

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

CRM-A-1676-MA-2016
Date of decision : March 09, 2017

State of Haryana

... Applicant

VERSUS

Sanjeev @ Sandeep and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.JEYAPPAUL
HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present : Mr.Ashok Muthreja, DAG, Haryana.

M.JEYAPPAUL, J.(ORAL)

CRM-28733-2016

There is a delay of 105 days in filing the appeal.

We are convinced with the reasons given by the State for the said delay.

Therefore, the delay is condoned and the application stands allowed.

CRM-A-1676-MA-2016

The State has filed the present application invoking the provisions under Section 378(3) Cr.P.C. praying for leave to prefer an appeal against acquittal recorded by the trial Court.

Respondents No.1 to 3 have been acquitted under Sections 307 and 506 read with Section 34 IPC and Section 25 of the Arms Act as the trial Court found that the aforesaid charges were not established beyond reasonable doubt by the prosecution.

The case of the prosecution is that on 31.07.2014 at about 11.00 p.m. when PW2 Bijender Singh son of Sultan Singh was sleeping at his residence, Ist respondent Sanjeev @ Sandeep called him out of his house. When he proceeded out of his house, 2nd respondent Mukesh caught hold of him and started giving kick blows. He also slapped him. 3rd respondent Amarjeet fired a shot from his gun that struck PW2 Bijender Singh on the back of his head. 3rd respondent also threatened him with dire consequences.

PW8 Dr.Priyanka Chopra who medico legally examined PW2 Bijender deposed that PW2 was admitted in the hospital with a fire arm injury. She issued MLR Ex.PW8/A.

The trial Court having doubted the version of the prosecution chose to acquit all the accused.

We heard the submissions made by learned State counsel.

It is his submission that the evidence of PW2 in the background of the medical evidence establishes that PW2 sustained injuries at the hands of accused. The trial Court has erred in not believing the version of PW2 supported by medical testimony on record. It is his further submission that the prosecution has established the injury sustained by PW2 and therefore, the application may be allowed.

PW2 Bijender is a star witness in this case. It is true that he has deposed that he received bullet injury at the hands of 3rd respondent Amarjeet, but we find that the trial Court has rightly analyzed MLR of PW2 which has been issued by PW8 Dr. Priyank Chopra where it has been specifically recorded that no blackening, tattooing mark was present around the injury sustained by PW2 that there was no bullet wound found on PW2. She has also

deposed that PW2 had consumed alcohol. Further, PW2 had not specifically informed the doctor who admitted him that he received a fire arm injury. She has come out with a definite note that injury No.1 was not a fire arm injury sustained by PW2. She has gone a step further by deposing in the witness box that there is every possibility for sustaining such an injury if PW2 who is a star witness fell down on the brick bat or on a sharp edged ground surface.

The trial Court also doubted the very recovery of the weapon at the instance of the Ist respondent.

PW2, the star witness, has come out with a version that he received an injury from a lethal weapon possessed by 3rd respondent. In other words, his deposition that 3rd respondent had opened fire and as a result of which, he sustained bullet injury completely contradicts the ocular testimony of PW2.

In our considered view, the trial Court has rightly evaluated the evidence on record and arrived at a conclusion that the prosecution has miserably failed to establish the charges framed against the accused.

Therefore, the leave sought for is declined and the application stands dismissed.

(M. JEYAPPAUL)
JUDGE

(DEEPAK SIBAL)
JUDGE

March 09, 2017

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Whether Speaking/Reasoned	Yes
Whether Reportable	No