

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

**CRM-A-1149-MA-2017
Date of Decision: 13.08.2018**

State of HaryanaApplicant.

Versus

Bihari Lal Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Siddharth Sanwaria, Deputy A.G., Haryana.

T.P.S. Mann, J.

The State of Haryana has filed the present application under Section 378(3) of the Code of Criminal Procedure, 1973, for grant of leave to appeal against the judgment dated 9.12.2016 passed by learned Additional Sessions Judge, Gurugram, whereby the respondent was acquitted of the charge under Section 307 IPC and Sections 4A/8 of the Punjab Cow Slaughter Act.

According to the prosecution, complainant-Harpal, resident of village Lakhuwas, received a secret information that a pick-up van without any number plate would come from Palwal and go towards Mewat. The van was carrying cows for the purpose of slaughtering. On this information, he along with Anup, Rahul and Ashok set up a picket at a speed-breaker near Shiv Mandir in village Lakhuwas. At about 3.40 p.m., a van came from the side of Palwal. It was signalled to stop, but its driver accelerated the speed and tried to run over the complainant. The complainant and others saved themselves by jumping into the adjoining fields. An attempt was made

to catch the vehicle, but its driver took the vehicle inside the village. It was stopped near Baba Mandir with the help of some villagers as its tyres got stuck in the mud. A mob of villagers collected at the spot and started assaulting the driver. The complainant and others intervened and rescued the driver. A message was, thereafter, conveyed to the police. The driver identified himself as Bihari son of Ramo Avtar, resident of village Rampur, District Bareilly (U.P.). A cow and two calves were recovered from the pick-up van and handed over to an organization by the name of People for Animals.

Having heard learned State counsel and on going through the impugned judgment of acquittal, this Court finds that complainant Harpal, while appearing as PW1 deposed about the occurrence, but stated that when he reached the Police Station, he had noticed Bihari Lal accused having already been arrested and at that time, he was in injured condition. As the witness did not support the prosecution case, he was declared hostile. During his cross-examination by the learned Public Prosecutor, he admitted that he could not tell as to how accused Bihari Lal attempted to run the pick-up van over the members of the Gau Rakshak Dal.

PW2-Anup, another member of the Gau Rakshak Dal, testified regarding the apprehension of accused Bihari Lal, but he stated that they had not formed any picket. Further, the accused was given beatings by the villagers, who had gathered at the spot, but he did not recollect their names.

PW3-Rahul, one another witness to the alleged occurrence, deposed about receiving the information about a pick-up van coming from Palwal side and carrying cows for the purpose of slaughtering. He also deposed that after sometime, when a pick-up van came, it was signalled to stop and the driver of the vehicle was

apprehended. On searching the vehicle, two cows were found in the pick-up van.

From the testimonies of PW1-Harpal Singh, PW2-Anup Singh and PW3-Rahul, it cannot be said that the accused was the one, who was driving the pick-up van, in which cows were being carried for the purpose of slaughtering. Even otherwise, the cows and calves seized from the accused, were never sent for examination to a Veterinarian to prove that they had outlived their age and utility and they could not be used for any other purpose than slaughtering. The police also failed to join any public witness to lend independent corroboration to the prosecution case. PW10-SI Manoj Kumar, admitted about many people gathering at the spot, but he did not remember their names. He also did not know as to who was the owner of the pick-up van.

In view of the above, no case is made out for any interference in the impugned judgment to the extent of acquitting the accused-respondent of the charge against him. The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

August 13, 2018
ds

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No