

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

**Criminal Appeal D-789-DB of 2015
Date of Decision: December 23, 2015**

Bhola Singh		Appellant
	Versus	
Krishan Singh and another		 Respondents

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

Present : Mr. R.K.Girdhar, Advocate
for the appellant.

T.P.S.MANN, J.

The appellant, who had received the 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 dated 21.1.2015 passed by learned Sessions Judge, Sri Muktsar Sahib, whereby, respondent-Krishan Singh (hereinafter referred to as 'the accused') stands acquitted of the charges under Section 307 IPC and Section 27 of the Arms Act.

In brief, the case of the prosecution is that on 29.5.2010, the appellant, who worked as a labourer with Gurdarshan Singh started on a tractor so as to cultivate the land of Gurdarshan Singh, who had purchased the same from Jagir Kaur and others whereas the accused used to take the said land on rent for cultivation. In the meantime, the accused, while armed

with .12 bore double barrel gun, along with Jaspal Singh and four unidentified persons arrived at the spot in a Bolero vehicle. After alighting from the vehicle, the accused raised a lalkara to teach a lesson for cultivating the land. He fired twice towards the appellant with an intention to kill him but the shots went past him as well as the tractor. He stopped the tractor and took shelter behind the tree. While he was lying, the accused again fired, which hit on his left foot. The alarm raised by the appellant attracted Gurdarshan Singh. Thereafter, the accused ran away from the spot along with weapon. The motive behind the occurrence was that the accused who was earlier cultivating the land wanted to take its forcible possession after the said land had been purchased by Gurdarshan Singh.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that despite the sale of land by Jagir Kaur, the accused continued to remain in its physical possession as its tenant. The prosecution could not examine any evidence to show that Gurdarshan Singh, who had purchased the land was put in physical possession of the same. So much so that Gurdarshan Singh while in the witness box as PW10 admitted in his cross-examination that as he failed to take possession of the land, he had since disposed of the same. Moreover, first part of the occurrence wherein the

accused was said to have fired two shots is doubtful as none of the shots hit either the appellant or his tractor. Subsequently, when the appellant alighted from the tractor and hid himself behind a tree, the firing resorted to by the accused hit him on his left foot and, that too, on its inner side which makes the prosecution case doubtful. It being an injury of non vital part of the appellant, possibility could not be ruled out of the same being manipulated or self-suffered. Further, according to the prosecution, the accused was armed with .12 bore double barrel gun whereas Sub-Inspector-Kulwant Singh appearing as PW1 testified that he recovered .315 bore rifle from the accused. He also could not deny the fact that the pellets contained in the parcel were of .315 bore.

In view of above, no case is made out for any interference in the impugned judgment of acquittal. The appeal is without any merit and, accordingly, dismissed.

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

December 23, 2015
amit rana

**(GURMIT RAM)
JUDGE**