

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

**CRM-A-1506-MA of 2016 (O&M)
DATE OF DECISION :- January 13, 2017**

State of Haryana

...Appellant

Versus

Gurnam Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI

Present:- Mr. Kapil Aggarwal, Additional Advocate General, Punjab
for the appellant.

M.JEYAPPAUL, J.

CRM No. 26014 of 2016

Heard.

There is a delay of 266 days in filing the appeal. For the reasons set out in the application, delay is condoned and the application is allowed.

CRM-A-1506-MA of 2016

1. Respondents Gurnam Singh, Gurminder Singh, Dilbag Singh and Bhagwant Singh were sent up to face the trial for the commission of offence punishable under Sections 148/149/ 323/ 324/ 341/ 307/ 506/ 120B/ 325/326 of the Indian Penal Code. The trial Court chose to convict the above accused under Sections 148, 323/149, 324/149, 325/149, 326/149, 341/149 and 506 IPC. Yet another accused Jagwinder Singh was declared

as proclaimed offender.

2. Aggrieved by the acquittal of the above accused under the charge under Section 307 of the Indian Penal Code, the State has preferred the present application under Section 378(3) seeking leave to file appeal.

3. The case of the prosecution is that on 16.9.2012 at about 10.45 P.M. accused who were armed with sword, iron rod and Danda alighted from Zen Car when PW2 Iqbal Singh was proceeding in his Indica Car towards Nissing side and attacked him with an intention to cause his death and caused injuries on his right knee, left thigh, right thigh, left forearm and palmar aspect between the arms and index finger on the left hand. PW1 Dr. Nipun Kalra had medico legally examined him and found those injuries on the person of PW2 Iqbal.

4. The trial Court, having found that there was no material to establish that the accused caused any injury dangerous to life on the vital part of the body, acquitted them of the major charge under Section 307 IPC.

5. Learned counsel appearing for the State submitted that the indiscriminate attack launched by the accused on PW2 Iqbal Singh would go to establish that they had the intention to kill PW2.

6. PW1 Dr. Nipun Kalra had found the following injuries on Iqbal Singh :-

1. Pain and swelling over the right knee.
2. Reddish bruise over the left thigh.
3. Pain and swelling over the right thigh.
4. Reddish bruise over the left forearm.
5. Incised wound over the palmar aspect between the thumb and index finger.

7. The above injuries scrupulously noted by PW1 Dr. Nipun Kalra

would go to establish that accused had not aimed at the vital part of the body with an intention to cause his death. PW1 had not deposed that injuries sustained by PW2 Iqbal Singh was dangerous to life. Further, Dr. Balbir Singh Virk, who allegedly performed operation on PW2 was not examined. The bed head ticket on the injured from the private hospital also was not produced. Therefore, there is virtually no legal evidence to establish that accused launched an attack on PW2 with an intention to cause his death. In the absence of substantial evidence to prove the charge under Section 307 IPC, the trial Court, in our view, had rightly acquitted them of the charge under Section 307 IPC. We do not find any merit in the application seeking leave to file appeal. Therefore, the leave sought for is declined and the application is dismissed.

(M. JEYAPPAUL)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

January 13, 2017
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No