

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-582-MA-2016 (O&M)

Date of decision: 04.05.2016

State of Haryana

..... Applicant

Versus

Sonu @ Wazir Singh and others

..... 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-9758-2016

Heard.

Sufficient cause has been to condone the delay in applying for leave to appeal. The application is, therefore, accepted. The delay of 43 days in applying for leave to appeal is condoned.

CRM-A-582-MA-2016

The respondents were booked and tried for the offence under Section 395 of the Indian Penal Code (IPC) on the allegations that on 18.04.2014, they jointly robbed Jagtar Singh, a truck driver by causing him injuries on his way to Gobindgarh (Punjab) carrying sand in his truck

bearing registration No. PB-23-E-9839, near Jitakheri at Hansi Road.

2. On appraisal of evidence brought on record by the prosecution and hearing learned counsel for both the sides, the learned trial Court did not find itself convinced with the prosecution story and, thus, acquitted the respondents vide impugned judgment dated 13.10.2015.

3. Being aggrieved, the applicant-State has filed the present application under Section 378(3) Cr.P.C. seeking leave to file the accompanying appeal.

4. Learned State counsel contended that the impugned judgment is based on surmises and conjectures. Though complainant-Jagtar Singh as PW-9, the conductor of the truck as well as eye-witness of the occurrence PW-3 namely, Sukhwinder Singh @ Sukha Khan did not support the prosecution story, but still there was ample evidence on the record i.e. the complaint/application Ex. P-5 and the testimonies of other witnesses to record the conviction of the respondents. The trial Court has erred in ignoring the factum of recovery of huge quantity of illicit arms from the respondents duly corroborated by the official witnesses.

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) The entire prosecution story revolves around the testimonies of star witnesses PW-9 Jagtar Singh (complainant) and PW-3 Sukhwinder Singh @ Sukha

- Khan. However, both of them did not support the prosecution case. They testified that the respondents-accused present in the Court were not those assailants, who had robbed them for ₹ 25,000/- by causing injuries to PW-9. The complainant as PW-9 has even testified that the complaint Ex. P-5 was not in his hand-writing and he does not know Hindi language. Both the above witnesses even did not identify the respondents in Court, therefore, their acquittal has rightly been recorded by the learned trial Court.
- (ii) No identification parade of the respondents was got conducted as has been admitted by PW-9 and PW-3. Both of them have testified that they have seen the respondents for the first time in the Court, therefore, identity of the respondents is also doubtful from this angle too. Recovery of ₹ 1000/- from respondent No. 1-Sonu @ Wazir Singh in itself does not prove the complicity of any of the respondents in the present occurrence, rather the same relates to insignificant aspect of the case, more particularly, when the prosecution has not been able to prove their identity and involvement in the commission of crime.
- (iii) Recovery of illegal arms from the respondents do not relate them with the present case, because in the instant case, the assailants were armed with dandas,

whereas the police has allegedly recovered one loaded pistol of .315 bore and another pistol of the same bore along with 9 live cartridges from respondent No. 4-Manjit. From the possession of respondent No. 2-Sarvan @ Sikandar @ Channi @ Mohit, one loaded pistol of .315 bore and two more pistols along with ten live cartridges were recovered. A loaded pistol of 9 mm along with loaded pistol of .315 bore, one live cartridge, another loaded pistol of .32 bore along with one live cartridge were recovered from one Jagbir Singh, who is not an accused in the instant case. Similarly, one loaded pistol of 12 bore and another pistol of the same bore along with 19 live cartridges were recovered from the possession of Ankit, who too also is not the accused in this case.

6. We have 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

May 04, 2016

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