

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

**CRA-S-1258-SB-2006(O&M)
Date of decision:-27.2.2020**

Dalip Singh

....Appellant

Versus

Satbir Kaur and others

....Respondents

CORAM : HON' BLE MR. JUSTICE H.S. MADAAN

Present : Ms.Harmanpreet Kaur, Advocate
for the appellant.

Ms.Dimple Jain, AAG, Haryana.

H.S. MADAAN, J.

Briefly stated, facts of the case as per the prosecution story are that a year prior to 4.5.2004 Pammi, niece of Satbir Kaur, resident of village Gadrana, District Sirsa, was sick and Jeet Singh, husband of Satbir Kaur had taken Pammi to Bikaner accompanying by Gobind Singh @ Hargobind Singh – accused belonging to that very village, who had an evil eye on Satbir Kaur. Therefore, Gobind Singh @ Hargobind Singh had returned from Bikaner on the pretext of playing cricket and he went to the house of Satbir Kaur at midnight knocking at the door.

When Satbir Kaur opened the door and inquired from him regarding her husband – Jeet Singh, then Gobind Singh @ Hargobind Singh asked her to accompany him. Accused Gobind Singh @ Hargobind Singh entered the house of Satbir Kaur and tried to molest her. Satbir Kaur raised alarm, hearing which her daughter Pinki and son Raja got up. Thereafter, accused Gobind Singh @ Hargobind Singh ran away. After about an hour Jeet Singh also returned from Bikaner and found Satbir Kaur perplexed and he enquired from her. Satbir Kaur told him the entire episode. Jeet Singh went to the house of accused Gobind Singh @ Hargobind Singh to redress protest against him. Jeet Singh did not return home. After waiting for an hour, Satbir Kaur along with her children went to the house of accused Gobind Singh @ Hargobind Singh and found her husband lying there in unconscious condition. Harbans Kaur, co-accused of Gobind Singh @ Hargobind Singh locked Satbir Kaur and her children in the house. Sher Singh, accused was also present there. At that time, accused Gobind Singh @ Hargobind Singh and Sher Singh were armed with lathies and were causing injuries to her husband. Harbans Kaur opened the door in the morning. Satbir Kaur came out, however her husband Jeet Singh was not there. Harbans Kaur and Gobind Singh @ Hargobind Singh threatened Satbir Kaur that if she disclosed the occurrence to any person, she would be dealt with in the same manner as had been done with her husband Jeet Singh. On the same day, after about 10:00/11:00 a.m., she came to know that dead body of her husband was lying on the railway track near Mandi Kallanwali. Satbir Kaur went to Police Station Kallanwali to get a case registered there but the police of the said police station informed that the

jurisdiction of the area was with Railway Police. On the next day, the dead body of Jeet Singh was taken to village Gadrana and cremated there. After about 1 ½ months of incident, the formal FIR in the matter was recorded. The case was investigated and thereafter challan against the accused was prepared and filed against Gobind Singh @ Hargobind Singh and Sher Singh.

During the trial on an application under Section 319 Cr.P.C. having been filed, Harbans Kaur was summoned as an additional accused. Charge was framed and trial against them were proceeded. Statement of Satbir Kaur was recorded. Though she had supported the prosecution story before moving of application under Section 319 Cr.P.D.C. But when Harbans Kaur was summoned as additional accused and her statement was recorded again, she did not toe the line of prosecution. On conclusion of the trial, the accused were acquitted by the Court learned Additional Sessions Judge, Sirsa vide judgment dated 24.12.2005.

Dalip Singh, a real brother of Jeet Singh deceased had filed an application for taking necessary action under Section 340 Cr.P.C. against Satbir Kaur stating that she had intentionally and voluntarily made a false statement on 30.11.2005 in order to save all the three accused from punishment likely to be awarded in the case. Therefore, it was expedient in the interest of justice to proceed against Satbir Kaur under Section 340 Cr.P.C. for making a false statement before the Court in order to derail the ends of justice.

That application was declined by learned Additional Sessions Judge, Sirsa vide order dated 24.12.2005. The operative part of

the order for ready reference is being reproduced as under:

3. *Now it is settled law that the Court should not proceed under Section 340 of the Cr.P.C. unless it is observed that the witnesses are the persons who made false statement intentionally just to mislead the Court but in the present case in the judgment it is not so observed. The Hon'ble Supreme Court of India in the case law reported as "Chandrapal Singh and others Versus Maharaj Singh and another 1982 CAR 6(SC)" has observed and held that the complaint under Section 340 of the Cr.P.C. should not be filed on mere asking of any party and it would open flood gates of litigations. Since in my opinion PW Satbir Kaur widow of deceased Jeet Singh was not made false statement before the Court and she intentionally did not support the prosecution version, so I am of the view that the application is malafide and has been filed by the applicant Dalip Singh just to harm and harass the widow of the deceased. So, there is no merit in the application and the same fails and is hereby dismissed.*

Feeling aggrieved, that order has been challenged in appeal before this Court.

I have heard learned counsel for the parties besides going through the record.

The order passed by the trial Court is detailed and well reasoned. It does not come out to suffer from any illegality or infirmity

much less apparent on the face of it, which might have called for interference by this Court. The order is certainly not perverse or passed in an arbitrary manner.

The appeal is found to be without any merit and the same is dismissed accordingly.

27.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No