

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1538-MA-2016 (O&M)

Date of Decision:- 13.3.2018

Roshni

... Applicant

Versus

State of Haryana and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Sandeep Thakan, Advocate for the applicant.

M.M.S. BEDI, J.

Heard.

The miscellaneous application No.CRM-26764-2016 is allowed and delay of 13 days in filing the appeal is condoned, in the interest of justice.

The applicant-Roshni (mother of the deceased Yudhbir), claiming herself to be a victim, has filed the present appeal against acquittal alongwith an application for leave to appeal under Section 378 (4) Cr.P.C, aggrieved by the acquittal of Raghuvinder-respondent No.2.

It is urged by counsel for the applicant that as per the story of prosecution, as put forth by Balwan Singh-complainant, on 8.4.2013, he alongwith Sukhdev had gone to the fields where he saw that Harish

accompanied by one more boy came on the motorcycle and parked the motorcycle near Yudhbir deceased. Harish fired at Yudhbir from a countrymade pistol. Thereafter both the accused fled away on the motorcycle. The respondent No.2-Raghuvinder has not been named in the FIR but he was arrayed as an accused on the basis of the disclosure statement of accused Harish that it was Raghuvinder who had informed him about the location of Yudhbir, so that he could attack him. On the basis of the recovery effected from respondent No.2-Raghuvinder regarding mobile, he was arrayed as an accused.

The lower Court has taken into consideration the factum of recovery of mobile phone and the disclosure statement of respondent No.2-Raghuvinder (Ex.P-9) on the basis of which statement, he got recovered the mobile phone alongwith sim from the house of his friend Raju, but the said evidence i.e. the disclosure statement of accused-Harish and the recovery did not find strength warranting conviction as is observed in para 37 of the judgment passed by the lower Court. The evidence produced regarding conspiracy of respondent No.2-Raghuvinder is not sufficient enough to warrant conviction and the benefit of doubt has rightly been given to respondent No.2-Raghuvinder.

We have carefully considered the contentions of learned counsel for the applicant and find that it is not a case where on re-appreciation of evidence, this Court could have arrived at a conclusion different than that of the one arrived at by the trial Court.

Leave to appeal against acquittal of respondent No.2-Raghuvinder is thus declined and the application is dismissed without

prejudice to the adjudication of the appeal of convicted accused persons pending before this Court.

(M.M.S. Bedi)
Judge

13.3.2018
pankaj

(Gurvinder Singh Gill)
Judge

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