

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

101

CRM No.8166 of 2020 in/and
CRM-A No.385 of 2020

Date of Decision: May 19th, 2022

State of Haryana

....Applicant

Versus

Brijpal and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Ms. Rajni Gupta, Additional Advocate General, Haryana,
for the applicant.

AUGUSTINE GEORGE MASIH, J.

CRM No.8166 of 2020

Prayer in this application is for condonation of delay of 30 days in
filing the present appeal.

For the reasons mentioned in the application, which is duly
supported by an affidavit of Deputy Superintendent of Police, Assandh, District
Karnal, the same is allowed.

Delay of 30 days in filing the appeal stands condoned.

CRM-A No.385 of 2020

This is an application under Section 378 (3) of Cr.P.C. for grant of
leave to appeal against the judgment 23.10.2019 passed by the Sessions Judge,
Karnal, acquitting the respondents of the charges framed against them under
Section 302 read with Section 34 IPC.

2. It is the contention of learned counsel for the applicant that the trial
Court has wrongly acquitted the accused of the charges framed against them on
the ground that the prosecution has failed to prove as to how, when and under
what circumstances the deceased went to the house of the accused and who gave
the information of the murder to the police. She contends that there was ample
evidence produced on record which included a Panchayat having been convened

at Karnal to resolve the matrimonial dispute between Komal and Suraj, daughter-in-law and son of the deceased. Talks about compromise were also stated to have taken place. Once the body has been found in the house of the accused, the onus was on the accused to prove as to how and under what circumstances the deceased had died. The trial Court has proceeded on conjectures and surmises, especially with regard to the deceased having died because of a fall while jumping over the wall of the house leading to receiving severe injuries and having died because of them. She asserts that the material witnesses have supported the case of the prosecution and, therefore, the acquittal of the accused is unsustainable. Prayer has thus been made for accepting the application for leave to appeal.

3. We have considered the submissions made by the counsel for the applicant and with her assistance, have gone through the grounds as also the judgment passed by the trial Court.

4. The case is of circumstantial evidence in the absence of an eyewitness account. PW-2 Suraj son of the deceased, who is stated to have received a call from the police that his father has been murdered, on which he and his uncle reached the Police Station, has stated that his signatures were obtained on blank papers. Similarly, PW-3 Pawan uncle of PW-2 Suraj and brother of the deceased Brijpal also stated the same fact. They were declared hostile and cross-examined by the Public Prosecutor. Nothing came out of their cross-examination and, therefore, in the absence of any evidence which would connect the accused with the crime, the Court had rightly proceeded to cast doubt upon the story of the prosecution.

5. The reason for deceased Brijpal having stayed back after the talks of compromise having failed for resolving the matrimonial dispute between Komal and Suraj and the explanation for he having gone to the house of accused at night

particularly when there were scathing allegations against him that he had outraged the modesty of his daughter-in-law Komal remains unexplained. The chain of circumstances is not completed as the case is based upon circumstantial evidence.

6. There is nothing which would indicate that any weapon was used in the commission of the offence, rather as per the medical evidence, the doctor had accepted the suggestion that the injuries found on the person of the deceased could be a result of fall. The prosecution has not made any effort to complete the sequence of events. The recoveries also which have been effected and that too of the *dandas* appears to be unlikely and doubtful as it is said that the recoveries have been effected on the disclosure statement of the accused. Occurrence had taken place on 15.05.2018. Recovery at the instance of accused Brijpal son of Molad Singh has been effected on 17.05.2018, whereas from the co-accused Chander Pal, the same was effected on 24.06.2018. No specific identification mark is there on the *dandas* nor has it been found to be bloodstained. Strangely enough, neither accused Chander Pal nor Brijpal had destroyed the alleged weapon of offence.

7. All these facts raise doubt with regard to the authenticity of the prosecution story and the trial Court has rightly proceeded to acquit the accused by giving them benefit of doubt. We, therefore, find no ground to accept the prayer made in this application and decline the leave to appeal.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 19th, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: No