

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-92-MA-2016

Date of decision: 29.04.2016

Kirpal Singh

..... Applicant

Versus

State of Punjab 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. Vipin Mahajan, Advocate  
for the applicant.

**RAMENDRA JAIN, J.**

Respondents No. 2 and 3, namely, Inderpal Singh @ Sonu and Hem Raj (hereinafter referred to as 'the private respondents') were booked and tried under Section 307 read with Section 34 of the Indian Penal Code (IPC) and Section 25 of the Arms Act on the allegations that on 27.04.2011, respondent No. 2 in connivance with respondent No. 3, fired several shots from his pistol upon the applicant-Kirpal Singh, his brother Satnam Singh and son Gurpreet Singh, with an intention to commit their murder having a grudge about the land of Gurudawara Sahib for which earlier a compromise had arrived at between them. However, the complainant party saved themselves by sitting/laying down

on the ground, as a result thereof the fire shots crossed over them.

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 in favour of the prosecution and resultantly, acquitted the private respondents vide impugned judgment dated 12.10.2015.

3. Being aggrieved, the applicant has filed the instant application under Section 378(4) Cr.P.C. seeking leave to file the accompanying appeal.

4. Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. Non-receipt of any fire arm injury by the complainant party was not the condition precedent to hold the private respondents guilty and thus, the trial Court has wrongly acquitted them, despite the fact that two empty cartridges of . 30 bore pistol were recovered from the spot and were taken into possession by the police.

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

- (i) As per the prosecution story, indiscriminate firing was done by respondent No. 2 upon the applicant, his brother and son. However, it is astonishing that none of the shots hit them. The occurrence took place in the day time. Hence, it does not appeal to the reason that none of the fire allegedly shot by respondent No. 2 hit

the complainant party. That apart, it is also not believable that the complainant party despite indiscriminate firing upon them was able to catch-hold of respondent No. 2 carrying a pistol along with 28 live cartridges and snatched the same from him. They also gave beatings to him. In normal circumstances, nobody dares to catch-hold of a person, who is indiscriminately firing shots through his pistol.

- (ii) Applicant-Kirpal Singh had admitted that he along with his brother and son had given beatings to respondent No. 2, after snatching the pistol from him. In these circumstances, defence of the private respondents seems to be more probable that complainant party had caused injuries to respondent No. 2 and then got registered a false case against him to save themselves from the criminal liability. The occurrence allegedly took place in the land comprising of Rectangle No. 4, Killa No. 28 measuring 8 kanals owned by Gurbhej Singh surrounded by the land of private respondents, as testified by PW-6 Satinderpal Singh, Halqa Patwari. Hence, the presence of the complainant party at the spot is in question, more particularly, when they have no right or interest in the aforesaid land.

- (iii) More so, the private respondents by producing the

- lease documents Ex. D-1 and D-2 through DW-1 Jasbir Singh, have been able to prove their legitimate possession over the land as lessee, where the occurrence took place. That apart, receipts regarding payment of lease money to Gurudawara Sahib Mark A and B were also produced by the private respondents.
- (iv) There is not an iota of evidence regarding alleged connivance of private respondents with each other, what to talk of cogent and convincing. More so, respondent No. 3 was found innocent by the police during investigation.
- (v) No recovery of weapon was effected from the respondents. Rather, the pistol and its cartridges were handed over by the complainant party to the police. Consequently, it was direly needed by the prosecution to connect the private respondents with the said pistol and cartridges.
- (vi) No sanction for prosecuting the respondents under Section 25 of the Arms Act was obtained. Even the pistol and cartridges were not sent to the FSL authorities for opinion that whether any bullet of which empties were found lying on the spot was ever fired from that pistol which was in possession of the police.

6. Since, no injury was received by the complainant party,

therefore, the question of offence under Section 307 IPC does not arise at all. We have gone through the impugned judgment and found no illegality or perversity in the same.

7. In view of the discussion above, 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 29, 2016**  
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