

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. A-426-MA of 2015

Date of Decision : April 20, 2015

State of Haryana

....Applicant

Versus

Jangsher Saini and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Randhir Singh, Addl. Advocate General, Haryana

T.P.S. MANN, J.

The State has filed the present application under Section 378(3) Cr.P.C for grant of leave to appeal against the judgment dated 21.5.2014 passed by the Sessions Judge, Yamuna Nagar at Jagadhri, whereby the respondents were acquitted of the charges under Section 302 read with Section 34 IPC and Sections 25 and 29 (b) of the Arms Act.

The case of the prosecution, in nutshell, is that Sat Pal, since deceased, alongwith his co-villager Sanjeev Kumar, was returning to his village on a motorcycle on 24.6.2012 at about 9.30 PM and when they reached near the Gurudwara of village Topra Kalan, six persons came on motorcycles from behind. They were firing shots in the air. They overtook the motorcycle of the deceased and waylaid him by stopping their motorcycles in front of his motor cycle. The accused were carrying swords and lathis with which they caused injuries to Sat Pal. Sat Pal ran towards the fields but the accused continued chasing

him and caused more injuries to him. Sanjeev Kumar informed his family members about the incident. On learning about the incident, the deceased's brother Jagmal and other co-villagers reached the spot. The search conducted by them led to tracing of the dead body of Sat Pal in the nearby paddy field. On the next morning Sanjeev Kumar reached the police post Kheri Lakha Singh and reported the matter. Accordingly, FIR was registered at Police Station, Radaur.

Having heard learned State counsel and on going through the impugned judgment, this Court finds that Sanjeev Kumar, who was the star witness of the prosecution being an eye witness of the occurrence, was examined as PW3 before the trial Court. During his examination-in-chief, he testified that he had identified three accused, namely, Jangsher Saini, Amardeep and Pardeep. However, during his cross-examination, he was confronted with his statement Ex.PW3/A on the basis of which FIR was registered and supplementary statement Ex.DA wherein he had not named the aforementioned three accused. SI Bhag Singh, who had recorded the statements Ex.PW3/A and Ex.DA while stepping into the witness box as PW15, categorically stated that complainant Sanjeev Kumar had not disclosed the names of the assailants. Even in the supplementary statement Ex.DA, Sanjeev Kumar had told him that the assailants were three in number whom he could identify if shown to him.

Even otherwise the presence of PW3 Sanjeev Kumar at the time of occurrence was highly doubtful as according to the prosecution,

the deceased had taken him along on 24.6.2012 for attending a religious function organized by Madan Lal in his house. PW3 Sanjeev Kumar admitted during his cross-examination that Madan Lal had not invited him for the function. Further, though the dead body was traced at about 1.00/1.30 AM, Sanjeev Kumar did not inform the police soon thereafter. Only in the morning at about 7.15 AM that Sanjeev Kumar went to police post and got recorded his statement Ex.PW3/A. The supplementary statement was made after one or two days. The trial Court has concluded that Sanjeev Kumar was not present at the time of the occurrence. This Court has gone through the findings arrived at by the trial Court in that regard and finds that the evidence led by the prosecution has been correctly appreciated in coming to such a conclusion.

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

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

April 20, 2015
pds.