

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

**CRA-D-1333-DB of 2013
DATE OF DECISION : January 15, 2015**

Mammandin

Versus

...Appellant

State of Haryana and others

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. Sarfraj Hussain , Advocate for the appellant.

Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Naveen Sharma, Advocate for respondents no. 2 to 4.

M.JEYAPPAUL, J.

1. Heard the submissions made by learned counsel appearing for the appellant, learned State counsel and learned counsel appearing for respondents no. 2 to 4.

2. Aggrieved by the acquittal recorded by the trial Court the injured witness, Mammandin, has come forward with the present appeal.

3. The respondents Sakir, Hassan Mohd. and Sabbir have

been charged under Sections 323, 325 and 307 of the Indian Penal Code and Section 25 of the Arms Act.

4. The allegation is that accused Sakir, the 2nd respondent herein, attacked Mammandin on his shoulder and caused simple injury, accused Hassan Mohd. opened fire but the target fortunately missed and then accused Sabir delivered a lathi blow to Islami, the wife of the complainant Hassan and caused injuries to her.

5. The trial Court having adverted to the evidence on record came to the conclusion that the prosecution failed to establish the case in the face of wholesale hostility exhibited by the material witnesses except the appellant Mammandin.

6. PW9 Ajgar, PW11 Hassan Mohd. and PW12 Islami who allegedly sustained an injury in the occurrence completely turned hostile to the case of the prosecution. Only the appellant Mammandin who was examined as PW6, supported the case of the prosecution.

7. On a careful perusal of the evidence of PW6 Mammandin, it is found that he has accounted only one injury, found on the shoulder. In fact PW1 Dr. Asha who conducted on medico legal examination of PW6 Mammandin, deposed that Mammandin sustained three injuries. The injury which was accounted for by PW6 Mammandin, could have been caused by a fall, it has been deposed by PW1.

8. In view of the fact that the material witnesses namely

PW9, PW11 and PW12 who allegedly sustained injury in the occurrence have chosen not to support the case of the prosecution and the evidence of PW6 also does not account for the injury described by the doctor in his evidence, in our considered view, the trial Court has rightly recorded acquittal. Therefore, the appeal fails and it stands dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

January 15, 2015
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