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

CRM-A-106-MA of 2018 (O&M)

Date of decision: July 03, 2018

Bhale Ram

.....Applicant

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Pankaj Singh, Advocate for the applicant.

A.B. CHAUDHARI, J

CRM No.1227 of 2018

Heard learned counsel for the applicant on the question of condonation of delay of 106 days in filing the application seeking leave to appeal against acquittal of two accused persons, namely Karambir and Rohtash.

We have perused the reasons given in Para-2 of the application and we are satisfied that the delay of 106 days in filing the application seeking leave to appeal deserves to be condoned.

Hence, the delay of 106 days in filing the application seeking leave to appeal against acquittal, is condoned.

Application stands disposed of.

CRM-A-106-MA of 2018

In the present application, the applicant has put to challenge the judgment and order dated 03.06.2017 passed by the learned Additional Sessions Judge, Sonapat, in Sessions case No.1229 of 2014, by which two accused, namely Karambir and Rohtash were acquitted of the charge levelled

against them by giving them the benefit of doubt.

In support, learned counsel for the applicant has vehemently argued that the trial Court committed an error in acquitting Rohtash and Karambir, though, it convicted other accused persons. He submitted that the recovery of two mobile phones from them, namely Rohtash and Karambir was a relevant piece of evidence, which has been perversely ignored by the trial Court. The circumstances were proved on record by the prosecution against them and the trial Court ought to have convicted the said accused persons, namely Rohtash and Karambir. He then submitted that the accused Karambir as well as Rohtash had suffered disclosure statement in which they had clearly admitted about their role in the commission of murder of deceased-Maya Ram. The trial Court has stated about the said disclosure statement in Para-28 of the impugned judgment, but has ignored consideration thereof for the purpose of recording findings. He, therefore, submitted that the application deserves to be allowed.

We have heard learned counsel for the applicant and also perused the impugned judgment and order and the reasons recorded therein. It is not in dispute as stated by the trial Court and also agreed upon by the counsel for the applicant that there was no eye-witness to the occurrence in the present case. But the prosecution case is based on circumstantial evidence. The trial Court on the basis of the circumstances available on record convicted two accused persons and awarded them the sentence of imprisonment for life, namely Dilbag @ Baga and Manoj @ Vinod. But the trial Court acquitted the respondents-accused, Rohtash and Karambir as it did not find sufficient evidence to connect them. We have carefully seen findings recorded by the trial Court and we find that there is no incriminating evidence against Rohtash and

Karambir on the basis of which finding of conviction could have been recorded against them. The submission that they had made disclosure statement before the police about their role for commission of crime, is bereft of merit. The disclosure statement made by these accused persons against them, namely inculpatory statement, cannot be utilised as evidence against them, and therefore, the submission will have to be rejected. Another piece of evidence relied upon is collection of mobile phones from these two accused persons, but then that could not be said to be enough in order to base the conviction for serious offence of murder.

Except the above, no other evidence has been found by the trial Court nor the prosecution could lead any evidence to prove their guilt.

The finding on fact recorded by the trial Court regarding acquittal of the said two accused persons, namely Rohtash and Karambir is not perverse and is well justified.

Hence, the application seeking leave to appeal against acquittal stands dismissed.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

July 03, 2018
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No