

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

CRM A-1195-MA of 2017

Date of Decision: August 30, 2017

Amit	Versus	Applicant
Ravinder and another		 Respondents

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

Present : Mr. Manvender Singh Chauhan, Advocate
for the applicant.

T.P.S.MANN, J.

The applicant, namely, Amit, nephew of deceased Dinesh has filed the present application under Section 378(3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 7.1.2017 passed by Additional Sessions Judge, Panipat, whereby Ravinder, accused/respondent No.1 herein, stood acquitted of the charges under Sections 302, 511, 201 read with Section 34 IPC.

Respondent No.1 Ravinder alongwith Vikas was tried for the aforementioned offences. The trial Court convicted Vikas

under Sections 302 and 201 read with Section 511 IPC and sentenced to undergo imprisonment for life and to pay fine as well whereas respondent No.1-Ravinder stood exonerated of all the charges against him.

According to the prosecution, the applicant got his statement recorded before the police on 25.8.2015 stating therein that he hails from village Raulad, District Sonipat and an agriculturist by occupation. He is residing at the house of his maternal uncle Dinesh in village Chamrada for the last five years. On 24.8.2005 at about 10.00 p.m., he went to a temple under construction at Baba Wala pond in search of his maternal uncle Dinesh and found him taking liquor with Vikas accused. He asked his maternal uncle Dinesh to return home but Vikas did not allow Dinesh to accompany him and rather made him sit with him. The applicant came back to his house and went to sleep. In the next morning, he saw the dead body of his maternal uncle Dinesh lying upside down at Pashu Ghat by the side of the pond. His shirt was found missing whereas his motor-cycle was parked there. Huge quantity of fuel wood and husk were lying and the fuel pipe of the motor-cycle had been removed. An attempt had been made to burn the dead body of his maternal uncle after his murder. The applicant was sure about commission of murder of his maternal uncle during the night by Vikas alongwith his associates.

Accordingly, he made a request to take necessary action against Vikas and his associates.

During the investigation of the case, both Vikas and Ravinder were arrested and the motor-cycle bearing registration No. HR12V-3935 make Bullet, which was used in the commission of offence was recovered from Ravinder accused. The accused also got the place of occurrence demarcated .

After hearing learned counsel for the applicant and on going through the impugned judgment to the extent of acquitting Ravinder accused of the charges against them, this Court finds that the applicant while stepping into the witness box as PW2 stated in his cross-examination that he had not seen Ravinder accused at the spot. Neither he had named him before the police at any time nor anything was recovered from both the accused in his presence. PW8 Satish testified that when the police conducted an inquiry at the spot, some persons stated that during the night, the deceased alongwith Vikas and Ravinder was seen consuming liquor. According to him, it were Ramesh and Kuldeep, who told him about the aforementioned facts. However, he did not know the father's name of Ramesh and also did not remember the name of the other villagers. He also stated that he was stating the names of Ramesh and Kuldeep for the first time while deposing before the trial Court and prior to that he had not told

their names to any authority. As regards the recovery of motorcycle make Bullet, PW8 Satish stated that the police had obtained his signatures on 2/3 papers and he did not know the contents of the said papers. He signed the disclosure statement of the accused without going through its contents. He never told the police about the involvement of aforesaid motor-cycle in the occurrence prior to its recovery. He also did not know about the registered owner of the motor-cycle. Thus, it cannot be said that the motor-cycle in question was used in the commission of offence and, therefore, its recovery is un consequential.

In view of the above, it cannot be said that the trial Court erred in acquitting Ravinder accused of the charges against them. The application is without any merit and, accordingly, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

August 30, 2017
amit rana

(MAHABIR SINGH SINDHU)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No