

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

Criminal Misc. No. A-781-MA of 2017

Date of Decision : August 10, 2017

Harkirat Singh

....Applicant

Versus

Harpreet Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. G.N. Malik, Advocate
for the applicant.

T.P.S. MANN, J.

Accused Harpreet Singh, Harmail Singh and Parvinder Singh, who are respondents No.1 to 3 herein, were tried for committing offences punishable under Sections 307/325/323/427/34 IPC. Vide judgment and order dated 21/22.11.2016, learned Additional Sessions Judge, Sangrur acquitted Harmail Sigh and Parvinder Singh of all the charges against them. Harpreet Singh was acquitted of the charge under Section 307 IPC and in its place, convicted and sentenced under Section 308 IPC. He was also held guilty under Sections 325, 323 and 427 IPC.

Aggrieved of the acquittal of Harmail Singh and Parvinder Singh of all the charges against them, victim Harkirat Singh has filed the present application under Section 378 Cr.P.C. for grant of leave

to appeal. He has also challenged the acquittal of Harpreet Singh under Section 307 IPC, besides enhancing his sentence.

According to the prosecution, on 5.6.2013 victim Harkirat Singh and his daughter Harleen Kaur was going to Malerkotla on his motorcycle bearing No.PB-13E-1589 for her tuition. At about 8.45/9.00 a.m. when they reached near village Ahankherri, then from the opposite side, one Indica car bearing No.DL-8CM-0912 came. It was being driven by Harpreet Singh whereas his father Harmail Singh was sitting on the adjoining seat. There was one unknown person sitting on the rear seat of the car. When the car came near the victim, Harmail Singh exhorted Harpreet Singh to dash his car against the motorcycle of the victim. Harpreet Singh struck his car with the motorcycle. By that time the victim had taken front wheel of his motorcycle to the berm area. On account of the impact, the victim and his daughter alongwith the motorcycle fell in the ditches. Harpreet Singh stopped the car, gave a glance and fled away with the car towards Faridpur. Meanwhile, Rajinder Singh came at the spot. The daughter of the victim called Manjit Singh, Sarpanch on telephone to the spot. Both, Harkirat Singh and his daughter Harleen Kaur had suffered injuries on account of Harpreet Singh accused dashing his car against the motorcycle of the victim and this act was done by him with an intent to murder them.

Having heard learned counsel for the applicant and on going through the impugned judgment, this Court finds that the minor damage to the motorcycle of the victim as well as the car of Harpreet

Singh accused do not suggest that Harpreet Singh had any intention of causing the death of the victim or his daughter Harleen Kaur. Further, the initial case of the prosecution was a road side accident. However, the statement of Harkirat Singh victim was recorded after three days of the incident and possibility could not be ruled out of the prosecution coming up with an exaggerated version that the accident had been caused with an intention to cause death.

As regards Harmail Singh accused, it is highly improbable that while sitting in the car he would have exhorted its driver to dash the car against the vehicle of the victim. With engine of the car running, it would have been difficult to hear exactly as to what was being said by the occupants of the car or exhorting the car driver to bang the vehicle. The third accused, namely, Parvinder Singh was not named as such in the first version before the police. However, later on, victim Harkirat Singh PW1 and Harleen Kaur PW2 deposed that it was Parvinder Singh who was sitting on the rear seat of the car. It is the case of the prosecution that PW3 Chamkaur Singh, who had also reached the spot soon after the occurrence had identified Parvinder Singh to be the third occupant in the car. If PW3 Chamkaur Singh had identified Parvinder Singh as one of the accused, then he could have easily informed PW1 Harkirat Singh and PW2 Harleen Kaur in that regard. As neither PW1 Harkirat Singh nor PW2 Harleen Kaur in their initial versions before the police had named the third accused, it cannot be said with certainty that he was sitting in the car. Moreover, no role, whatsoever, was attributed to him.

As regard the question of sentence to be imposed upon Harpreet Singh accused, suffice it to say that the same was commensurate with the crime committed by him. No case is made out for any enhancement.

In view of the above, no case is made out for any interference in the impugned judgment. The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

Nothing stated above regarding question of sentence of Harpreet Singh accused shall be considered as an expression of opinion on the quantum of sentence of his imprisonment as the same is subject matter of appeal filed by him against his conviction and sentence. The expression of opinion by this Court is for the limited purpose of deciding the present application.

	(T.P.S. MANN)	(MAHABIR SINGH SINDHU)
	JUDGE	JUDGE
August 10, 2017		
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Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO