

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-1946-MA of 2016

Decided On : 05.04.2018

Harbans Singh @ Bhola Applicant

versus

State of Punjab and another Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. P.S. Ahluwalia, Advocate
for the applicant.

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DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of leave to appeal against the judgment dated 06.08.2016, passed by the Additional Sessions Judge, Patiala (for short – the trial court), through which respondent No.2 has been acquitted of the charges framed against him under Sections 307/34 of the Indian Penal Code, 1860 (for short – IPC) and Section 25 of the Arms Act, 1959 (for short – Act).

Briefly stated, the case of the prosecution is that when the complainant-Harbans Singh @ Bhola was going from Patiala to Sanour in Balero Jeep bearing registration No.PB-11BD-3200, which belonged to his

friend Ravinder Singh @ Doctor, at about 9:30 P.M, Harwinder Singh @ Bhajan signalled him to stop the vehicle but after making a sudden cut he sped away. Thereafter, respondent No.2 alongwith Gurupkar Singh @ Golu, Yadwinder Singh @ Yadu and Harwinder Singh @ Bhajan followed the complainant in a white coloured Ford Figo Car and while doing so, shot three fires with intention to kill the complainant. However, he got saved as none of the bullets hit him.

After completion of the investigation, report under Section 173 Cr.P.C. was filed against respondent No.2 and other co-accused. Since the offence, for which respondent No.2 was prima facie charged, was exclusively triable by the Court of Sessions, the concerned Magistrate committed the case to the Court of Sessions from where it was entrusted to the trial court.

On finding a prima facie case against respondent No.2, the trial court charge-sheeted him under Sections 307/34 IPC and Section 25 of the Act. On his pleading not guilty, respondent No.2 was put on trial.

The trial court, after sifting the evidence which had come on record, acquitted respondent No.2 of the charges levelled against him as the trial court was of the opinion that the prosecution had failed to prove its case to bring home the guilt of respondent No.2. It is such acquittal of respondent No.2 which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the

submissions made on behalf of the prosecution before the trial court, submitted that the trial court erred in acquitting respondent No.2 of the charges levelled against him as there was overwhelming evidence on record to prove his guilt and therefore, there was no reason in fact or in law with the trial court to acquit him.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant acceptance.

The record reveals that no bullet is found to have hit either the complainant or the vehicle that he was driving. No empty cartridges or any bullet was recovered from the spot. The weapon allegedly used for the commission of offence was also not recovered by the prosecution.

In view of the above, the present application is found devoid of any merit and, therefore, dismissed.

Leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

April 05, 2018
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*