

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

**Criminal Appeal D-516-DB of 2014
Date of Decision: August 24, 2015**

Chandu Lal

.....Appellant

Versus

Satya Narayan and another

..... Respondents

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

Present : Mr. Keshav Partap Singh, Advocate
for the appellant.

Mr. N.S.Shekhawat, Advocate
for respondent No. 1.

Mr. Praveen Bhadu, Asstt. A.G. Haryana
for respondent No. 2-State.

T.P.S.MANN, J.

The appellant, who had received injuries in the occurrence in question 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 passed by the Additional Sessions Judge, Narnaul, whereby respondent Satya Narayan stands acquitted of the charges under Sections 452 and 307 IPC.

The case of the prosecution, in nutshell, is that on

21.4.2011, the appellant was sleeping on a cot in front of the inner gate of the *Baithak* of his house. His wife Smt. Kunta Devi, who was hard of hearing was also sleeping there. The appellant's daughter-in-law Mamta Devi was, however, sleeping alongwith her children in the courtyard of the house. The outer wall of the *Baithak* was six feet high and main gate installed was bolted from inside. At about midnight, some unknown persons opened the main gate of the house and trespassed into the *Baithak*. They fired at the appellant and ran away from the spot. On hearing the firing of gun shot, Mamta Devi, daughter-in-law of the appellant, went to the *Baithak* and found the appellant lying on the cot. She switched on the light and saw that the blood was oozing out from the right side of the chest of the appellant. She asked the appellant about the matter to which he stated that some persons had fired at him and, thereafter, had run away from the spot on motorcycle. The appellant was, thereafter, taken to the hospital. On the statement made by Mamta Devi, FIR was registered on 22.4.2011 at Police Station Kanina.

Further case of the prosecution is that on 1.7.2011, the appellant submitted application Ex.PN to the police to the effect that on the day of occurrence, Satya Narayan, who was husband of Sarpanch-Santosh, and his elder son Jai Parkash had trespassed into his house. Satya Narayan had removed blanket

from his face and asked his son Jai Parkash to kill the appellant. Jai Parkash fired from a gun and the bullet hit him on the right side of his chest. When the two assailants started running, he chased them upto main gate where he saw Umesh, the younger son of Satya Narayan, standing outside with the motorcycle and all the three had run away on the motorcycle. He further stated that Satya Narayan and his sons were having a grudge against him since the Panchayat elections and several times they had threatened him with dire consequences.

Having heard learned counsel for the parties and on going through the impugned judgment passed by the trial Court, this Court finds that in the FIR which was lodged soon after the occurrence by Mamta Devi, daughter-in-law of the appellant, the names of the assailants were not disclosed. Further, the appellant remained in hospital upto 28.4.2011. For a period of more than two months, neither the appellant nor Mamta Devi made statement before the police regarding the involvement of Satya Narayan and his sons Jai Parkash and Umesh in the crime. If on the day of the occurrence, the appellant was not in a position to identify his assailants, he had no other basis thereafter to make allegations against Satya Narayan and his two sons. The accused were not strangers to the appellant as they were his co-villagers and had been nursing a grudge against him since the Panchayat

elections. The appellant is an educated person and even if he was not in a position to speak despite being discharged from the hospital on 28.4.2011, he could have indicated the involvement of accused Satya Narayan and his sons Jagdish and Umesh in the commission of the crime by way of a writing. The delayed reporting of the names of the accused to the police on 1.7.2011 by itself is sufficient to uphold that the complainant party was not sure about the identity of the accused and after more than two months of the occurrence, the accused were named on account of the differences which were there between the parties due to Panchayat elections.

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

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

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

August 24, 2015
amit rana

**(GURMIT RAM)
JUDGE**