

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

CRA-S-2072-SB-2014

Date of Decision:- 20.01.2018

Ramesh Kumar @ Meshu

.... Appellant

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Ms. Kiran Verma, Legal Aid Counsel
for the appellant.

Mr.Ayuwan Singh, AAG, Haryana.

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed by the appellant against State of Haryana, challenging the judgment of conviction dated 16.01.2014 and order of sentence dated 17.01.2014 passed by learned Additional Sessions Judge, Karnal. The appellant was held guilty under Section 307 of Indian Penal Code, 1860 (for short, 'IPC') and Section 25 of Arms Act, 1959. He was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.4000/- and in default thereof to further undergo rigorous imprisonment for a period of six months for the offence under Section 307 of IPC and rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- and in default thereof to further undergo rigorous imprisonment for a period of one month for the offence under Section 25 of Arms Act.

The brief facts of the prosecution case as noted down in the

judgment passed by learned Additional Sessions Judge, Karnal, are as under:-

"Brief facts of the prosecution case are that on 12.11.2012 ASI Sher Singh alongwith other police officials was present at Railway Road, Gharaunda for patrolling duty, where complainant Balbir Singh met the ASI and presented a complaint before him, inter-alia, alleging therein that he was running a grocery shop besides a flour mill. Ramesh alias Meshu, who is habitual of committing theft, has recently been released from Karnal Jail. About three days ago, he along with Bahadur Singh, Sarpanch was sitting at the residence of Sarpanch. At that time, accused Ramesh also came there and said to Bahadur Singh to prevent Ram Mehar son of Birbal from moving any false complaint against him in the Police Station, otherwise, he would end the life of Mehar Singh before Diwali festival. On 11.11.2012, at about 9.00 a.m., the complainant asked Ram Mehar to remain watchful from Ramesh because Ramesh oftently declare in front of Sarpanch Bahadur Singh that he would kill him before Diwali. Ram Mehar disclosed this fact to his father Birbal, who called Jai Singh, father of Ramesh and narrated this fact to him. Jai Singh

rebuked his son Ramesh, due to which Ramesh as well as his elder brother Ram Phal nourished a grudge towards the complainant. On the night of 11.11.2012 at about 9.00 p.m., both accused Ramesh and Ram Phal having a country made pistol came to the house of complainant and gave a lalkara that they will not spare him. Complainant came out of his house. Accused Ramesh fired a straight shot from his country made pistol at the complainant but he hide himself behind the door. He then fired a second shot at the complainant but he laid down on the ground and saved himself. Accused Ramesh then fired another shot at the complainant which passed over his head. On hearing the rupture of shots, Sher Partap son of Balbir Singh reached at the spot and on seeing him, both the accused fled away from the spot along with the pistol. On the basis of this complaint, FIR in the present case was registered. During investigation, the place of occurrence was inspected and rough site plan was prepared. An empty bullet of .315 bore country made pistol was recovered from the place of occurrence which was taken into possession vide a recovery memo. Both the accused were arrested and they suffered their separate disclosure

statements. In pursuance of his disclosure statement, accused Ramesh got recovered a country made pistol of .315 bore alongwith two empty cartridges from a single bed lying in his residential house. After preparing rough sketch of the pistol, the pistol and two empty cartridges were converted into separate parcels sealed with the seal of SS and the same were taken into police possession vide a recovery memo. Both the accused then got the place where they fired upon Balbir on the night of 11.11.2012, demarcated vide a demarcation memo. Site plan qua the place of occurrence was prepared. The place of occurrence was got inspected through the FSL team, Madhuban. The case property was deposited with the MHC of the Police Station Gharaunda. After completion of investigation, report under Section 173 Cr.P.C. was presented in the court for trial of accused.

Copies of challan were supplied to the accused free of costs. Thereafter, the case was committed to the Court of Session by the Court of Sh. Manglesh Kumar Choubey, learned Judicial Magistrate Ist Class, Karnal, vide commitment order dated 18.02.2013.

After perusing the report under Section 173

Cr.P.C. and other accompanying documents, a prima-facie case punishable under Sections 307 of the Indian Penal Code and Section 25 of Arms Act was made out against the accused and they have been accordingly charge-sheeted vide order dated 20.03.2013, to which, they pleaded not guilty and claimed trial.”

In order to prove its case against the accused, the prosecution examined PW1 EHC Vir Shakti Singh, draftsman, who prepared the scaled site plan.

PW2 ASI Prem Singh deposed that he alongwith ASI Prem Singh and Constable Prem Singh reached the place of occurrence and took in possession the empty cartridge and same was converted into sealed parcel. They conducted the raid at the house of the accused and arrested him. On the disclosure statement made by the accused during interrogation recovery of country made pistol and two empty cartridges were recovered.

PW3 Bahadur Singh, Sarpanch of village Malilkpur stated that in the presence of Balbir, the accused told him to ask Ram Mehar not to complaint against the accused in police, otherwise he would shoot him.

PW4 Balbir Singh reiterated the statement made by Sarpanch Bahadur Singh and stated that he cautioned Ram Mehar who disclosed this fact to his father who called the father of the accused. He stated that Ramesh fired upon him twice with an intention to kill him.

PW5 Head Constable Sandeep deposed that ASI Sher Singh handed over him in Malkhana three sealed parcels containing country made pistol, one cartridge and two empty cartridges.

PW6 ASI Sher Singh made a similar deposition as made by ASI Prem Singh.

PW7 Sher Partap Singh was the eye witness. He deposed that the accused was having a country made pistol. He fired upon Balbir in his presence.

PW8 Constable Bijender deposed that he was handed over three sealed parcels by MHC Sandeep for depositing the same in FSL Madhuban and the same is deposited by him.

PW9 Shamsher Singh, Ahlmad of District Magistrate, Karnal deposed that sanction order to prosecute the accused was given by District Magistrate, Karnal vide Ex.P16.

After closure of the prosecution evidence, the statement of the accused under section 313 Cr.P.C. was recorded, wherein he has denied all the incriminating material put to him being incorrect. The accused pleaded that he is innocent and has been falsely implicated and nothing was recovered from his possession. In defence, no witness was examined by the accused and he closed the same.

Learned trial Court after appreciating the evidence vide its impugned judgment and order, convicted and sentenced the accused as stated above.

Learned legal aid counsel appearing for the appellant submits that the appellant after completing his sentence has been released and partly fine has already been paid and he has undergone imprisonment for defaulted fine.

Learned State counsel has produced custody certificate issued by Sanjay Bangar, Deputy Superintendent, District Prison, Karnal, which is

taken on record. As per the said certificate, the appellant has already undergone his sentence and has paid the fine. He was released on 29.05.2015.

After hearing learned counsel for the parties, this Court is of the view that no further interference in the present appeal is required and therefore, the present appeal is disposed of having been rendered infructuous.

January 20, 2018

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(AVNEESH JHINGAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No