

**IN THE HIGHCOURT OF PUNJB AND HARYANA AT
CHANDIGARH**

Criminal Revision No.3330-2016(O&M)
Date of Decision: 16.11.2022

Shoba Malik

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gaurav Sharma, Advocates for the petitioner.

SANDEEP MOUDGIL, J.

CRM-28708-2016

This is an application under Section 5 of the Limitation Act for condonation of 9 days delay in filing the instant revision petition.

For the reasons mentioned in the application, which is duly supported by an affidavit of the petitioner, delay of 9 days in filing the appeal is condoned.

CRM stands disposed of.

CRM-28709-2016

Allowed, as prayed for.

CRR-3330-2016

The petitioner is before this Court in present revision petition challenging the judgment dated 09.11.2015, passed by Judicial Magistrate Ist Class, Amritsar acquitted the accused-respondent and judgment dated 16.05.2016 passed by the learned Additional Sessions Judge Amritsar, whereby, while disposing of both the appeals, one filed by complainant and

another by State of Punjab, the acquittal of the accused Brij Bhushan by the learned Judicial Magistrate 1st Class, Amritsar, vide judgment dated 16.05.2016, was upheld.

Briefly, the facts are that FIR was registered on the basis of statement of complainant Shoba Malik w/o Ajit Kumar Malik recorded by SI Ramesh Chander Incharge Police Post Guntala to the effect that on 02.10.2010 when he alongwith other police officials was present near Vijay Petrol Pump, Ajnala Road, Amritsar in connection with checking and patrol duty. Complainant Shoba Malik disclosed that her daughter Deepa Nayyar was married, in December 2000, with Anuj Nayyar son of Brij Bhushan r/o H.No.B-1/59, Bhai Randhir Singh Nagar, Ludhiana and was murdered by her husband on 11.09.2010 and FIR No.393 dated 14.09.2010 under Section 302 IPC, Police Station Taajganj, District Agra, was registered against him. After this, mother in law and father in law namely Neelam Nayyar and Brij Bhushan Nayyar, respectively, of Deepa Nayyar started threatening them to withdraw the case. On 01.10.2010, at about 12:30 pm, accused Neelam Nayyar, Brij Bhushan Nayyar, Keshav Rai, wife of Keshav Rai namely Suman Gupta and Krishan Kumar Aggarwal came in Swift car and forcibly entered into her house. At that time she was alone in the house as her mother in law Bhagwati was sleeping in her room on upper floor. After entering into her house, accused Neelam Nayyar and Brij Bhushan Nayyar threatened her to withdraw the FIR registered against their son Anuj Nayyar; other accused proclaimed that it would be better for her to withdraw the said FIR, failing which, she and her daughter Neelu would face serious consequences;

Neelam Nayyar pushed her and gave fist blow to her. She fell on floor and accused Brij Bhushan gave kick blows to her. On raising alarm, her neighbour Sanjeev Kumar Budhiraja s/o Avinash Chander Budhiraja came there and all the accused fled away from the spot in their car while giving threats that we were spared that day but they would be eliminated next time, in case we do not withdraw the case against Anuj Nayyar. They had also caused damage to the house while leaving from the spot. During investigation, accused Neelam Nayyar, Keshav Rai, Suman Gupta and Krishan Kumar Aggarwal were released on bail after formally arresting them on 13.11.2010 as they had obtained anticipatory bail from this Court. On application moved by accused Krishan Kumar Aggarwal to Commissioner of Police, enquiry was held by the then SHO P.S. Cantonment, and it was found that complainant's daughter Deepa Nayyar was married with accused Brij Bhushan Nayyar and Neelam Nayyar's son Anuj Nayyar and had two children. They all four had gone to Agra for tour and stayed in J.P Hotel. On 10.09.2010, some dispute took place between Deepa Nayyar and her husband Anuj Nayyar and she died after felling down from the roof of said hotel. FIR No. 393 dated 14.09.2010 under Section 302 IPC was registered against Anuj Nayyar, who was arrested and lodged in jail. Accused Krishan Kumar Aggarwal was mediator in their marriage, who had also made a telephonic call to the complainant party for compromising the matter and on 01.10.2010, on his asking, accused Brij Bhushan, Neelam Nayyar, alongwith their grandson, grand daughter and servant Chotu, accused Keshav Rai and his wife Suman Gupta had gone to Ludhiana for effecting compromise with

the complainant party; a dispute between the parties had arisen and the same was brought to the notice of local police. A written compromise was effected between the parties and as per inquiry report, Sections 452, 148, 149 were deleted and Section 341 IPC was added. The names of all other accused were kept in column no.2 and challan was presented only against accused Brij Bhushan and charges were framed. During the trial, on application under Section 319 Cr.P.C being moved by prosecution, all the remaining accused were summoned to face trial as additional accused.

After considering the entire material and evidence on record, the learned Magistrate acquitted all the accused for offences under Sections 452, 323, 506, 341 and 427 IPC beyond any reasonable doubt. The acquittal was maintained by the learned Additional Sessions Judge, Amritsar, as well, by dismissing separate appeals filed by the complainant and State.

After going through the concurrent findings of both the Courts below, I am of the view that there is no reason to disbelieve the findings recorded by the Courts below. The scope of revision is very limited, as the evidence at the stage of revision cannot be re-appreciated. Infirmary and illegality, if any, in the orders of the Courts below can be seen during the course of adjudication of revision petition. Learned counsel for the petitioner has failed to establish any illegality or infirmity in the orders of the Courts below, which have applied their judicial mind to the factual and legal aspects arising in the case and only then have passed just and appropriate orders.

Without finding any manifest error or otherwise illegality, procedural or otherwise, so as to warrant interference in decisions of the Courts below in criminal revision.

Dismissed.

(SANDEEP MOUDGIL)
JUDGE

16.11.2022
mamta

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