the prosecution and expressed ignorance about the facts of the case. In his cross-examination, PW-2-Vicky not only denied his love affair with Neelam @ Sakshi but went to the extent of stating that he treated Neelam @ Sakshi as a sister. PW-2

Vicky admitted his signature on complaint but averred that the same had been obtained on blank papers. The assertion made by Vicky in complaint Ex.PW-1/A as to his love affair with Neelam @ Sakshi is not supported by any other evidence. The Investigating Officer did not join any neighbour or person of acquaintance of the deceased and the complainant as witness and did not collect mobile phone call details for proving their love affair. Consequent failure of the prosecution to produce such evidence knocks out the very basis of the case of the prosecution.

10. Further, in complaint Vicky had mentioned as to having come to know that Neelam @ Sakshi had hanged herself which contradicts the case of the prosecution as to her murder by the accused. In his examination-in-chief, PW1-Vicky expressed ignorance as to cause of death of Neelam @ Sakshi and in his cross-examination he stated that she died natural death. Due to cremation of the dead body of Neelam @ Sakshi, no post mortem examination could be conducted thereon. Cause of death could also not be ascertained from ash/bones of the deceased seized from the cremation ground which were as per FSL report too fragmentary. The Chunni and Darati(Sickle), seized by the Police as being valuable pieces of evidence to connect the accused with the crime, were not found by FSL, Madhuban to have any distinct material to incriminate the accused for commission of charged offences. The places allegedly demarcated by the accused were already known to the police and disclosure statements are not of any evidentiary value. Neither there is any medical or forensic evidence as to homicidal death of Neelam @ Sakshi nor is there any direct or circumstantial evidence to incriminate the accused for committing murder of Neelam @ Sakshi and destruction of evidence to screen themselves from punishment.

11. Consequently, the application fails to make out any arguable case for grant of leave to appeal. Therefore, the application is dismissed being devoid of any merit and leave to appeal is declined.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

15.01.2019

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