

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

CRM No.A-129-MA of 2014 (O&M)

Date of decision: January 16, 2019

Shakuntla

...Applicant

Versus

Jeet Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajinder Kumar Singla, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Shakuntla has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Jeet Ram and other respondents, challenging the judgment dated 03.12.2013 passed by learned Addl. Sessions Judge, Fazilka, whereby accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant Shakuntla filed a complaint against accused Jeet Ram, Sheelo, Balraj and Indro under Sections 306 and 120-B IPC. The brief averments of the complaint as noted down in the judgment passed by learned Addl. Sessions Judge, Fazilka, are as under:-

“1. Facts of the case are that marriage of complainant was solemnized with Ram Kkumar Harphool @ Pirthi son of Tula ram about 12 years back and out of his marriage one son and one daughter were born. As per the ritual of their biradari, due to marriage of the complainant with Ram Kumar, the marriages of two sisters of Ram Kumar was solemnized with the brothers of the complainant, out of which Sheelo was married with Jeet Ram brother of the complainant and Indro was married with Balraj, another brother of the complainant, residing at Shergarh, Tehsil Abohar. Her grandfather-in-law Tulsa ram had three sons namely Kanshi Ram, Harphool alias Pirthi and Chunni Lal. Tulsa Ra owns land in village Khew wali Dhab, Tehsil Fazilka out of which Chunni Lal has got 34 kanals 11 marlas of land in partition. It is further alleged that Chunni Lal having age 65 years was unmarried and he had also not adopted any child and he used to cultivate the land which came in his share and the complainant and her husband used to look after Chunni Lal and some time back, husband of the complainant expired. Further alleged that Chunni Lal was a simpleton person who was taken by Jeet Ram, Balram and their wives Sheelo and Indro in the month of April 2006 with them and by hatching conspiracy and fraudulently, Sheelo and Indro got transferred the land of Chunni Lal in their favour without paying anything which came to knowledge of the complainant after due inquiry. Chunni Lal had also raised construction of one Kotha in the land. It is further alleged that in the month of September 2006, said Jeet Ram, Balraj and their wives Sheelo and Indro along with their children started residing in the Kotha of Chunni Lal and they also started taking possession of the crop sown by Chunni Lal and his other land and also threatened Chunni Lal that he is no more owner of his land because they have got the land transferred in their names. On 24.9.2006, at about 10.00/11.00 a.m. Vinod Kumar son of Krishan Lal was present in the house of

complainant for domestic needs and Chunni Lal came to the house of the complainant and narrated that Jeet Ram, Balraj and Sheelo and Indro used to beat him and also did not give him food and used to say that they have got transferred the land in their names and now they want to occupy his land and they are harassing him. It is further alleged that on 26.9.2006 during night, it came to know that Jeet Ram Balraj sons of Daulat ram and their wives Sheelo and Indro have given beatings to Chunni Lal during day time which was witnessed by Uggarsain son of Mahavir and due to atrocity committed by the accused, in the evening, Chunni Ram has committed suicide by hanging himself under a tree with the help of rope. It is further alleged that Jeet Ram, Balram etc. and relations with the employees of the police station Khui Khera and due to that they had made a false report of death of Chunni Lal and also got post mortem of dead body of Chunni Lal and they also performed his cremation. When the complainant started proceeding for death of Chunni Lal, the accused being close relative of the complainant tried to pressurize her including Ladhu Ram who is nephew of Chunni Lal. It is further alleged that about one week prior to filing of the present complainant Lachhman son of Kanshi who is the uncle of complainant came to her and he narrated that Jeet Ram, Balram, Sheelo and Indro had visited him and before him, they all separately admitted that they had taken Chunni Lal with them and they had got transferred the land of Chunni Lal in their names dishonestly and when they tried to take possession of the same, Chunni Lal started threatening to set aside the sale deeds in favour of accused and annoyed with the situation, they had given beatings to Chunni Lal and on account of their atrocities, Chunni Lal had committed suicide and they in connivance with the police also not allowed the police to take action of death of Chunni Lal and four months have passed in case, the complainant proceed the matter against them they

will make every effort not allow anybody take any action against them. Since, the accused have dishonestly got transferred land measuring 34 Kanals 11 Marlas in their names of Chunni Lal who was simpleton person and was issueless and thereafter the accused tried to take possession of his land and also gave beatings to him and on account of their atrocity, Chunni Lal was compelled to commit suicide. Complaint was accordingly filed before the court of Illaqa Magistrate.”

Finding prima facie case, the accused were charge-sheeted under Sections 306 and 120-B IPC.

The complainant examined herself as PW-1, PW-2 Ugar Sain, PW-3 Dr.Prithvi Raj Bhadu, PW-4 Bishamber Lal, PW-5 Ladhu Ram and PW-6 Lachhman Dass.

At the close of complainant evidence, the accused were examined under Section 313 Cr.P.C. They were confronted with the evidence of the complainant and they denied all the incriminating evidence against them and pleaded their innocence. The accused took the defence that complainant wanted to take half of the land from them and due to that reason, she was threatening them to begin criminal proceedings against them and she also demanded money from them to stop the proceedings. When they did not acceded to her demands, she filed present false complaint.

Learned Addl. Sessions Judge, Fazilka, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 03.12.2013.

Aggrieved from the above-said judgment, present appeal along

with application for grant of leave to appeal has been filed.

I have heard learned counsel for the applicant and have gone through the record.

From the perusal of the record, I find that in the present case, as per PW-3 Dr.Prithvi Raj, who conducted post-mortem examination on the dead body of Chunni Lal on 27.09.2006, opined that cause of death in this case was asphyxia as a result of hanging which was sufficient to cause death in ordinary course of events and hanging was ante-mortem in nature. The probable time between injury and death was immediate and time between death and post mortem was 24-36 hours. PW-4 Bishamber Lal, photographer mainly deposed regarding the photographs and PW-5 Ladhu Ram deposed that Chunni Lal was his maternal uncle.

Further, I find that Chunni Lal committed suicide on 26.09.2006 but the complaint was filed by the complainant, as stated, after about four months of the occurrence and no cogent explanation has been given regarding the delay. Though, the police conducted proceedings under Section 174 Cr.P.C. and post-mortem examination was got conducted on the dead body of Chunni Lal but at that time, neither complainant nor any of the complainant's witness/relative of Chunni Lal, made complaint or shown any suspicion to the police. Rather, accused Jeet Ram informed the police regarding the occurrence.

The motive for causing harassment to Chunni Lal, as stated, is that accused got transferred land of Chunni Lal about four months earlier to the occurrence and then they started harassing him due to which he committed suicide. Learned trial Court has rightly held that there is no immediate occasion between transfer of the land and the suicide. The

perusal of the record further shows that there is no cogent evidence

regarding harassment. The witnesses never reported the matter to the Sarpanch of the village or to the police at any stage regarding harassment. Even Chunni Lal has not reported the matter to the Sarpanch of Gram Panchayat nor to the police nor any application has been filed, at any stage, to any authority.

The accused are brothers and sister-in-laws of the complainant. The defence of the accused is that complainant wanted share in the property of Chunni Lal and that is why, complaint has been filed. Otherwise also, it looks unnatural that complainant will remain silent for such a long period. If Chunni Lal has committed suicide due to harassment given by the accused, she could have easily informed the police or get registered the FIR against the accused at that time when the police was also there and conducting proceedings under Section 174 Cr.P.C. Jeet Ram while getting reported the matter to the police vide DDR No.9 dated 27.09.2006 has not concealed any fact from the police and gave information of suicide committed by Chunni Lal. The police has also not suspected commission of any offence. The complainant also deposed in the statement that she did not come to meet Chunni Lal when he was residing in *kaccha kotha* in the fields. No complaint was made by Shakuntla against the accused during the lifetime of Chunni Lal. No panchayat was ever convened nor any injury was seen by Shakuntla on the person of Chunni Lal. Even in the post-mortem examination report, no injury was found on the person of Chunni Lal and the fact that accused gave beatings etc. is also not supported and corroborated by any medical evidence. All these facts have been discussed by learned trial Court in its judgment.

Judge, Fazilka, shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the trial Court. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court. The findings have been given by correctly appreciating the evidence in right perspective and accused-responder has been rightly acquitted.

In view of the above discussion, I find that the impugned judgment dated 03.12.2013 passed by learned Addl. Sessions Judge, Fazilka, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

January 16, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No