

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-2178-MA of 2016

Decided On : 16.04.2018

<u>Jathedar Baba Ranjit Singh Phola</u>		<u>Applicant</u>
vs.		
<u>State of Punjab and others</u>		<u>Respondents</u>

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Gourave Bhayyia Gilhotra, Advocate
for the applicant.

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DEEPAK SIBAL, J. :

Through the instant application, the applicant seeks grant of leave to appeal against the judgment dated 19.05.2014 passed by the Sessions Judge, Amritsar (for short – the trial court), through which respondents no.2 to 4 have been acquitted of the charges framed against them under Sections 302/34, 114, 120-B of the Indian Penal Code, 1860 (for short – IPC) and Section 13 of the Unlawful Activities (Prevention) Act, 1967 (for short – the Act).

Briefly stated, the case of the prosecution is that a letter dated 28.08.2008 from the Deputy Superintendent, Central Jail, Amritsar was received by the police, as per which, Ajit Singh Poohla and the private respondents were confined in Central Jail, Amritsar. On 28.08.2008, respondents no. 2 and 3 went to the barrack of Ajit Singh Poohla; poured kerosene oil on him and set him ablaze. Ajit Singh Poohla was taken to the Medical Officer of the Jail and then to the Civil Hospital for treatment. On

the basis of the aforesaid letter, an FIR under Sections 307/34 IPC was registered. The Investigating Officer (IO) then went to Guru Nanak Dev Hospital, Amritsar for recording the statement of Ajit Singh Poohla, only to be informed that the injured had been shifted to PGIMER Chandigarh. Thereafter, he went to the spot where the incident had taken place and recovered one small *dolu*, one half burnt brush wrapped with cloth, one half burnt matchbox, one half burnt plastic bottle containing petrol, one half burnt underwear, one half burnt long shirt and one half burnt carpet. On 29.08.2008, Ajit Singh Poohla succumbed to his injuries in PGIMER Chandigarh and on the happening of such an event, Section 302 IPC was added to the afore-referred FIR.

After arresting the accused, investigation was completed, on the basis whereof, report under Section 173 Cr.P.C. was filed before the competent court. Since the offence in question was exclusively triable by the Sessions Court, the case was committed to the Court of Sessions Judge, Amritsar. The documents of judicial inquiry, which was conducted under Section 176(1)(a) Cr.P.C. regarding the death of Ajit Singh Poohla, were also sent along with report under Section 173 Cr.P.C.

On consideration of the above material, respondents no. 2 to 4 were charged under Sections 302/34, 114, 120-B IPC, as also Section 13 of the Act. Respondent no. 4 was implicated with the aid of Section 120-B IPC.

The trial court, after sifting the evidence which had come on record, acquitted the private respondents of the charges levelled against them. Such acquittal of respondents no. 2 to 4 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 the accused-respondents no.2 to 4 of the charges levelled against them as there was overwhelming evidence on record to prove their guilt and therefore, there was no reason in fact or in law with the trial court to acquit them.

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

As per the letter which formed the basis of the FIR, respondents no.2 and 3 went to the barrack of Ajit Singh Poohla, poured kerosene oil on him and set him ablaze. However, while appearing before the trial court, the contents of the above letter were sought to be improved. The Deputy Superintendent, Jail, who had written the above said letter, while appearing before the trial court as PW-2 deposed that he had gone inside the jail premises when he heard that the undertrials were trying to scale the wall; that he had seen respondents no. 2 and 3 being chased by the jail officials and that those persons had informed him that respondents no.2 and 3 had put Ajit Singh Poohla on fire. However, the above facts are not found in the letter written by him to the police with regard to the occurrence.

PW-2 further did not disclose the names of the employees, who told him the names of the accused persons who had set Ajit Singh Poohla on fire. Even otherwise, this would have been a hearsay version and thus, not

admissible.

Gurdial Singh (PW-1) and Amolak Singh (PW-7) were the alleged eye-witnesses to the incident. However, while appearing before the trial court, they did not support the prosecution's case. They were subjected to lengthy cross-examination which was also of no use to the case of the prosecution.

Captain Surinder Pal Singh, Jail Superintendent (Retd.) (PW-13), who was then posted as Superintendent in Central Jail, Amritsar deposed before the trial court that during the course of interrogation, respondents no.2 and 3 had told him that they had put Ajit Singh Poohla on fire. The manner, in which they had done so, was also disclosed to him. The statement of PW-13 cannot go on to support the prosecution's case for the reason that by that time the police had already arrived in the jail and such statement by them was admittedly never reduced into writing.

Moreover, no evidence was brought on record by the prosecution as to what was the motive with respondents no.2 to 4 to commit the murder of Ajit Singh Poohla.

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

Special leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

April 16, 2018
monika

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*

Monika
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I attest to the accuracy and
integrity of this document