

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-461-MA of 2013

.....

Date of decision:8.12.2016

State (Chandigarh Administration, Chandigarh)

...Applicant

v.

Hardeep Singh and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. A.S. Sullar, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(3) Cr.P.C. against Hardeep Singh and another-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 8.5.2013 passed by learned Additional Sessions Judge, Chandigarh, whereby the accused have been acquitted in case FIR No.264 dated 10.7.2011 registered for the offences under Sections 392 and 34 IPC and Section 25 of the Arms Act at Police Station Sector 39, Chandigarh.

It has been mainly submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It has been further stated that manifest injustice would be caused if the judgment

of acquittal passed by the learned trial Court is not set aside. It has been stated that the learned Additional Sessions Judge, Chandigarh, has based its judgment of acquittal on the perverse reading of evidence and as such the same is liable to be set aside. It has been prayed that the application may be allowed and in the interest of justice leave to file appeal may be granted against the judgment of acquittal.

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

The brief facts of the case are that the Police of Police Station Sector 39, Chandigarh have presented challan against Hardeep Singh and Ranjit Singh in FIR No.264 dated 10.7.2011 registered for the offences under Sections 392 and 34 IPC and Section 25 of the Arms Act. The brief facts of the case as mentioned in the judgment dated 8.5.2013 passed by the learned Additional Sessions Judge, Chandigarh are as under:-

“The prosecution case in brief is that the complainant, namely, Birender Singh Bisht has made a complaint; that on 10.7.2011, he was residing with his family in House No.5147-B/38 West, Chandigarh as a tenant and is doing catering work. On 10.7.2011 at about 12 p.m., he was returning to home on his bicycle. When he reached near Sector 38 West and 39 small chowk, one motorcycle came towards him. The number plate of motorcycle was tied with yellow cloth. There were two boys on the said motorcycle, out of which one was wearing white Kurta Payjama and was having beard. Another boy was

wearing blue Jeans and white Kurta. They came towards him and inquired from him about the way of Sector 38 West. The person who was wearing jeans had caught hold of him and another boy demanded his purse and mobile and when he refused to do so, the person who was wearing jeans punctured his cycle with knife. The person wearing Kurta Payjama had snatched mobile from his pocket by putting a knife on his stomach. In the purse, he was having ₹490/-, ATM Card (SBI Bank), Card of Garhwal Sabha Member, keys of cycle and family photo etc. On the basis of the said statement, the case was registered.

3. The investigation of the case was started. During investigation, accused were arrested, rough site plan of place of occurrence was prepared, statements of witnesses were recorded. Then after completion of investigation, the challan against the accused was presented in the Court of Shri Aashish Saldi, learned Judicial Magistrate First Class, Chandigarh, who after supplying the copies of the challan to the accused in terms of provisions of Section 207 Cr.P.C. vide commitment order dated 20.3.2013, committed the case to the Court of learned Sessions Judge, Chandigarh, for appearance on 3.4.2013, which was entrusted to this Court.”

The prosecution in support of its case examined PW-1 Birinder Singh Bisht-complainant of the present case. While deposing in the Court, he did

not support the prosecution case and turned hostile. As the main witness turned hostile, the prosecution closed the prosecution evidence by suffering separate statement to the effect that since the sole material witness, with whom the robbery took place, did not support the prosecution case despite declaring hostile and deposition of remaining witnesses were post incidental cannot bring out any fruitful result.

The learned Additional Sessions Judge vide judgment dated 8.12.2013 acquitted the accused.

A perusal of the record shows that there is no evidence produced by the prosecution to prove the guilt of the accused and even the statement under Section 313 Cr.P.C. was dispensed with as there was no incriminating evidence against them.

A perusal of the record shows that the findings given by the learned Additional Sessions, Judge, Chandigarh, in no way, can be held as perverse or against the evidence. No illegality has been committed by the learned Additional Sessions, Judge, Chandigarh, while acquitting the accused. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below.

Therefore, from the above, I find that the judgment passed by the learned Additional Sessions, Judge, Chandigarh is correct as per evidence and law and does not require any interference from this Court. In no way, the findings can be held as perverse.

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

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

December 8, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No