

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

Criminal Misc. No.A-959-MA of 2017
Date of Decision : August 16, 2017

Sandeep	Versus	Applicant
Parveen @ Sonu 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.

Sandeep, who was attacked by the accused and, thus, a 'victim', has filed the present application under Section 378(3) Cr.P.C. for challenging the judgment dated 4.3.2017 passed by Additional Sessions Judge, Sonipat.

Vide impugned judgment, learned trial Court acquitted Parveen @ Sonu, Dinesh @ Kala and Banti accused, who are respondents No.1 to 3, herein, of the charges under Sections 307/323/34 IPC, besides Parveen @ Sonu accused being acquitted of the charge under Section 25 of the Arms Act.

According to the prosecution, the applicant, namely, Sandeep moved application on 2.9.2013 before ASI Subhash Chander stating therein that on that day at about 8.30 a.m. he was

standing outside his house when Parveen @ Sonu, armed with a pistol and Dinesh @ Kala and Banti accused while carrying wooden sticks came there. Parveen @ Sonu fired thrice at him but he had a narrow escape. On hearing of the shots, his father and cousin came at the spot. On seeing them, the accused fled away from the spot. While running, Parveen @ Sonu also fired a shot towards his uncle. Thereafter, they again picked up a quarrel in front of the house of his uncle and Pardeep @ Bablu sustained injuries in the scuffle. Parveen @ Sonu and his accomplices had fired shots upon the applicant and his uncle with the intention to kill them. In their defence, the applicant and others had caused injuries to Parveen @ Sonu, etc.

Having heard learned counsel for the applicant and on going through the impugned judgment of acquittal, this Court finds that the occurrence had taken place on 2.9.2013 at about 8.30 a.m. and after the occurrence it was Parveen @ Sonu accused who had conveyed to the police on telephone that some persons were threatening to kill him. The police reached the spot on 2.9.2013 at 11.00 a.m. After the arrival of the police, the applicant had moved application at about 3.00 p.m. While appearing as PW5, the applicant testified that he did not move any complaint to the police against the accused persons at 11.00 a.m. when police had come to his house. Thus, the complaint was submitted by the applicant after about seven hours of the occurrence. Delay in submitting the complaint has not been explained. Possibility of introduction of coloured version, exaggerated account or concocted story could not be ruled out.

From the MLRs Ex.D1 and Ex.D2, it is made out that the accused party had received multiple injuries. However, there is no explanation from the side of the prosecution regarding the injuries on the person of the accused. Possibility of the applicant party being an aggressor could not be ruled out.

As regards the commission of offence under Section 25 of the Arms Act by Parveen @ Sonu accused, it may be noticed that fire arm, i.e. pistol was not produced before the District Magistrate while obtaining sanction for his prosecution. Further, the recovery of pistol was shown to have been made from the house of Parveen @ Sonu accused. The said house is situated in thickly populated village. Despite the same, no independent witness was joined at the time of alleged recovery of the pistol.

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

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

August 16, 2017
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Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO