

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.39031 of 2014
and
Criminal Appeal No.S-5255-SB of 2014

.....

Date of decision:05.03.2019

Narinder Kaur

...Appellant

v.

State of Punjab and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Shivender Pal Singh, Advocate for Mr. B.S. Bhalla,
Advocate for the appellant.

.....

Inderjit Singh, J.

Cr. Misc. No.39031 of 2014:

For the reasons mentioned in the criminal miscellaneous application, the delay of 495 days in filing the present appeal is condoned.

The criminal miscellaneous application is allowed.

Cr. Appeal No.S-5255-SB of 2014:

The appellant has not filed application under Section 378(4) Cr.P.C. He has filed the appeal directly against Harpreet Kaur and State of Punjab-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 23.4.2013 passed by learned Additional Sessions Judge, Ferozepur, whereby in case FIR No.248 dated 23.11.2008 registered for the offence under Section 306 IPC, respondent No.1-Harpreet Kaur has been acquitted of the charge as framed against her.

Learned counsel for the appellant made an oral statement that this appeal may be treated as application seeking leave to appeal.

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

From the record, I find that challan was presented by Police of Police Station Zira in FIR No.248 dated 23.11.2008 registered for the offence under Section 306 IPC against accused Amarjit Kaur, Harpreet Kaur and Jaswinder Singh alias Jimmy.

The brief facts of the case as noted down by the learned Additional Sessions Judge, Ferozepur in the judgment dated 23.4.2013 are as under:-

“2. Prosecution case, in brief, is that Devinder Singh was an employee of Punjab Police and got retired from District Patiala in the year 2008. Complainant has three sons. Her eldest son, namely, Rajwinder Singh is married and is residing in England for the last 6/7 years. Younger to him, namely, Mandeep Singh is employed in PAP and had gone to Chhatisgarh in connection with election duty. Youngest one, namely, Gurpreet Singh had gone to England about six months before the occurrence. Mandeep Singh got married with Harpreet Kaur (accused) in the year 1998 and a daughter, namely, Jasleen Kaur, was born, whose age was about 10 years at the time of registration of the case. After two years of the marriage between Mandeep Singh and Harpreet Kaur, differences arose amongst them. Parents of Harpreet Kaur took her back to Mohali and filed a case for

dowry against the complainant and her husband. The said case was pending in the courts at Patiala. However, marriage between Harpreet Kaur and Mandeep Singh was dissolved by a decree of divorce and thereafter, Mandeep Singh got married another lady Damanpreet Kaur, resident of Zira and Harpreet Kaur also got re-married. Jasleen Kaur, who is grand daughter of the complainant was residing with her mother - Harpreet Kaur. The complainant wanted that Jasleen Kaur should be handed over to her.

On 19.11.2008 the complainant and her husband Devinder Singh had gone to attend the date of hearing at Patiala. There they asked accused Jimmy, who is maternal uncle and accused Amarjit Kaur, who is maternal grand mother of Jasleen, that custody of Jasleen be given to them. They would educate her. But they refused to hand over the custody of Jasleen to them and even Jasleen refused to accompany the complainant. Accused Jimmi and Amarjeet Kaur further told that they would not hand over the custody of Jasleen to them, but they (accused) would take her share, the complainant told them that they should take a sum of Rs.5 lacs and withdraw the case and they should effect compromise with them, but the accused did not agree and they said that they want to harass them. The case was adjourned to 18.12.2008 and the complainant and her husband came back from Patiala. Since then the husband of the complainant was under tension. A day

before the occurrence, accused Jimmi and Amarjit Kaur made a phone call in the house of the complainant, which was attended by the complainant and her husband Devinder Singh. The said accused threatened that they would get the share of Jasleen Kaur in the property since she is their grand daughter. As such, husband of the complainant became more tense.

On 23.11. 2008 at about 5 a.m., Devinder Singh got up. Complainant prepared tea and after taking tea husband of the complainant went out side the house. After some time when he came back, he felt uncomfortable. When the complainant went near to him, she found foul smell like a medicine coming from his mouth. She raised alarm. Her brother-in-law Parminder Singh, Kiranpal along with other persons came there and they shifted Devinder Singh to Civil Hospital, Zira for treatment, but on reaching hospital he died. Parminder Singh was deputed to guard the dead body and Narinder Kaur accompanied by Kiranpal went to the police station for lodging complaint. On the way in front of State Bank of India, Zira, ASI Gurdip Singh met them and there complainant Narinder Kaur got recorded her statement Ex.P6. ASI Gurdip Singh made his endorsement Ex.PS on the said statement and sent ruqa Ex.P9 to the police station, on the basis of which formal FIR Ex.P10 was recorded. ASI Gurdip Singh and other police officials visited Civil Hospital, Zira and moved application Ex.P11. During search of the dead body of Devinder Singh, suicide note mark 'A' was

recovered, which was taken into possession vide memo Ex. P12. Inquest report Ex.P13 was prepared and postmortem on the dead body was got conducted by moving application Ex.P11. ASI Gurdip Singh then visited the spot and prepared rough site plan Ex.P14. On 28.11. 2008 ASI Gurdip Singh visited the house of the deceased where Manjit Singh son of the deceased produced before him a hand written note mark 'B'.

On 8.12.2008 ASI Gurdip Singh visited the office of SP (D), Patiala and moved an application Ex.P1 on which the SP (D), Patiala made endorsement Ex.P2. Case diaries Exs.P3 and P4 were produced by HC Manjit Singh, which were scribed by Devinder Singh deceased. The same were taken into possession vide memo Ex.P5. The SSP, Ferozepur vide his letter Ex.P15 sent the suicide note and case diaries to Forensic Science Laboratory, Chandigarh for comparison and report Ex.P16 was received in this regard.

On 24.1.2008 all the accused were formally arrested and grounds of arrest were intimated to them vide memos Exs.P17 to P19. On receipt of the report of Chemical Examiner Ex.P21 and after completion of the investigation and other necessary formalities, challan against the accused was produced in the Court of learned Illaqa Magistrate.”

On finding a *prima facie* case, charge against accused was framed for the offence under Section 306 IPC, to which they pleaded not guilty and claimed trial.

The prosecution in order to prove its case examined PW-1 HC Manjit Singh, PW-2 ASI Gurdip Singh, PW-3 Narinder Kaur, PW-4 Parminder Singh, PW-5 HC Chand Singh, PW-6 Dr. K.K. Singh, PW-7 Inspector Harinder Singh, PW-8 ASI Kulwant Singh and closed its evidence.

At the close of prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. and they were confronted with the evidence against them, but they denied the correctness of the same and pleaded themselves as innocent. In defence, accused Amarjit Kaur tendered documents in evidence.

After appreciating the evidence, vide impugned judgment dated 23.4.2013 and order dated 24.4.2013, accused Amarjit Kaur and Jaswinder Singh alias Jimmy were convicted and sentenced for the offence under Section 306 IPC. However, accused-respondent No.1-Harpreet Kaur has been acquitted by the learned Additional Sessions Judge, Ferozepur. Aggrieved from this judgment of acquittal of Harpreet Kaur, the present appeal has been filed by the complainant.

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

A perusal of the record shows that there is no allegation of any type against Harpreet Kaur levelled in the FIR by the complainant.

Learned counsel for the appellant at the time of arguments argued that other co-accused, namely, Amarjit Kaur and Jaswinder Singh alias Jimmy requested to hand over the custody of Jasleen and refused to compromise the matter with Devinder Singh (since deceased) at the instance

of Harpreet Kaur. Even a perusal of the FIR shows that no allegations have been levelled against Harpreet Kaur regarding refusal of the settlement and further that she was present at that time. There is even no allegation that she gave threat of taking share of Jasleen Kaur grand-daughter of Devinder Singh (since deceased) from his property.

The learned trial Court in the facts and circumstances has rightly acquitted Harpreet Kaur. From the above, I do not find any ground even to grant leave to file appeal on the oral request of the learned counsel for the appellant. Therefore, finding no merit in this appeal, the same is dismissed accordingly

However, nothing stated above will constitute my opinion qua the case of other accused regarding which appeal against their conviction is stated to be pending before this Court.

March 05, 2019.

(Inderjit Singh)
Judge

hsp

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