

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

CRM A-1697-MA of 2017

Date of Decision : May 22, 2018

Bal Kishan

.....Applicant

Versus

State of Haryana and others

.... Respondents

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

Present : Mr. N.S. Shekhawat, Advocate
for the applicant.

T.P.S.MANN, J.

Complainant Bal Kishan, who is brother of deceased Rakesh has filed the present application under Section 378(4) read with Section 372 of the Code of the Criminal Procedure for grant of special leave to appeal against the judgment dated 30.5.2017 passed by learned Additional Sessions Judge, Jind, whereby, Vinod @ Randhir, Sonu @ Parveen and Jag Jivan Ram accused, who are respondents No. 2 to 4, herein, were acquitted of the charges against them.

Respondents No. 2 to 4 alongwith three others, i.e.

Satbir, Ram Niwas and Vijay were tried for committing offences under Sections 302 and 120-B IPC. The trial Court acquitted respondents No. 2 to 4 of the charges against them. However, Satbir, Ram Niwas and Vijay were convicted under Section 302 read with Section 34 IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.10,000/- each. Vijay was also convicted under Section 25 of the Arms Act and sentenced to undergo imprisonment for two years and to pay a fine of Rs.5,000/-. The acquittal of respondents No. 2 to 4 is under challenge in the present application.

According to the prosecution, on 12.1.2016, complainant Bal Kishan made a statement before SI Ram Mehar that on 10.1.2016, election for the post of Sarpanch was held in his village Kheri Taloda, in which, his younger brother Rakesh had participated. Rakesh won the election after defeating Satbir accused. After the result was declared, Satbir, his son Vijay, Ram Niwas and Jag Jivan Ram became unhappy with the result. Jag Jivan Ram accused and his three companions threatened Rakesh that though he had won the election yet he would not be allowed to work as a Sarpanch and as and when they would find opportunity, they would kill him. On 12.1.2016 at about 11.00 a.m., complainant and his another brother Rameshwar were talking while standing in front of house of their younger brother

Rakesh. At that time, Rakesh came home on a motor-cycle. In the meantime, Vijay, Satbir and Ram Niwas came on a motor-cycle and after stopping Rakesh, pushed him. Consequently, Rakesh fell down. Satbir and Ram Niwas pushed Rakesh and, thereafter, caught hold of him. Vijay accused fired one shot on the back of accused Rakesh. All the three accused, thereafter, fled away on the motor-cycle. The complainant alongwith others took Rakesh to Government Hospital Jind, where he was declared brought dead. The complainant had suspicion that Jag Jivan Ram was involved in the occurrence as after the election, he in conspiracy with aforementioned three accused had given threat to kill his brother.

Upon completion of investigation, final report under Section 173 Cr.P.C. was presented before the Ilaqa Magistrate against Satbir, Ram Niwas, Vijay, Vinod @ Randhir and Sonu @ Parveen. Supplementary challan was, thereafter, presented against Jag Jivan Ram. All the six accused were, thereafter, charged for committing offences punishable under Sections 302 and 120-B IPC, to which, they pleaded guilty and claimed trial.

In support of its case, the prosecution examined 18 witnesses.

When examined under Section 313 Cr.P.C., all the

accused denied the incriminating evidence appearing on the record and pleaded that they were innocent. In defence, the accused examined four witnesses.

This Court has heard learned counsel for the applicant and perused the impugned judgment to the extent of acquitting respondents No. 2 to 4.

Admittedly, at the time of the occurrence, respondents No. 2 to 4 were not present. So much so the names of Vinod @ Randhir and Sonu @ Parveen did not surface during the investigation. The allegation against Jag Jivan Ram-respondent No. 4 is regarding hatching of conspiracy. The disclosure statements made by the three accused, who stood convicted and sentenced, regarding hatching of criminal conspiracy by Jag Jivan Ram were neither corroborated nor the purpose for recording those statements after committing a crime was found justifiable, especially, when neither he was present at the time of commission of the crime nor anyone had seen them while conspiring with each other. Mere threat extended by Jag Jivan Ram that Rakesh would not be allowed to work as Sarpanch would not be sufficient to hold that Jag Jivan Ram had hatched criminal conspiracy.

As regards respondent No.2-Vinod @ Randhir that he was also privy to the crime, no substantial piece of evidence was

brought on record. Merely because, Jag Jivan Ram had made statement Ex.PO on 19.5.2016 during his confinement showing involvement of Vinod @ Randhir accused is not sufficient to prove the charge of criminal conspiracy.

According to the prosecution, respondent No.3-Sonu @ Parveen had sold two pistols of .315 bore with live cartridges to Vijay accused and out of them one pistol had already been got recovered by Vijay and he could get the other recovered as well can only be used to the extent of recovery of weapons. By no stretch of imagination, it could be said that Sonu @ Parveen accused had hatched criminal conspiracy in committing the murder of Rakesh.

In view of the above, it cannot be said that the learned trial Court has erred in acquitting respondents no. 2 to 4 of the charges against them. The application is without any merit and, therefore, dismissed. Special leave to appeal is declined.

(T.P.S. MANN)
JUDGE

May 22, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No