

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-472-DB of 2015

Date of Decision : December 15, 2015

Sucha Singh

.....Appellant

VERSUS

State of Punjab and others

.....Respondents

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

Present : Mr. K.B.S. Mann, Advocate
for the appellant.

T.P.S. MANN, J.

The appellant, who is father of deceased Jagmeet Singh 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 dated 18.10.2014 passed by learned Sessions Judge, Sri Muktsar Sahib whereby respondents No.2 and 3, namely, Jaswinder Kaur and Kulwinder Kaur stood acquitted of the charges under Section 302 IPC or in the alternative under Section 304 IPC and Section 27 of the Arms Act.

The case of the prosecution, in nutshell, is that on 13.11.2012 at about 8.30 p.m., the appellant's nephew's son Gaganpreet Singh, aged about 12/13 years, had taken Jagmeet Singh from the house of the appellant to his house for playing

crackers. After about half an hour the appellant and his wife Kuldeep Kaur went to call Jagmeet Singh as it had grown dark. When they reached near the house of Jasvir Singh, they heard the noise of firing of a gun. They immediately reached the Chobara of Harjit Singh and saw that Harjit was armed with a .12 bore DBBL gun while his wife Jaswinder Kaur and his sister-in-law Kulwinder Kaur were standing nearby. Both, Jaswinder Kaur and Kulwinder Kaur, exhorted Harjit Singh to fire at Jagmeet Singh. Upon this, Harjit Singh fired at Jagmeet Singh which hit him on his head, who fell down on the ground. On an alarm being raised, the three accused came down from their Chobara and escaped. Jagmeet Singh was, thereafter, brought to his house and while being taken to Civil Hospital, Malout, he died on the way.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that neither Jaswinder Kaur nor Kulwinder Kaur was said to be armed with any weapon at the time of the occurrence. They were said to have exhorted Harjit Singh to fire. It is the case of the prosecution that the appellant and his wife were attracted to the house of the accused on hearing of gun shot. From the medical evidence, it is made out that deceased Jagmeet Singh had suffered only one fire arm injury on his head. When the firing had already been resorted to by Harjit Singh, there was no occasion for either Jaswinder Kaur

or Kulwinder Kaur to have exhorted their co-accused Harjit Singh to fire at Jagmeet Singh. It has also come in the evidence by way of testimony of DW2 Bahadur Singh, Superintendent of Police that he had held an enquiry in which he did not find involvement of Jaswinder Kaur and Kulwinder Kaur in the commission of crime. It is another thing that the said two accused were, later on, summoned by the trial Court under Section 319 Cr.P.C. as additional accused. Under these circumstances, it cannot be said that the trial Court has committed an illegality in acquitting Jaswinder Kaur and Kulwinder Kaur of the charges framed against them.

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

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

December 15, 2015
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