

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

**Crl. Appeal D-1573-DB of 2014
Date of Decision: July 9, 2015**

Avtar Singh

.....Appellant.

Versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN**

Present : Mr. S.S.Randhawa, Advocate
for the appellant.

T.P.S.MANN, J.

The appellant, who was attacked by respondents No. 2 to 8, who also broke the window panes of his vehicle and, thus, a victim as defined under Section 2 (wa) of the Code of Criminal Procedure, has filed the present appeal for challenging the judgment and order dated 28.2.2014 passed by the Additional Sessions Judge, Ludhiana.

In brief, the prosecution case was that the appellant and accused-Jagjit Singh had purchased land from one Satranjan Singh and the water-course of Jagjit Singh passed through that land. On 17.1.2007, Jagjit Singh dismantled the water-course. However, on 20.1.2007, Jagjit Singh restored the water-course.

When the appellant learnt about the same, he went to have a look at the water-course. At about 4:30 p.m., when he was returning on his Tata Sumo and reached near the motor of Chhota Singh, Jagjit Singh armed with double barrel gun, Sohan Singh, Hardev Singh, Jaswant Singh and Kamaldeep Singh, armed with dangs stopped his vehicle. They started hitting his vehicle with the dangs, as a result of which, the window panes of the vehicle were broken. Jagjit Singh fired shots in the air. According to the appellant, two unidentified persons were also with Jagjit Singh and others. However, the appellant managed to escape from the spot along with his vehicle.

The accused, i.e. respondents No. 2 to 8 were tried for committing offences punishable under Sections 307/341/427/506/148/149 IPC. Vide impugned judgment and order, the trial Court acquitted respondents No. 2 to 8 of the charges under Sections 307/149 IPC and Section 27 of the Arms Act. However, all of them were convicted under Sections 341/427/506/149 IPC and released on probation, on their furnishing personal bonds in the sum of Rs. 50,000/- with one surety in the like amount for a period of one year, with an undertaking to appear and to receive the sentence whenever called upon to do so, during the said period of one year and in the meantime, to keep peace and be of good behaviour.

In the present appeal, the appellant has prayed for setting aside the acquittal of the accused-respondents of the charges under Sections 307/149 IPC and Section 27 of the Arms Act.

Having heard learned counsel for the appellant and on going through the impugned judgment as well as the record of the case, which stands requisitioned, this Court finds that even according to the prosecution, firing was resorted to in the air. Under these circumstances, it cannot be said that Jagjit Singh intended to kill someone. If he had any such intention, he could have fired directly at the appellant or his companions. Accused had come so close to the appellant as they used their dangs in damaging the window panes of the vehicle, in which the appellant was sitting. Throughout the entire occurrence, no injury whatsoever was received by the appellant. Only damage to the vehicle of the appellant was caused by the accused and for that the trial Court has convicted the accused-respondents of the charge under Section 427 IPC besides for committing offences punishable under Sections 341 and 506 IPC.

At the time, when respondents No. 2 to 8 were heard by the trial Court under Section 235 Cr.P.C. to determine the quantum of sentence, the appellant himself suffered a statement that in order to promote harmony between the parties, the Court

may consider the release of the accused-respondents on probation. The said statement of appellant-Avtar Singh is reproduced as under:-

“I have heard the respective statements of accused persons which they have suffered today in the Court. In order to promote the harmony amongst us and to enable the parties to live peacefully, it is desirable that the concession of release of probation of the accused persons may be considered and they may be released on probation.”

Taking into consideration the stand of the appellant, the trial Court proceeded to order the release of the accused-respondents on probation for a period one year. Even the period for which the accused-respondents were released on probation has since expired.

In view of the above, no case is made out for any interference in the impugned judgment passed by the trial Court.

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

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

July 9, 2015
amit rana

**(MAHAVIR S. CHAUHAN)
JUDGE**