

**CRM-A-2118-MA-2017 (O&M)**

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

**CRM-A-2118-MA-2017 (O&M)**

**Date of Decision: 14<sup>th</sup> December, 2017**

**State of Haryana**

...Applicant

Versus

**Mahavir**

...Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. S.S. Pannu, DAG, Haryana  
for the State/applicant.

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**M.M.S. BEDI, J.(ORAL)**

State has preferred this application for leave to appeal against the acquittal of respondent-Mahavir, who, as per the prosecution story, in a case registered at the instance of Moti Lal, trespassed in his house and fired on him with country-made pistol but it did not hit him. The motive attributed is that there has been a previous quarrel between the parties regarding a plot.

Counsel for the State has vehemently contended that originally, the case was registered against four persons but during the course of investigation, three were found innocent and only Mahavir was found to be culprit for having committed the offence under Sections 307, 452 and 323 of the Indian Penal Code read with Section 25 of the Arms Act.

We have heard the counsel for the applicant and gone through the judgment of acquittal passed by the Court below and found that it is not the case of any injury and the parties have got previous rivalry. The police

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itself had found the other three persons innocent indicative of the fact that the story of the prosecution from the very beginning had been found to be debatable. The trial Court has considered the circumstances and acquitted respondent-Mahavir by giving him the benefit of doubt on account of failure of prosecution agency to recover of empty cartridge from the spot.

We do not find any ground to convert the order of acquittal into that of conviction by re-appreciation of evidence especially when there has been delay of four days in lodging of the FIR, which is unexplained. Besides this, it is a case of no injury. The chances of false implication by the complainant cannot be ruled out. The benefit of doubt appears to have rightly been granted to the respondent.

We have also considered the reasons furnished for explaining the delay of 644 days in filing the application to leave. The State cannot be permitted to take advantage of the unexplained slumber of almost two years. Neither any ground is made out for condonation of delay of 644 day in filing the application for leave to appeal nor the circumstances on merits warrant any interference in the order of acquittal passed by the trial Court.

Accordingly, the application for condonation of delay as well application for leave to appeal are dismissed.

(M.M.S. BEDI)  
JUDGE

( AUGUSTINE GEORGE MASIH )  
JUDGE

14<sup>th</sup> December, 2017  
*Harish*

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

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