

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.4077 of 2016 and
CRM-A-195-MA-2016
DATE OF DECISION: March 2, 2016

Gurpal Singh

...Applicant

Versus

Jasdeep Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Adarsh Jain, Advocate for the applicant.

RAMENDRA JAIN, J.

CRM-4077-2016

Sufficient cause has been shown to condone the
delay in filing the accompanying application.

The application is, therefore, accepted. The delay
of 3619 days in filing the accompanying application under
Section 378 (3) Cr.P.C. is condoned.

CRM-A-195-MA-2016

The instant application has been filed by the
applicant, seeking leave to file the accompanying appeal
against acquittal of respondents No. 1 and 2, vide impugned
judgment dated 05.07.2005 passed by the learned
Additional Sessions Judge, Bathinda.

Briefly stated, around 3.45 A.M. on 26.03.1999, the applicant accompanied by his maternal uncle's son, namely, Harchand Singh and one Raj Kumar, driver of the harvesting combine, were harvesting the mustard crop in his land known as 'Ambwala'. Meanwhile, respondents No. 1 and 2, namely, Jasdeep Singh and Baljit Singh along with one Manminder Singh, reached there in white Contessa car bearing registration No.PB-29-A-0929 from the side of Bathinda. Respondent No. 1 was armed with .12 bore licenced DBBL Gun, whereas, respondent No. 2 was empty handed and Manminder Singh (since deceased) was armed with Kirpan. After coming down from the car, respondent No. 2 raised a 'lalkara' that the applicant be not allowed to go scot free. Respondent No. 1 fired a shot from his aforesaid .12 DBBL gun towards the applicant, while Manminder Singh ran towards the complainant party brandishing the Kirpan. On raising alarm by Harchand Singh, respondents No. 1 and 2 along with Manminder Singh fled away from the spot along with their respective weapons. The motive behind the occurrence was that litigation regarding the land was pending in between both the parties and respondents No. 1 and 2 wanted to stop the applicant from harvesting the crop.

On these allegations, formal FIR was registered. Respondents No. 1 and 2 were arrested on the same day. One .12 DBBL Gun was recovered from respondent No. 1 found loaded with one live cartridge of the same bore and one empty was also found in the other barrel of the gun. 7 more live cartridges of .12 bore were also recovered lying in a glazed paper bag in the rear seat of car. The car along with registration certificate was also taken into possession. Manminder Singh was arrested on 01.04.1999 and one sword was also recovered from his possession. Later on, Section 307 IPC was added on 15.06.1999, on the basis of special report Ex. P-13 vide DDR No. 14. After completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court of learned Illaqa Magistrate.

On commitment of the case to the Court of Sessions, the learned Additional Sessions Judge, Bathinda framed charges under Sections 307 and 506 read with Section 34 IPC and Sections 27 and 30 of the Arms Act, against respondents No. 1 and 2, to which they pleaded not guilty and claimed trial. It is pertinent to mention here that co-accused Manminder Singh had died before framing of charges and, therefore, proceedings against him were dropped.

The prosecution in support of its case examined

as many as 7 witnesses.

After closure of the prosecution evidence, the statements of respondents No. 1 and 2 under Section 313 Cr.P.C. were recorded, putting entire incriminating evidence brought on record against them to which, they denied and pleaded their innocence. In his defence, respondent No. 2- Baljit Singh himself appeared as DW-1 besides the examination of DW-2 Ranjit Singh and also tendered certain documents.

After hearing learned counsel for the parties and going through the evidence brought on record, the learned trial Court acquitted respondents No. 1 and 2 vide the impugned judgment by giving them the benefit of doubt.

Learned counsel for the applicant submits that the trial Court has wrongly acquitted respondent Nos.1 and 2 without appreciating the fully corroborated depositions of the complainant and other witnesses.

After giving our thoughtful consideration to the arguments advanced by learned counsel for the applicant, we find the present appeal completely devoid of any merit for the reasons to follow.

The evidence available on record suggests that accused Jasdeep Singh's maternal uncle Gurdev Singh had purchased 1/3rd share of the land measuring 77 kanals 1

marla situated in village Jodhpur Ramana, while the remaining $2/3^{\text{rd}}$ share was purchased by the father of the applicant, namely, Ganda Singh in the name of his sister Kishanjeet Kaur. However, the aforesaid Ganda Singh allowed Gurdev Singh to cultivate about 26 kanals of land out of land measuring 34 kanals. The entries in this regard were incorporated in the revenue records. During his life time, Gurdev Singh executed a Will regarding the aforesaid $1/3^{\text{rd}}$ share in favour of respondent No.1 Jasdeep Singh. After the death of Gurdev Singh in 1988, the aforesaid land was mutated in his favour and since then, he was cultivating the aforesaid land. Although PW1 Gupral Singh (complainant) admitted that the entries in the revenue record were incorporated in the name of respondent No.1, but deposed that the entries were wrong and false. However, his this testimony is not worth reliance in the light of documentary evidence. Ex.DC is the copy of khasra girdawari for the crop Sauni 1987 to Hari 2003 regarding the land situated in the area of village Jodhpur Ramana which shows that respondent No.1 Jasdeep Singh and Krishanjeet Kaur were the co-owners in possession of $1/3^{\text{rd}}$ share and $2/3^{\text{rd}}$ share, respectively, since 1992 onwards. Thus, one thing is apparent on the face of it that respondent No.1 and

Krishanjeet Kaur were co-owners in possession of their respective shares.

The alleged occurrence had taken place on 26.3.1999. In the present case, the applicant wished to sail on two boats. Firstly, he came with the version that the revenue entries were wrong and when he could not succeed, he took other plea that he had been paying the lease money to Smt. Krishanjeet Kaur for cultivating the land. However, this version of the applicant was not supported by any evidence. Thus, the evidence available on record suggests that the applicant had nothing to do with the possession of land measuring 34 kanals.

PW5 Mohan Lal, SI (Investigating Officer) deposed that he had not made any enquiry as to who was the owner of the mustard crop, nor any revenue record was collected to ascertain the ownership of the land. This admission of the Investigating Officer suggests that the investigation conducted was defective. The logic of adding section 307 IPC due to objection of the Public Prosecutor that respondent No.1 had fired the gun shot towards the appellant, after a period of three months, is not at all legally tenable, inasmuch as, no evidence available on record suggests that section 307 was ascribed for commission of any crime. The appreciation of evidence by the trial Court in reaching to the

conclusion that the prosecution has failed to prove the guilt of respondent Nos.1 and 2 is, thus, not illegal, requiring any interference by this Court.

In view of the aforesaid discussion, we find no force in the prayer made in the application 378(3) CrPC for grant of leave to appeal against the judgment of acquittal dated July 5, 2005 passed by the learned Additional Sessions Judge, Bathinda and accordingly, it is rejected. Leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 2,2016
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