

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-19-MA of 2015

Date of Decision : September 01, 2015

Lakhwinder Singh

.....Applicant

Versus

Harnek Singh

....Respondent

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

Present : Mr. Raman Goklaney, Advocate.

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 17.10.2014 passed by the Judicial Magistrate 1st Class, Zira whereby complaint filed by him against respondent Harnek Singh was dismissed and said Harnek Singh acquitted of the charges framed against him.

The case of the complainant, in nutshell, is that on 22.9.2007 at about 7.15/7.30 p.m. when he, alongwith Harjit Singh, while riding a motorcycle was returning to his village and reached near the village middle school, a car of white colour over-took his motorcycle and stopped in front of the same. The complainant was forced to stop his motorcycle. Gurpreet Singh, Gagandeep Singh and Baljinder Singh @ Baba got down from the car. The complainant, after leaving his motorcycle, started running away. He tried to jump the

barbed wire but his leg got entangled. As a result, he fell down. He was then caused injuries by Gurpreet Singh, Gagandeep Singh and Baljinder Singh @ Baba. The person, who was driving the car, remained sitting in the car. The occurrence was witnessed by father and uncle of the complainant, who were following them. On an alarm raised by them, the accused fled away from the spot with their respective weapons and the car. The alarm so raised alerted Resham Singh, uncle of the complainant, who reached the spot.

The trial Court believed the prosecution case insofar as it pertained to the involvement of Gurpreet Singh, Gagandeep Singh and Baljinder Singh @ Baba about their causing injuries to complainant Lakhwinder Singh. However, the identity of accused Harnek Singh was held to be doubtful and, accordingly, the complaint qua him was dismissed and he was acquitted of the charges against him.

Having heard learned counsel for the complainant/ applicant and on going through the impugned judgment this Court finds that in order to establish the involvement of accused Harnek Singh in the commission of the crime, the complainant examined his uncle CW6 Resham Singh, who claimed that he had identified Harnek Singh, who was driving the car. Though Resham Singh deposed that he had identified Harnek Singh to be the one who was driving the car yet he did not testify that the accused were sitting in the same. Moreover, if Resham Singh could see and identify Harnek Singh to be the one who was driving the car in question, the complainant could

also identify him to be the one driving the car at the time of the occurrence which had occurred only a few minutes before Resham Singh had seen the car being driven by Harnek Singh.

In view of the above, the participation of Harnek Singh in the commission of the crime is highly doubtful. For that reason, there is no merit in the present application.

Resultantly, the application is dismissed. Special leave to appeal is declined.

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

September 01, 2015
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**(GURMIT RAM)
JUDGE**