

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

CRM-A No.27-MA OF 2018 (O&M)
DATE OF DECISION : 26TH MARCH, 2018

State of Haryana

.... Appellant

Versus

Manjeet Singh & another

.... Respondents

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

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Present : Mr. Randhir Singh, Additional Advocate General, Haryana.

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A. B. CHAUDHARI, J.

CRM-632-2018

For reasons mentioned in the application, which is accompanied by affidavit, delay of 187 days in filing the appeal is condoned.

CRM-A No.27 of 2018

This is appeal against acquittal recorded by learned Additional Sessions Judge, Jhajjar in Sessions Case No.77 of 2012/2016 (RBT) decided on 28.02.2017 in case FIR No.111 dated 18.04.2008 registered under Sections 323, 307, 427, 34 IPC and 27 of the Arms Act at Police Station Sadar Bahadurgarh, by which the respondents Manjeet and Satpal were acquitted by the trial Court.

In support of the appeal against acquittal, learned State counsel vehemently argued that though there was a cross case, it did not mean that the trial Court could take up the same as a reason for recording

the order of acquittal of the accused who have committed the serious crime. The learned appellant-State then submitted that the complainant was injured and still the trial Court has ignored the said fact. According to the learned counsel for the State, there is thus perversity on the part of the trial Court in the matter of appreciation and marshaling of evidence. He, therefore, prayed that reversal of the order of acquittal made by the Sessions Court, Jhajjar.

We have heard learned counsel for the State at length in the motion hearing. We have gone through the judgment and order recorded by the trial Court. We have carefully seen the reasons recorded by the trial Court.

At the outset, we find that there was a cross version in the murder case which was registered against the complainant PW-2 Yashwant himself. As a matter of fact because of the shot fired by PW-2-Yashwant and Ranbir had died and in that cross case, the complainant in the present case were prosecuted. In the present case, the charge is about attempt to commit murder of Yashwant PW-2. We find that the trial Court has recorded cogent reasons for recording the order of acquittal. We need not repeat the reasons in our words justifying the order of acquittal. Instead, we quote the following relevant paragraphs from the impugned judgment of the trial Court:

31. It is clear at the outset that the present case is the cross version of the murder case registered against the complainant PW2 Yashwant for allegedly committing the murder of Ranbir by him

(complainant Yashwant PW2). PW2 Yashwant has claimed that said deceased Ranabir was one of the assailants. He has also claimed that said Ranbir was having a pistol in his hand and the present accused Satpal was having a danda and accused Manjeet was having a brick bat in his hand at the time of occurrence. He has also alleged that Ranbir fired twice upon him and accused Manjeet hit him with brick bat on his forehead. He has further claimed that Manjeet followed him and snatched his revolver and fired upon him and in the meanwhile his mother PW3 Sarbati Devi reached at the spot. However, his cross-examination reveals that the version put forward by him is unnatural and improbable. In his cross-examination, he has alleged that the first gun shot struck him at left hand and the second on the left side of his chest which crossed his body and came out below the right side shoulder. However, he further claimed that his right side hand was in working condition after sustaining gun shot injury and he used his left hand to jump over the wall. He has claimed that he jumped 5'7" high wall after receiving two bullet injuries, which is hard to digest. This fact alone is sufficient to disbelieve his entire version of going to his uncle's

house by jumping the wall after receiving two injuries with gun shot. Further, he has further also claimed that he drove his Alto car to go to Medical College, Rohtak alongwith his mother and uncle after receiving six injuries on his person. His assertion that he was changing the gears of his vehicle with his left hand and thus covered 30 kilometers between village Asaudha and PGIMS, Rohtak does not seem to be true. He has admitted in his cross-examination that in between Asaudha and PGIMS, Rohtak there are several hospitals and police posts/stations but he did not stop to take any first aid or report the matter to the police post further thicken the mystery of his version of the occurrence. He has also admitted that while driving the car for 30 minutes blood was oozing out from all these injuries sustained by him and he had wrapped bed sheet around his injuries but he had not handed over the said bed sheet to the police which further points out chinks in the story propounded by him. So, the prosecution cannot derive any benefit from *Kali case (supra)* and *Bishna @ Bhiswadeb Mahato case (supra)* relied upon by the learned Public Prosecutor for the State.

32. xxx.... xxx.... xxx....

33. They have also failed to explain satisfactorily the fatal injuries caused to the deceased Ranbir from the accused party which is sufficient to render the version of the complainant highly doubtful. It is not the case of the prosecution or even the prosecution witnesses that anyone amongst the complainant party has given fatal gun shot injuries to Ranbir in self defence. PW2 Yaswant, complainant has claimed that after receiving two gun shot injuries from Ranbir, he fired only once upon him and he fell down. PW3 Sarbati Devi has also deposed in the same way but they have not properly explained the injuries on the person of deceased Ranbir. It is surprising that both complainant and alleged eye witness have projected that Ranbir died at the spot after receiving only one shot by the complainant but the complainant who claims to have received two shots by Ranbir managed to jump the wall to the house of his uncle, where he claims to have further received two more gun shots by accused Manjeet allegedly with the pistol snatched from him by Manjeet and still he drove 30 Kilometers with multiple gun shot injuries on vital parts of his body.

XXX.... XXX.... XXX....

34. Further, PW10 Dr. Rakesh Kumar, Medical Officer who medically examined injured/complainant Yashwant Singh PW2 has found as many as six injuries on his person out of which five are the punctured wounds supposedly caused by gun shot injury. However, PW11 Dr. Hansraj Ranga, Associate Professor Surgery, PGIMS, Rohtak who treated him for injuries has admitted in his cross-examination that no pellets or bullets were recovered from the body of the patient as per record available. He has also stated that the injured reached the hospital at 10.40 a.m. on 18.4.2008 and he attended him at 11.00 a.m. around two hours after the occurrence while the claim of the injured/complainant PW2 Yashwant is that he reached within half an hour of the occurrence of 9.00 or 9.30 a.m. to the hospital with six injuries on his person, which certainly cast a dark shadow of doubt upon his version of his driving his vehicle with such large number of injuries on his person from which the blood was oozing profoundly but he was not found fit to make his statement to the police on that day. Further, PW8 Retd. SI Krishan, Investigating Officer has admitted in his cross-examination that he lifted the blood-stains at point-

C in the site plan Ex.PW8/F, which is the initial place of occurrence but he did not find any other place where the blood-stain was present at the spot. It further creates doubt on the claim of the injured/complainant and his mother PW3 Sarbati Devi that the injured after receiving two gun shot injuries, jumped the wall and went to the house of his uncle with open injury from which blood was oozing but not a drop of it was found by the Investigating Officer at the spot. Moreso, PW8 SI Krishan, Investigating Officer found a blood-stain on the left seat of the car and also a blood-stain was present outside the window of the driver side but no blood-stains were found on the driver seat or any other part inside the care despite the claim of the injured/complainant PW2 Yashwant that he drove the car himself and kept changing gears for half an hour till reaching to the hospital, with six injuries from which the blood was oozing which is also another gap in the prosecution version. Therefore, *Hema case (supra)*; *Lovepreet Kaur and another case (supra)*; and *Allarakkha K. Mansuri case (supra)* relied upon by the prosecution are not applicable to the facts of this case.”

We agree with the above reasons recorded by the trial Court. Consequently, we do not find any merit in the present appeal. Leave as prayed in CRM-A No.27-MA of 2018, is refused. In the result, the criminal appeal against acquittal of the respondents is dismissed summarily.

26TH MARCH, 2018
‘raj’

(A. B. CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>