

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-292-MA-2016 (O&M)

Date of decision: 25.04.2016

State of Haryana

..... Applicant

Versus

Devinder and another

..... Respondents

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

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. Praveen Bhadu, AAG, Haryana
for the applicant-State.

RAMENDRA JAIN, J.

CRM-5426-2016

Heard.

Sufficient cause has been shown for condonation of delay in applying for leave to appeal. The application is, therefore, accepted. The delay of 218 days in applying for leave to appeal is condoned.

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The respondents, namely, Devinder and Tej Singh @ Teju were tried along with convict-Parveen under Sections 323, 324, 307 read with Section 34 of the Indian Penal Code (IPC) by the Court of learned Additional Sessions Judge, Gurgaon.

2. After perusing the prosecution evidence along with other relevant documents, defence evidence and hearing both the sides, the learned trial Court did not find itself convinced with the prosecution story regarding involvement of the respondents and thus, while convicting their co-accused Parveen, under Section 307 IPC acquitted the respondents vide impugned judgment dated 18.03.2015.

3. Being aggrieved, the State of Haryana has preferred the instant application under Section 378 (3) Cr.P.C., seeking leave to file the accompanying appeal for conviction of respondents by setting aside the impugned judgment.

4. Learned State counsel contended that the impugned judgment is based on surmises and conjectures. There was sufficient evidence to record conviction of the respondents.

5. After giving our thoughtful consideration to the submissions made by learned State counsel, we find no merit in the instant application for the reasons to follow.

- (i) Admittedly, the occurrence took place on 28.05.2012. The FIR was lodged by PW-5 Jai Pal brother of injured-Rakesh @ Monu by specifically mentioning therein that on the way, when they were shifting the injured to Government Hospital, Gurgaon, he told him that convict-Parveen had stabbed him repeatedly by questioning his elopement with his sister. The names of respondents came into picture only on 02.07.2012

- i.e. after about 35 days vide statement Ex. DA of the injured though he remained fully conscious during this period. There is no explanation that what restrained him in not disclosing the names of respondents earlier.
- (ii) There was no motive for the respondents to cause any injury to Rakesh @ Monu (injured). Convict-Parveen had the motive to cause injuries to Rakesh @ Monu, because the injured had ravished his sister. The injured was confronted with his statement Ex. DA got recorded by him to the police, whereby convict-Parveen through his mobile had called two persons at the sewerage plant out of whom one had caught-hold of his hands and convict-Parveen had stabbed him with a knife. From the above version given by the injured in his statement Ex. DA, it is evident that neither he was at the Railway Station or outside it nor he had any occasion to have cold drink with the respondents, because they were allegedly called by Parveen at the sewerage plant, where the occurrence took place. Even otherwise, no incriminating article was recovered from the respondents.

6. Learned counsel for the applicant has failed to put any dent in any of the findings of the learned trial Court. We have also gone

through the impugned judgment and found no illegality or perversity in the same.

7. The instant application, being completely devoid of any merit is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

April 25, 2016

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