

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

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CRM-A-699-MA-2016

Date of Decision: May 25, 2016

SHAMSHAD ALI

-APPELLANT

VS

STATE OF PUNJAB AND OTHERS

-RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Abhijeet Partap, Advocate
for the appellant.

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M. JEYAPPAUL, J. (ORAL)

This application has been filed by the complainant Shamshad Ali invoking the provisions under Section 378 (3) of the Code of Criminal Procedure, seeking leave to prefer an appeal against the judgment of acquittal recorded by the Additional Sessions Judge, Sangrur qua accused Waseem, Mohd. Tarik and Mohd. Nisar.

We carefully went through the judgment passed by the trial Court. We also heard the elaborate arguments submitted by the learned counsel for the applicant-complainant.

Learned counsel appearing for the complainant referring to the evidence of PW1 Shamshad Ali and PW2 Imran Ali submitted that specific role had been attributed by the injured

witnesses to accused Waseem and Mohd. Nisar but the trial Court had completely ignored the ocular testimony of the eye witnesses who have specifically stated that Waseem armed with a rod, attacked Shamshad Ali while Mohd. Nisar armed with sword attacked Imran Ali. It is his submission that Mohd. Tarik was part of the unlawful assembly. Therefore, the trial Court should have convicted respondents No.2 to 4 as well, it was argued.

It is true that PW2 Imran Ali, an injured witness to the occurrence, has deposed that accused Nisar @ Pappu gave a sword blow on his right leg and PW1 Shamshad Ali has deposed that accused Waseem gave a rod blow on right side of his neck.

We carefully went through the medical testimony referred to by the trial Judge in his judgment. The complainant Shamshad Ali who was examined as PW1 had not sustained any injury on his left side of neck and PW2 Imran Ali had not sustained any sword injury on his right leg. In other words medical evidence completely belies the above version of injured witnesses.

In our considered view, the trial Court has rightly assessed the evidence adduced by the prosecution to come to a conclusion that the prosecution has miserably failed to establish that accused Waseem attacked complainant PW1 Shamshad Ali

and accused Mohd. Nisar attacked PW2 Imran Ali and caused injury. Further, no specific role has been attributed to accused Mohd. Tarik.

In view of the above, we find that there is no merit in the application filed by the complainant seeking leave to prefer an appeal against the judgment of the trial Court acquitting accused Waseem, Mohd. Tarik and Mohd. Nisar.

Accordingly, the application seeking leave to appeal is dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(RAJ MOHAN SINGH)
JUDGE**

25.05.2016
Jyoti Y.