

CRM 29264 of 2014 in
Crl. Appeal D-1475-DB of 2014

Capt. Malook Singh Vs. State of Punjab and others

Present : Mr. G.S.Kaura, Advocate
for the applicant.

Heard. Sufficient cause has been shown for condoning the delay in filing of the appeal. The application is, therefore, accepted and the delay of 54 days in filing of the appeal is condoned.

(T.P.S. MANN)
JUDGE

(SHEKHER DHAWAN)
JUDGE

February 12, 2015
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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Crl. Appeal D-1475-DB of 2014
Date of Decision : February 12, 2015

Capt. Malook Singh

.....Appellant

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN

Present : Mr. G.S.Kaura, Advocate

T.P.S. MANN, J.

The appellant, at whose instance the FIR was registered against respondents No.2 and 3, hereinafter referred to as '**the accused**' for committing the murders of Amritpal Singh @ Bandoekh and Iqbal Singh, has filed the present appeal against the judgment dated 21.4.2014 passed by the Additional Sessions Judge, Patiala.

Vide impugned judgment, the trial Court acquitted the accused of the charges under Sections 302/120B IPC and Sections 25 and 27 of the Arms Act.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that both Malook Singh and Harvinder Kaur, father and mother, respectively of deceased Amritpal Singh @ Bandoekh, were the star witnesses

of the prosecution being the eye witnesses. Both of them had stated before the police that when they came out of the gift house on hearing the firing of shots, they found their son Amritpal Singh @ Bandoekh lying injured on the driver seat of the car while his friend Iqbal Singh lying dead on the adjoining seat. They also stated that both the accused, who were challaned and accompanied by a few others, had fired at Amritpal Singh @ Bandoekh and Iqbal Singh. They further stated that in their presence, two of those assailants took Amritpal Singh @ Bandoekh on their motor cycle and, thereafter, thrown his dead body near the house of Lal Singh. They also mentioned about a number of other persons having got their son murdered from those accused, who were challaned, and others on account of litigation which they were having with Amritpal Singh @ Bandoekh. However, both Malook Singh and Harvinder Kaur while appearing before the trial Court as PW8 and PW9 respectively, changed their entire version and stated that only the two accused, who were challaned, had fired shots towards Amritpal Singh @ Bandoekh and Iqbal Singh as so stated by Amritpal Singh @ Bandoekh to them. Both of them were, accordingly, got declared hostile and confronted with the statements made by them before the police. Both the witnesses denied having stated that the two accused had taken their son Amritpal Singh @ Bandoekh on their motor cycle.

They also denied having named other persons as accused, who were behind the commission of murder of their son Amritpal Singh @ Bandoekh by the two challaned accused.

The statements made by PW8 Malook Singh and PW9 Harvinder Kaur were found by the trial Court to be contradictory inter se. Moreover, they had also made a number of improvements upon their version earlier given to the police. Further, the occurrence in question was said to have taken place on 10.3.2011 at 9.00 a.m. and the statement of the appellant was recorded by Inspector Gurinder Singh Bal on the same night at 11.10 p.m. but the copy of the FIR was received by the Magistrate only on 11.3.2011 at 12.30 p.m. Apparently, the FIR which was shown to have been recorded on 11.3.2011 at 12.50 a.m. had been ante timed. Possibility of the same having been recorded some time before 12.30 p.m. on 11.3.2011 cannot be ruled out.

According to the prosecution, when accused-Simardeep Singh @ Deepu was arrested, he suffered disclosure statement pursuant to which he got recorded two empty cartridges and also his licenced gun. Further, in the report Ex. PX/1 of the Forensic Science Laboratory, no definite opinion had been given about those two empties having been fired from the gun. Furthermore, both PW8 Malook Singh and PW9 Harvinder Kaur have not stated that when they had reached the spot, accused-Simardeep

Singh @ Deepu was standing with his gun. As regards accused-Sandeep Rai @ Ram of having taken the unlicensed pistol and cartridges from deceased Amritpal Singh @ Bandoekh after committing his murder, it may be noticed that nothing in that regard was stated by both PW8 Malook Singh and PW9 Harvinder Kaur. On the other hand, PW16 Inspector Gurinder Singh Bal deposed that accused-Sandeep Rai @ Ram had made disclosure statement, pursuant to which he got recovered the pistol and the cartridges. In the absence of any evidence on the file that deceased Amritpal Singh @ Bandoekh was in possession of an unlicensed pistol, accused-Sandeep Rai @ Ram, cannot be charged for committing the offence under Section 25 of the Arms Act. Even otherwise, the unlicensed pistol taken by accused-Sandeep Rai @ Ram is not shown to be used in the entire occurrence.

In order to connect the accused with the commission of the crime, the prosecution relied upon the testimony of PW14 Jaswant Singh before whom accused-Sandeep Rai @ Ram had made extra judicial confession. However, the said deposition of PW14 Jaswant Singh does not indicate that any confession had been made by accused-Sandeep Rai @ Ram that he had any role in the commission of murder.

In view of the above, no fault can be found with the impugned judgment of acquittal passed by the trial Court.

The appeal is without any merit and, therefore, dismissed.

**(T.P.S. MANN)
JUDGE**

February 12, 2015
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**(SHEKHER DHAWAN)
JUDGE**