

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

CRA-S-804-SB of 2004
DATE OF DECISION :- December 01, 2015

Naranjan Singh **...Appellant**

Versus

Satnam Singh and another **...Respondents**

CRA-S-822-SB of 2004

Harinder Singh **...Appellant**

Versus

Satnam Singh and another **...Respondents**

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

Present:- Mr. D.S. Pheruman, Advocate for the appellants.

Mr. R.S. Randhawa, Additional Advocate General,
Punjab.

Mr. Arun Abrol, Advocate for the complainant.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? **Yes**

M.JEYAPPAUL, J.

1. Accused Naranjan Singh was convicted under Section 336 of the Indian Penal Code and sentenced to undergo three months' rigorous imprisonment and to pay a fine of ₹200/- and in default of payment of fine to undergo further rigorous imprisonment for a period of ten days. He was also convicted under Section 27 of the Arms Act and was sentenced to undergo three years' rigorous imprisonment and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of three months. Naranjan Singh has preferred Criminal Appeal No. S-804-SB of 2004 aggrieved by the above judgment of conviction recorded by the trial Court. Accused Harminder Singh, who is none other than the son of other accused Naranjan Singh, was convicted under Section 336 read with Section 34 IPC and was ordered to be released on probation on furnishing bond in a sum of ₹5,000/- with one surety in the like amount for a period of three years. He has filed Criminal Appeal No. 822-SB of 2004, aggrieved by the above judgment of conviction and order of probation passed by the trial Court.

2. PW3 Jaswant Singh, who lodged the First Information Report deposed that on 26.1.1995, he along with his brother PW1 Satnam Singh and one Satnam Singh S/o Milkha Singh went to the house of accused to effect compromise in the matrimonial dispute

Har minder Singh had with his wife Kulwant Kaur. Thereafter, they were returning in a Maruti Car. Accused went to the roof top of their house. Accused Har minder Singh raised Lalkara instigating accused Naranjan Singh to open fire from 315 bore rifle. Fortunately, 3/4 bullets fired by Naranjan Singh did not hit them.

3. PW1 Satnam Singh also corroborated the evidence of PW3 Jaswant Singh. In fact PW1 lodged a private complaint, as he was aggrieved that he was not examined by the investigating official. The private complaint and the FIR case were merged and a common trial was conducted by the trial Court.

4. PW4 Sub Inspector Sakattar Singh was the Investigating officer in this case. He spoke of the recovery of the empty cartridges from the roof top of the house of the accused and seizure of 315 bore rifle with live cartridges.

5. Heard the submissions made by learned counsel appearing for the accused-appellants, learned counsel appearing for the complainant and the learned counsel appearing for the State of Punjab.

6. It is admitted by PW1 and PW3 that on account of the matrimonial discord between accused Har minder Singh and his wife Kulwant Kaur, many criminal as well as civil cases filed by them against each other were pending disposal. As rightly pointed out by learned counsel appearing for the appellants, there is some motive

for some false implication as well, in the light of the above acrimony subsisted between Harminder Singh and Kulwant Kaur, whose brief was taken up by the complainant party.

7. The evidence of PW1 and PW3, would go to establish that there was no truth in their testimony. Three of four bullets were allegedly fired by Naranjan Singh behind a Maruti Car occupied by PW1 and PW3. The traces of firing could not be located by the investigating official. PW4 has categorically testified that at the place of occurrence there were many buildings. Neither the buildings nor the car did suffer any bullet mark. Therefore, the story of the prosecution that accused Naranjan Singh opened fire endangering human life with an intention to cause the death of PW1 and PW3 does not stand the test of reasoning.

8. The car had just turned towards the village and the office of DSP is admittedly located very close by. PW1 and PW3 had not thought it fit to receive any protection from the office of DSP while they were passing through it. In my considered view, such an abnormal behaviour of PW1 and PW3 throws doubt on their version.

9. PW4 has spoken about the recovery of the empty cartridges from the roof top of the accused on the next day of occurrence. No sane person who had admittedly possessed licensed rifle would have left behind the empty cartridges after making an unsuccessful attempt on PW1 and PW3. To top it all, the empty

cartridges allegedly recovered by PW4 had not been sent for examination by an expert to analyse whether those bullets had been fired from the rifle recovered from the possession of the accused.

10. For all these reasons, I am of the considered view that no case had been made out as against these accused. Therefore, they are acquitted of the charges framed as against them. Consequently, the conviction, sentence and order of probation passed by the trial court stand set aside and the both the appeals are allowed. The bail bonds and probation bonds executed by the accused shall stand discharged.

(M. JEYAPPAUL)
JUDGE

December 01, 2015

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