

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

CRM A-1224-MA of 2017

Date of Decision : September 12, 2017

Ravi

.....Applicant

VERSUS

Mukesh and others

.....Respondents

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

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

T.P.S. MANN, J.

The applicant, namely, Ravi, who alongwith Surat Singh had received injuries in an incident which occurred on 30.12.2014, has filed the present application under Section 378 (3) of the Code of Criminal Procedure for the grant of leave to appeal against the judgment dated 29.4.2017 passed by learned Additional Sessions Judge, Sonipat to the extent of acquitting respondents No.1 and 2 of the charge under Section 307 read with Section 34 IPC.

According to the prosecution, on 30.12.2014 at about 4.00 p.m., the applicant was going to the market for purchasing motor cycle parts and when he reached at Bari road, a heated exchange of words was going on amongst 4/5 boys. He knew

one of them i.e. respondent No.2-Mukesh. Mukesh suddenly caught hold of him from behind while the other boy, who was not known to him, gave a knife blow in his abdomen. When Surat Singh tried to get the applicant released, he was also given knife blow on his left hip by the said boy. Vicky, the elder brother of the applicant, reached the spot and on seeing him, both the boys fled away from the spot. According to the applicant, Mukesh and his accomplice had inflicted injuries upon him and Surat Singh without any reason.

After going through the evidence brought on the record and hearing learned counsel for the parties, the learned trial Court acquitted respondents No.1 and 2 of the charge under Section 307 read with Section 34 IPC and, instead, convicted them under Section 324 read with Section 34 IPC. Respondent No.2-Rohit @ Gandhi was also convicted under Section 25 of the Arms Act as he was found in conscious possession of a knife without any permit or licence. Both the accused/respondents were sentenced to undergo imprisonment for three years and to pay a fine of Rs. 3,000/- each for the offence under Section 324 read with Section 34 IPC. Rohit @ Gandhi was sentenced to undergo imprisonment for one year and to pay a fine of Rs.1,000/- for the offence under Section 25 of the Arms Act.

From the testimony of PW3 Dr. Prateek Girotra, who

had medico-legally examined the applicant and Surat Singh, it is made out that both of them had received one injury each. During the investigation of the case, PW11 SI Satbir Singh had sought opinion of the doctor regarding the injury on the person of PW2 Ravi and it was opined that the injury might be dangerous to life. PW3 Dr. Prateek Girotra during his cross-examination stated that as per his opinion, injury on the person of Ravi might be dangerous to life and not absolutely dangerous to life. There was no repetition of injury being caused to the applicant and as such, there could not be any intention to kill PW2 Ravi and resultantly the offence under Section 307 IPC is not attracted and the case would fall under Section 324 IPC. No fault can be found with the approach of the learned trial Court in exonerating the accused/respondents No. 1 and 2 of the charge under Section 307 IPC read with Section 34 IPC.

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

(T.P.S. MANN)
JUDGE

September 12, 2017
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No