

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

Criminal Misc. No.A-1291-MA of 2016
Date of decision : August 03, 2017

Kamal Kumar alias Kamlesh alias Nikka
.....Applicant

VERSUS

State of Punjab and another
.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present : Mr. Sandeep Arora, Advocate
for the applicant.

T.P.S. MANN, J.

This application has been filed by Kamal Kumar alias Kamlesh alias Nikka under Section 378(3) Cr.P.C. for grant of leave to appeal against the judgment dated 16.5.2016 passed by Sessions Judge, Jalandhar, whereby accused John Masih-respondent No.2 herein, stood acquitted of the charges under Sections 302 and 307 IPC and Section 25 of the Arms Act.

According to the prosecution, the accused, alongwith his associate, had made an attempt to murder the applicant by firing two shots at him with the pistol. Further, both of them had committed the murder intentionally by causing the death of Smt. Zarina by giving her fire arm injuries.

Having heard learned counsel for the applicant and on

going through the impugned judgment, this Court finds that though the accused was the close relative of the deceased and of the applicant being husband of Smt. Rinki, who was niece of father's sister of the applicant yet while lodging the FIR, the applicant did not name him as such. It was simply stated that unknown assailants had attacked the complainant party. However, on 1.9.2014, the applicant and on 6.9.2014 his nephews PW2 Davinder Kumar and PW7 Karan Kumar for the first time raised a finger of suspicion against the accused after going through the album. It has come in the evidence that the relations of Smt. Rinki with her husband i.e. the accused were not cordial. Under these circumstances, the identity of the accused does not stand established. Therefore, no fault can be found with the approach of the learned trial Court in acquitting the accused.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

	(T.P.S. MANN)	(MAHABIR SINGH SINDHU)
	JUDGE	JUDGE
August 03, 2017		
satish		

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO