

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-674-DB of 2015

Date of Decision : October 05, 2015

HC Kaptan Singh

....Appellant

VERSUS

State of Haryana and another

.....Respondents

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

Present : Mr. Gaurav Mohunta, Advocate
for the appellant.

T.P.S. MANN, J.

The appellant has filed the present appeal for challenging the judgment dated 10.2.2015 passed by learned Additional Sessions Judge, Panipat whereby respondent No.2-Rishipal, hereinafter referred to as 'the 'accused', stands acquitted of the charges under Sections 307, 186, 332 and 353 IPC and Section 27 of the Arms Act.

The case of the prosecution, in nutshell, is that on 1.2.2014, the appellant, who stood posted as Head Constable in Police Post Baljeet Nagar, Panipat, alongwith Head Constable Mukesh, was returning to the police-post from Sanoli Road while patrolling and when they were about 15 paces short of the liquor vend, the accused, who was on a motorcycle bearing registration No.HR-06Q-8358 make Bajaj XCD 125 of black colour over-took them and parked his motorcycle in front of the liquor vend. The accused picked up a quarrel with the boy, who was standing at the liquor vend. The appellant as well as Head Constable Mukesh tried to separate them. The

accused took out pistol from the pocket of his pant and fired at the appellant with an intent to kill him. However, the appellant bent down in order to save himself but the shot hit him on the back of his neck towards right side. The accused, after giving a push to Head Constable Mukesh, fled away from the spot. According to the appellant, he could identify the accused if produced before him.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that regarding the occurrence in question, it was the appellant alone, who testified in that regard before the trial Court. Head Constable Mukesh, who was accompanying the appellant and was said to be present at the time of the occurrence and, thereafter, shifted the appellant to the hospital, was not examined. Further, pursuant to the disclosure statement Ex.PW4/A no recovery, whatsoever, had been made from the accused. On the other hand, pursuant to the said statement, he only demarcated the place of occurrence. During the investigation, licenced weapon was recovered from the room of the accused. However, one empty cartridge shown to have been recovered from the spot did not tally with the said firearm.

The appellant had stated during his cross-examination that the accused, who had fired upon him, was not known to him prior to the occurrence and had also no enmity with him. It was the case of the appellant that he, alongwith Head Constable Mukesh, was returning to the police post after patrolling the area. If the appellant had no enmity with the accused but the accused had fired upon him, the appellant could have returned the fire. In any case, an attempt could have been made to over-power the accused,

who, according to the prosecution, had run away on foot from the spot, whereas the police party was having a motorcycle. One Rishi Pal son of Ramphal was also projected as an eye-witness of the occurrence. When he stepped into the witness-box as PW13, he did not support the prosecution case. Instead, he gave a totally different version about the occurrence. According to him, there was a quarrel between 8/9 boys in front of the liquor vend and when the police reached there, he heard the noise of firing of a shot and thereafter all the 8/9 boys ran away from the spot. He further stated that motorcycle bearing registration no. HR-06Q-8358, shown to have been driven by the appellant, belonged to Anil Kumar, who was a salesman at the liquor vend. Rishi Pal even denied the presence of the accused at the spot.

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

October 05, 2015
satish

(GURMIT RAM)
JUDGE