

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

CRM A-1644-MA of 2016

Date of Decision: August 16, 2017

Angrej Singh

.....Applicant

Versus

Sukhwant Singh @ Santa and others

.... Respondents

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

Present : Mr. Malkeet Singh, Advocate
for the applicant.

T.P.S.MANN, J.

Complainant Angrej Singh, who was fired upon by the accused/respondents, has filed the present application under Section 378 Cr.P.C. for grant of leave to appeal against the judgment dated 11.4.2016 passed by the learned Additional Sessions Judge, Sri Muktsar Sahib, whereby, the accused stood acquitted of the charge under Section 307 read with Section 34 IPC.

According to the prosecution, complainant's reaper

had prepared fodder from the wheat straw in the fields of Bhura Singh, father of Jaspreet Kaur. After preparing fodder, the trolleys started for carrying it to the house of Jaspreet Kaur. When the complainant's son Kashmir Singh brought third trolley at about 7.20 p.m., the complainant was sitting on a wooden platform in front of his house. In order to unload the fodder, Kashmir Singh reversed his tractor trolley. In the meantime, Santa Singh @ Sukhwant Singh Ex. Sarpanch, who had common wall with his sister Jaspreet Kaur came to her house. He started abusing in a loud voice. At this, the complainant went there. Santa Singh @ Sukhwant Singh asked him to take his tractor trolley away and then went to his house while proclaiming that he would come with a gun from his house. The complainant advised his son Kashmir Singh to reverse the tractor trolley from the house of Jaspreet Kaur, which he did. In the meantime, Santa Singh @ Sukhwant Singh came back armed with .315 bore rifle and while in the land of Jaspreet Kaur asked that the tractor trolley be brought there. The complainant replied that earlier he was asking for taking the tractor trolley away from there and as it was done, there could not be any further dispute. At this, Santa Singh @ Sukhwant Singh while stating that he would see him, fired shot from his .315 bore rifle towards him with an intention to kill him. The complainant laid himself on the ground

and the shot fired went past over his head. Instead, it hit the girder of the roof where the bullet got embedded. While the complainant was lying there, Santa Singh @ Sukhwant Singh again fired towards him, which also went past him. Randhir Singh accused, brother of Santa Singh accused, armed with a pistol came there from his house and fired two shots which got embedded in the walls of the shop. Balwinder Singh armed with .12 bore gun came to the house of Santa Singh @ Sukhwant Singh where Ganga Singh accused was present. Accordingly, Balwinder Singh accused handed over the gun to Ganga Singh, who raised lalkara that the complainant and his son be not spared. Ganga Singh fired two shots from .12 bore gun. Kashmir Singh, who was standing behind the trolley, laid himself on the ground and escaped from being hit. Thereafter, they saved themselves by running away.

Further, according to the prosecution, the motive behind the occurrence was that Gurdeep Singh son of Kehar Singh had a dispute with Raj Singh Ex. Sarpanch of village Jammuana regarding the land and in that dispute they had helped their relative Gurdeep Singh. Santa Singh @ Sukhwant Singh had objected to the same.

Having heard learned counsel for the applicant and on going through the record, which stood requisitioned, this Court

finds that the occurrence had taken place on 10.5.2012 whereas the applicant had made statement before Sub-Inspector Jasbir Singh only on 15.5.2012, pursuant to which, the FIR was registered. The explanation regarding delay in making statement before the police that the parties were trying to enter into a compromise cannot be accepted. Even, the respectables, who according to the applicant were trying to settle the matter have not been examined by the prosecution. Therefore, delay of five days in making a statement before the police by the applicant is fatal to the prosecution.

According to the prosecution, number of shots were fired by the accused. However, none of the shots had hit either complainant Angrej Singh or his son Kashmir Singh. The Investigating Agency also could not recover any bullet, pellet or empty from the place of occurrence. So much so, the Investigating Officer did not find any sign of bullets or pellets on the walls, roof and girder of the roof.

It may also be mentioned here that the Investigating Agency could not recover any firearm at the instance of Randhir Singh @ Dhira, Ganga Singh and Balwinder Singh accused and for that reason, the said three accused were found innocent during the investigation of the case. They were later on summoned under Section 190 Cr.P.C. as accused. The only weapon, i.e. .315

bore rifle, which was licenced weapon of Santa Singh @ Sukhwant Singh accused was recovered. However, the Investigating Agency did not prepare its parcel. It was also not sent for examination by the ballistic expert.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the learned trial Court. The application filed by the applicant seeking leave to appeal against the impugned judgment of acquittal is devoid of any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

August 16, 2017
amit rana

(MAHABIR SINGH SINDHU)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No