

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

CRM-A-759-MA of 2017

Date of Decision: July 19, 2017

Jagmeet Singh	Versus	Applicant
State of Punjab and others		 Respondents

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

Present : Ms. Geeta Sharma, Advocate
for the applicant.

T.P.S.MANN, J.

Applicant Jagmeet Singh, who had received injuries in the occurrence in question has filed the present application under Section 378(3) Cr.P.C. for grant of leave to appeal against the judgment dated 3.12.2016 passed by the Additional Sessions Judge-III, Fazilka.

Vide impugned judgment, the learned trial Court acquitted Avneet Kaur-accused of the charges against her whereas Saraf Raj Singh-accused was acquitted of the charge under Section 356 IPC but was convicted under Sections 307/341/324/506/149 and 148 IPC and sentenced to undergo imprisonment for five years and to pay a total fine of Rs.11,500/-.

The applicant has prayed for setting-aside the acquittal of Avneet Kaur-accused of the charges against her and

also for enhancing the sentence of Saraf Raj Singh-accused.

According to the prosecution, on 3.6.2014, applicant-Jagmeet Singh, resident of Sai Complex, Abohar was going from the market to his house in his Esteem car. At about 8.30 p.m., when he reached near the park behind the Hero Honda Agency, Abohar, a Swift car of white colour was found parked there. Avneet Kaur and Saraf Raj Singh were sitting on the front seat of the car. On seeing them, the applicant tried to reverse his car but it suddenly stopped. Some unidentified persons, who were standing near the car of Saraf Raj Singh started throwing brickbats at his car. Saraf Raj Singh came out from his car and gave two kirpan blows on the driver side of his car and broke its window pane. Saraf Raj Singh alongwith others dragged the applicant out from his car. In the meantime, Avneet Kaur also came out from her car and raised a lalkara not to allow the applicant escape that day and be taught a lesson for prosecuting the case of his brother. Saraf Raj Singh gave another kirpan blow from its reverse side, which hit the applicant on the left side of his head. One more blow given by Saraf Raj Singh from the sharp side of the kirpan landed on the middle of applicant's head. The third blow given by Saraf Raj Singh with a kirpan hit on back of his head. Other persons accompanying Saraf Raj Singh pushed the applicant, due to which, he fell down on the ground. Those persons gave kirpan and danda blows to him. Saraf Raj Singh

gave another kirpan blow on his right hand. The hue and cry raised by the applicant attracted his wife Manpreet Kaur to the spot, who witnessed the entire occurrence. She also raised an alarm, upon which, the people gathered at the spot. Paramjit Singh, brother-in-law of the applicant also reached the spot and saw the accused running away from the spot.

As regards the involvement of Avneet Kaur-accused in the commission of crime, it may be noticed that she was not said to be carrying any weapon with her. She was attributed raising of lalkara to teach a lesson to the applicant for prosecuting the case of the applicant's brother. There being previous enmity between the parties, possibility of Avneet Kaur being falsely implicated in the incident could not be ruled out. Even otherwise, Saraf Raj Singh and his companions, who were said to have caused injuries to the applicant did not require raising of lalkara by Avneet Kaur-accused, as they were shown to be already armed and they could have caused the injuries to the applicant on their own without needing any exhortation from Avneet Kaur-accused. Therefore, no case is made out for any interference in the acquittal of Avneet Kaur-accused of the charges against her.

The inadequacy of sentence imposed upon a convict in a criminal case can be challenged by the State by filing an appeal under Section 377 Cr.P.C. Under Section 372 Cr.P.C., the victim cannot seek enhancement of sentence. He can only

challenge the acquittal of the accused or convicting for a lesser offence or imposing inadequate compensation. However, the victim cannot seek enhancement of sentence.

Faced with the above, learned counsel for the applicant submits that the applicant may be allowed to withdraw the prayer for enhancement of sentence of Saraf Raj Singh-accused with liberty to seek the said relief by approaching the appropriate Forum or Court.

In view of the above, the prayer made by the applicant for enhancement of sentence of Saraf Raj Singh-accused is dismissed as withdrawn with liberty to the applicant to seek the said relief by approaching the appropriate Forum or Court in accordance with law. Further, no case is made out for setting-aside the acquittal of Avneet Kaur-accused of the charges against her and, accordingly, leave to appeal for the said purpose is declined.

The application is disposed of accordingly.

(T.P.S. MANN)
JUDGE

July 19, 2017
amit rana

(MAHABIR SINGH SINDHU)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No