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

**CRA-D-778-DB-2010 [O&M]**  
**Date of Decision : March 2<sup>nd</sup> ,2017**

Parveen Kumar son of Baljeet  
.... Appellant

Versus

State of Haryana  
.... Respondent

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER  
HON'BLE MR. JUSTICE [DR.] SHEKHER DHAWAN**

Present Mr. Gaurav Mohunta, Advocate,  
and Mr. Gaurav Gogna, Advocate,  
for the appellant.

Mr. Gagandeep Singh Wasu, Addl. A.G. Haryana,  
for the respondent-State.

**SHEKHER DHAWAN, J.**

Present appeal is directed against the judgment of conviction dated 15.5.2010 and order of sentence dated 17.05.2010 passed by learned Additional Sessions Judge, Hisar whereby the appellant was convicted and sentenced as under:-

| Under Section | Sentence                                                             | In default                           |
|---------------|----------------------------------------------------------------------|--------------------------------------|
| U/S 307 IPC   | Rigorous Imprisonment for Life and to pay a fine of ₹25000/-.        | to further undergo RI for two years. |
| U/S 332 IPC   | Rigorous Imprisonment for three years and to pay a fine of ₹10000/-. | to further undergo RI for one year.  |

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| Under Section          | Sentence                                                            | In default                              |
|------------------------|---------------------------------------------------------------------|-----------------------------------------|
| U/S 353 IPC            | Rigorous Imprisonment for two years and to pay a fine of ₹3000/-.   | to further undergo RI for six months.   |
| U/S 186 IPC            | Rigorous Imprisonment for three months and to pay a fine of ₹500/-. | to further undergo RI for fifteen days. |
| U/S 25 of the Arms Act | Rigorous Imprisonment for three years and to pay a fine of ₹5000/-. | to further undergo RI for six months.   |

2. Facts relevant for the purpose of decision of this appeal; that on 8.5.2007, Sub Inspector Ranbir Singh received a telephonic information that a raid was to be conducted at the office of appellant Parveen Kumar at Hansi for effecting the arrest of the appellant as he was wanted in a case bearing FIR No. 139 dated 03.03.2007 registered under Sections 452, 307 read with Section 34 IPC at Police Station, City Hansi. He had sought assistance of local police in this regard. Thereafter, EASI Munshi Ram, EASI Sampat Ram, EHC Rajbir reached the spot. The secret information was to the effect that Parveen Kumar, present appellant, was hiding himself in the office of Parveen Saini financier of Hansi and his office is situated in Vakil Colony, Hansi. The police party was maintaining a vigil at the office of Parveen Saini Financier from whose roof a boy had spotted the police party and jumped down to start running. ASI Lilu Ram along with other police officials chased him. In order to kill the said person opened several rounds of fire on the police party. EHC Mani Ram received one shot and fell down. Police party caught hold of Parveen. One pistol and 13 live cartridges from the holster was recovered. Pistol was found empty. EHC Mani Ram was got admitted in General Hospital, Hansi. The police party

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had also opened fire in the air in their self defence. More so, when appellant Parveen Kumar jumped from the roof of office of Parveen Saini Financier, he had also sustained some injuries on his feet. ASI Lilu Ram handed over accused Parveen Kumar, pistol and live cartridges to Ranbir Singh, Sub Inspector of Police, Hansi. FIR [Ex. P11/A] was registered and other investigations were completed.

3. Injured EHC Mani Ram was medico legally examined and copy of MLR Ex. P31 and X-ray report [Ex P33] are on the file. One empty cartridge was recovered from the spot and another cartridge was found under the earth on search. Both the empty cartridges were sealed and taken into police custody. Reports [Ex. P35, P36 and P36/A] from FSL, Madhuban, were also received and after completion of investigation proceedings, challan was presented in the Court for trial.

4. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused, recording of evidence of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and the defence version on record, learned trial Judge held the appellant guilty and convicted him for commission of offence punishable under Sections 307, 332, 353 and 186 IPC and Section 25 of Arms Act and sentenced him on 17.5.2010.

5. Aggrieved of passing of judgment of conviction and order of sentence, the appellant is before this Court by way of present appeal.

6. Learned counsel for the appellant while arguing on the innocence of the appellant, contended that as per medical record, EHC Mani Ram had

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sustained one injury. The only injury as observed by Dr. A.K.Rana, PW-13 was as under:-

“Lacerated wound on the upper half of right chest. Direction upward and forward and size of injuries was 1 cm x 1.2 cm with blackening. Margin of the wound correspondent area of the shirt and baniyan showing blackening. Holes of almost similar dimension and blood stained. Injury was advised X-ray. AP and lateral and posterior and anterior view and referral for surgical opinion to PGI MS Rohtak.”

7. More so, it had come in the cross-examination of PW-13 that he had not observed any singing, detooing etc. at the seat of the injury. He had not mentioned whether the margins of injury were inverted or not. More so, the doctor had admitted that in case of entry wound, the margins of injury will be inverted one.

8. Learned counsel for the appellant further contended that the seat of injury was on the back of EHC Mani Ram and that too on the upper half of right chest. If the ocular version, as available on the file, including the statements of eye-witnesses, is taken into consideration, appellant - Parveen Kumar was going about 20 yards ahead of EHC Mani Ram and if he was to open fire at the chasing party at the back to cause injury to EHC Mani Ram, in all probability, the injury would be on the front portion of the body and not on his back, as is the seat of injury of EHC Mani Ram. This fact itself shows that the prosecution case is totally false. In fact, the police party had opened fire to hit Parveen while chasing and the police officials, who were following EHC Mani Ram had themselves caused injuries to Mani Ram and

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not by Parveen Kumar, appellant, at all.

9. Learned State counsel while controverting these allegations contended that the prosecution case is fully proved on the file. Parveen Kumar was duly armed with pistol and live cartridges. More so, two empty cartridges, which were used by Parveen Kumar, were recovered from the spot. Otherwise, the medical evidence and ocular testimony are in complete consonance and corroborative. There is, thus, no reason to disbelieve the same especially when the defence version is plea of denial only. The appeal has no merit and the same be dismissed.

10. We have considered the contentions of learned counsel for the parties and are of the considered view that the prosecution has come with a consistent version that Parveen was to be arrested as he was wanted in another FIR No. 139 dated 3.3.2007 registered under Sections 307, 452 IPC and Section 25 of the Arms Act, at Police Station City Bhiwani, with the assistance of local police. Meanwhile, Parveen jumped from the roof of office of Parveen Saini Financier and tried to make his escape and in the process, he had opened fire upon the police party, who nabbed him alongwith weapon used by him for commission of offence. In that process, an injury was caused to EHC Mani Ram. Learned counsel for the appellant has raised arguments which are based on an assumption that such an injury could not be caused if a person is running ahead of the injured. In such incidents of an active chase or hot pursuit, it is very difficult to reconstruct photographic sequence of events. Moreso, it is natural human behaviour that if a person is going ahead, who is duly armed and making an attempt to

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open the fire, the person following him will certainly turn around to save himself and in the present case, same thing happened which resulted into the injury on the back of EHC Mani Ram. In any eventuality, it cannot be considered to be a case of self-inflicted injuries by police officials, rather, on the basis of ocular and medical evidence, it had been established that the injury was caused with pistol held by appellant, Parveen while the police party was making attempt to nab him as he was a wanted criminal. Learned trial Judge has rightly held the appellant-accused guilty and judgment of conviction dated 17.5.2010 does not warrant any interference by this Court. The appeal preferred by the appellant against judgment of conviction is without any merit and the same stands dismissed.

11. As regards to appeal against order of sentence and application bearing CRM-9081 of 2015, learned counsel for the applicant-appellant submitted that prior to the incident in the present case, the appellant was involved in another case, bearing FIR No.139 dated 03.03.2007 registered under Sections 307 and 452 IPC and Section 25 of Arms Act at Police Station City, Bhiwani and vide judgment dated 21.01.2010 passed by Additional Sessions Judge, Fast Track Court, Bhiwani, the appellant was convicted for the offence punishable under Sections 307 and 452 IPC and Section 25 of Arms Act as under:-

|                       |                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Under Section 307 IPC | Rigorous imprisonment for a period of seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, convict shall further undergo rigorous imprisonment for a period of one month. |
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|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Under Section 452 IPC            | Rigorous imprisonment for a period of one year and to pay a fine of Rs.250/-. In default of payment of fine, convict shall further undergo rigorous imprisonment for a period of seven days. |
| Under Section 25 of the Arms Act | Rigorous imprisonment for a period of two years and to pay a fine of Rs.500/-. In default of payment of fine, convict shall further undergo rigorous imprisonment for a period of 15 days.   |

12. By filing CRM-9081 of 2015 under Section 427 Cr.P.C., it has been prayed that the sentence imposed upon the appellant (reproduced in Para No.1 of this judgment), in the present case and the sentence awarded in case bearing FIR No.139 dated 03.03.2007 (as detailed above) may be ordered to run concurrently.

13. We have considered the submissions made by learned counsel for the appellant in this regard and are of the view that the appellant has already undergone period of incarceration of about seven and half years and is presently in custody. Thus, both the sentences shall run concurrently as per the provision of Section 427 Cr.P.C. Accordingly, CRM-9081-2015 is accepted and the order of sentence dated 17.05.2010 passed by learned Additional Sessions Judge, Hisar is modified in the above terms.

(MAHESH GROVER)  
JUDGE

(SHEKHER DHAWAN)  
JUDGE

March 2<sup>nd</sup>, 2017  
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Whether speaking/reasoned : Yes  
Whether Reportable : Yes