

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

**Criminal Appeal D-246-DB of 2015  
Date of Decision : December 21, 2015**

Babli @ Bansi Ram

....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S. MANN  
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. Rahul Vats, Advocate for  
Mr. Vikram Singh, Advocate  
for the appellant.

**T.P.S. MANN, J.**

By a common judgment, this Court intends to dispose of the present appeal i.e. Crl. Appeal D-246-DB of 2015 filed by the appellant for challenging the acquittal of Sonia Kinner Chela Chandu Mai Kinner and Surender and Crl. Appeal D-247-DB of 2015 filed by the appellant against the acquittal of Balwinder and Ravi, as both the appeals have arisen out of the common judgment dated 4.12.2014 passed by the learned Additional Sessions Judge, Karnal.

In brief, the facts of the case are that on 16.4.2013, respondent No.3-Surender made a statement before the police to the effect that on 15.4.2013 at 8.45 p.m., he was sitting near the

shop of Lachhman Dudia and smoking. When Kesar Panch came there and enquired from him as to how he was sitting there. Surrender replied that he was just smoking there. Then Kesar Panch went towards the shop of a tailor. In the meantime, appellant-Babli @ Bansi Ram alongwith others came there. On the asking of his companions, the appellant fired a shot towards the complainant and the pellets hit him. Ravi also reached the spot. Thereafter, Babli and his companions escaped from the spot. Accordingly, FIR No. 136 dated 16.4.2013 under Sections 307, 114, 120-B/34 IPC and Section 25 of the Arms Act was registered against appellant-Babli @ Bansi Ram and others. During the investigation of the case, appellant-Babli was arrested on 10.5.2013. Despite obtaining police remand for two days, the fire arm could not be recovered from the appellant. Later on, an application was filed for subjecting the appellant to polygraph test which was allowed. As the Investigating Agency could not collect any incriminating material against the appellant, an application was moved for his discharge which was allowed on 5.7.2013. On 30.7.2013, accused-Balwinder was arrested in case FIR No. 655 dated 30.7.2013, Police Station City Thanesar for the commission of offences punishable under Sections 399/402 IPC and Section 25 of the Arms Act. During interrogation, Balwinder disclosed regarding commission of offences by him and others in the

present case also. After obtaining production warrants, Balwinder was joined in the investigation. On 3.9.2013, accused-Ravi and remaining accused were arrested. Thereafter, the offence under Section 307 IPC was deleted and both Balwinder and Ravi were challaned for committing the offences under Sections 114, 120-B and 195 IPC. Subsequently, Surender was also arrested and upon completion of investigation, challan against him and Sonia Kinner Chela Chandu Mai Kinner was also presented. Both the challans were clubbed.

Vide impugned judgment dated 4.12.2014 learned Additional Sessions Judge, Karnal acquitted both the sets of the accused in the two challans.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that the prosecution has not been able to bring on record any evidence to prove the charge of conspiracy. According to the prosecution, there was a dispute going on between Shallu Kinner and Sonia Kinner regarding distribution of area and several civil cases pending between them. However, the Investigating Agency did not take pain to collect the copies of the said litigation and produce them on the file of the case. Further, after the registration of FIR No. 136 dated 16.4.2013, appellant-Babli was

arrested on 10.5.2013. While appearing in the witness box as PW1, appellant-Babli @ Bansi Ram deposed that his statement was recorded by the police on 15.4.2013. However, he improved his version and stated that his statement was recorded after 5/7 days from 15.4.2013. In his cross-examination, PW1 Bansi Ram @ Babli testified that it was ASI Jagir Singh, who had disclosed to him that Sonia Kinner had given an amount of Rs. 50,000/- to Balwinder and others for firing at Surrender. That being so, he was required to take action against the accused persons. Instead, he arrested Bansi Lal @ Babli and later on got him discharged by moving an application before the Ilaqa Magistrate. Subsequent thereto, Balwinder was arrested on 30.7.2013 and said to have suffered a disclosure statement regarding commission of offence of the present case. The said disclosure statement Ex. P6 on the basis of which no recovery of any article or fact had been effected, is not admissible in evidence being hit by Sections 25 and 26 of the Evidence Act. Even on the basis of disclosure statements Exs. P20, P22 and P23 suffered by Ravi, Surrender and Babli respectively, no new facts were discovered by the police. The statements were, thus, inadmissible in evidence. At the same time, pursuant to disclosure statement Ex. P5 suffered by Balwinder, weapon of offence was shown to have been recovered. However, the said disclosure statement already

stood disbelieved by learned Sessions Judge, Kurukshetra in judgment Ex. D1 whereby Balwinder was acquitted of the charge under Section 25 of the Arms Act. Even otherwise, according to PW8 Raj Kumar Verma, accused Ravi was with him when Surender was fired at. Therefore, there is no question of firing of shot by accused-Ravi. Even the fire arm injury said to have been received by accused-Surender is doubtful as said Surender is shown to be suffering from blood sugar for the last several years. PW9 Dr. Rajesh Gorla admitted that he did not ask from Surender as to from what distance he had been fired at. He was also not sure that the injury received by Surender could be caused by the bullet. Thus, the version of the prosecution that Surender had cooked up a false story remains unproved on the case file.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

The appeals are without any merit and, accordingly, dismissed.

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

**December 21, 2015**  
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**( GURMIT RAM )  
JUDGE**