

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

(1) CRM-A-1127-MA-2016

Prithvi Singh

...Applicant

Versus

State of Haryana and others

...Respondents

(2) CRM-A-735-MA-2017(O&M)

State of Haryana

...Applicant

Versus

Najdeek and others

...Respondents

Date of Decision:-26.10.2018

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

Present: Mr.R.N.Lohan, Advocate
for the applicant in CRM-A-1127-MA-2016.

Mr.Praveen Bhadu, Asstt.A.G., Haryana
for the applicant State in CRM-A-735-MA-2017(O&M)

H.S. MADAAN, J.

**CRM-13186-2017 in
CRM-A-735-MA-2017**

Prayer made in the application is for condonation of 255

days' delay in applying for leave to appeal.

Heard. Sufficient cause has been shown for condonation of such delay. The application is, therefore, accepted and the delay of 255 days in applying for leave to appeal is condoned.

CRM-A-1127-MA-2016 &
CRM-A-735-MA-2017

Vide this order, we propose to dispose of CRM-A-1127-MA-2016 filed by the applicant- Prithvi Singh (complainant) and CRM-A-735-MA-2017 filed by applicant – State of Haryana seeking permission for leave to appeal against respondents challenging the impugned judgment dated 22.4.2016 passed by learned Additional Sessions Judge, Bhiwani.

Accused Najdeek, Balwan, Dharam Dev, Nihal Singh, Pardeep, Lalit and Sushil faced trial by Additional Sessions Judge, Bhiwani and vide judgment dated 22.4.2016, they were acquitted of the charge framed against them.

Briefly stated, facts of the case as per the prosecution story happened to be that on 8.6.2012 at about 7:30 p.m. deceased Neki Ram had gone on motorcycle to irrigate his fields at village Dhani Khushal but did not return home; on the next day in the morning at about 4:30/5:00 a.m. the dead body of Neki Ram having head injuries soaked in blood was found near fields of Ranjeet son of Har Chand. The complainant Prithvi Singh, a brother of deceased had submitted a written complaint to the police in that regard adding that 4-5 days earlier, deceased had an altercation with Nihal Singh son of Parbhu Dayal, Najdeek, Sandeep,

Lalit sons of Dara Singh, Balwan son of Roop Chand, Suresh son of Sadhu Ram, Dharam Dev son of Balwant and Sushil son of Bhim Singh of their village; even the complainant was made to get involved in that altercation; at that time, those miscreants had threatened to kill the complainant side. He had further stated that on 8.6.2012, Nihal Singh, Najdeek, Balwan, Pardeep, Suresh, Dharam Dev, Sushil and Lalit had committed murder of Neki Ram by causing injuries to him.

On the basis of that written complaint, formal FIR was registered. The investigation in the case started. Post-mortem examination was got conducted on the dead body of Neki Ram. Accused were arrested in this case.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court. The accused were charge-sheeted for the offences under Sections 120-B, 148 IPC and under Section 302 read with Section 149 IPC, to which, they pleaded not guilty and claimed trial. The case was fixed for evidence of the prosecution.

During the course of its evidence, the prosecution had examined as many as fifteen witnesses, namely, PW1 – the complainant – Prithi Singh, PW2 – Ranbir Singh, PW3 – Satyawar, PW4 – Krishan Kumar, Patwari, PW5 – Constable Naresh Kumar, PW6 – Sub Inspector Kishan Lal Meena, PW7 – EASI Gopal Dass, PW8 – Parmod Kumar, PW9 – Head Constable Satish Kumar, PW10 – ASI Dharambir Singh, PW11- Retd. SI Mahender Singh, PW12 – CI Deepak Kumar, PW13 Inspector Devender Singh, PW14 – Chanderpal DSP Pehowa and PW15

Dr.Sandeep Chaudhary.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations contending that they were innocent and had been falsely involved in this case.

Accused did not lead any evidence in defence.

After hearing arguments, the learned trial Court had acquitted the accused of the charge framed against them.

Learned trial Court while returning the verdict of acquittal took into consideration various factors.

The first and foremost being that there was no eye-witness of the incident. The second factor, which weighed on the mind of the trial Court was that no body had seen the accused in company of the deceased Neki Ram and when he was last seen by PW1 Prithi Singh, PW2 Ranbir Singh, PW3 Satyawan, the deceased was all alone. The case of the prosecution solely rested upon circumstantial evidence in the form of recovery of weapons i.e. bamboo stick got recovered by accused Balwan, another bamboo stick got recovered by accused Dharam Dev, an iron rod got recovered by accused Najdeek in pursuance of their alleged disclosure statements, which weapons had been sent to FSL for analysis but as per report received therefrom, the iron rod and dandas so sent there were not having blood stains, as such could not be connected with the present incident; the remaining evidence being simply of corroborative nature only on which the conviction of accused could not be based; there was no

evidence of accused having entered into any conspiracy to commit murder of the deceased; the prosecution having been unable to establish a cogent and convincing motive on the part of the accused driving them to commit murder of the deceased; there being material discrepancies between statements of the prosecution witnesses raising a question mark over the credibility of the witnesses examined by the prosecution. In the end the trial Court had found that the prosecution had not been able to prove its case beyond reasonable doubt that accused agreed with each other to kill Neki Ram by illegal means and caused injuries to Neki Ram in pursuance of said agreement to commit the offence of murder they being the members of an unlawful assembly and in prosecution of the common object of that assembly and armed with deadly weapons i.e. iron rods, lathies did commit the offence of rioting and also committed the murder of Neki Ram intentionally.

This judgment left the complainant and the State aggrieved and they have separately approached this Court seeking special leave to appeal.

We have heard the learned counsel for the applicant besides going through the records.

After hearing learned counsel for the applicant and the State counsel, we find that the judgment passed by the Court below is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. Even otherwise, the law is well settled that the judgment of acquittal passed by the trial Court is not to be interfered with lightly. The

judgment is certainly not perverse and it cannot be said that it has been passed ignoring the settled principles for adjudication of a criminal case.

Under the circumstances, the applications seeking permission for leave to appeal do not have any merit and are dismissed accordingly.

26.10.2018
Brij

(T.P.S. MANN)
JUDGE

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No