

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.27106 of 2015
and
Criminal Misc. No.A-1435-MA of 2015

.....

Date of decision:9.10.2015

State of Haryana

...Applicant

v.

Jatinder

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Anmol Malik, Assistant Advocate General, Haryana for
the applicant-State.

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Inderjit Singh, J.

Cr. Misc. No.27106 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 157 days in filing the application for leave to file appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-1435-MA of 2015:

The applicant-State has filed this criminal miscellaneous application under Section 378(3) Cr.P.C. against Jatinder-respondent seeking grant of leave to file appeal against the impugned judgment of acquittal dated 10.12.2014 passed by learned Additional Sessions Judge,

Karnal.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment of acquittal dated 10.12.2014 passed by learned Additional Sessions Judge, Karnal, which is likely to succeed on the grounds mentioned therein. The judgment of acquittal of accused-respondent for the offences under Sections 392 and 506 IPC and Section 25 of the Arms Act has caused grave miscarriage of justice and the State Government has accorded sanction to file appeal. Therefore, it has been prayed that the leave to file appeal be granted.

I have heard learned counsel for the applicant-State and have gone through the record.

From the record, I find that FIR No.839 dated 27.8.2012 has been registered for the offences under Sections 392 and 506 IPC and Section 25 of the Arms Act at Police Station City, Karnal against Jatinder-accused. As per the prosecution version, PW-5 Raghuvansh presented a complaint Ex.P.1 before him alleging therein that on 26.8.2012 at about 8.00 p.m. he was going to attend his duty and when he reached in front of Malhotra Book Depot, three boys came on a motorcycle and asked him about the time. Two boys alighted from the motorcycle and one of the boys pointed a spring actuated knife on his neck and the other boy snatched from him mobile, one wallet containing Rs.1100/-, one ATM Card and Identity card. The third boy was driving the motorcycle and while going from the spot, they also threatened him. The prosecution examined PWs and on the basis of evidence, the learned Additional Sessions Judge, Karnal, vide

impugned judgment dated 10.12.2014 acquitted the accused. PW-1 Raghubir Singh, SI, PW-2 Constable Sunil Kumar, PW-3 ASI Singh Raj, PW-4 ASI Mohinder Singh and PW-6 HC Amarjit Singh are Police officials. The only private witness/eye witness is PW-5 Raghuvansh Bahadur Singh-complainant.

As per the judgment, PW-5 Raghuvansh Bahadur Singh while appearing in the witness box has stated that he was called in the Police Station, where the accused were produced before him, but stated that the accused was not present in the Court on that day which means that the complainant has not identified the accused during the trial. A reasonable doubt exists regarding the identity of the accused. The learned Additional Sessions Judge has also discussed other evidence and has given the findings as per the evidence and the Court held that after carefully analyzing the evidence it does not inspire confidence as the case of the prosecution is not free from suspicion. The findings given by the learned Additional Sessions Judge are as per evidence and, in no way, can be held perverse. There is nothing on the record to show that these findings are perverse or against the evidence. Nothing has been pointed out as to which evidence has been misread by the Court. Nothing has been pointed out at the time of arguments as to which material evidence has not been discussed by the learned Additional Sessions Judge. The findings given by the learned Additional Sessions Judge in the judgment are correct, as per evidence and law which do not require any interference from this Court.

Therefore, I do not find any ground to grant leave to file

appeal. Hence, finding no merit in the criminal miscellaneous application filed under Section 378 (3) Cr.P.C. seeking leave to file appeal, the same is dismissed.

October 9, 2015.

(Inderjit Singh)
Judge

hsp