

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-2044-MA of 2017

Decided On : 15.02.2018

Surjit Kaur

....

Applicant

vs.

State of Punjab and others

....

Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. G. S. Verma, Advocate
for the applicant.

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DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (3) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of leave to appeal against the judgment dated 05.04.2017 passed by the Additional Sessions Judge, Ludhiana (for short – the trial court), through which respondents no.2 to 7 have been acquitted of the charges framed against them under Sections 307/148/149 of the Indian Penal Code, 1860 (for short – IPC) and Section 25 of the Arms Act, 1959.

Briefly stated, the case of the case of the prosecution is that on 01.08.2008 at about 08:30 PM, Resham Singh, his wife Rajwant Kaur, their two sons Kulwant Singh @ Banti and Dippi, Gugga son of Jasbir Singh, Kulwant Singh @ Nandu and Bhagwant Singh came to the house of the complainant-Surjit Kaur. On exhortation by Resham Singh, Kulwant Singh @ Banti fired a shot from his 12 bore gun, which after piercing through a

closed door, hit Surjit Kaur on the right upper part of her knee. Surjit Kaur's husband Bhavneet Singh also received gut shot injuries.

On completion of investigation, report under Section 173 Cr.P.C. was filed before the competent court. Since offence under Section 307 IPC was exclusively triable by the Sessions Court, the case was committed to the Court of Sessions Judge, Ludhiana and thereafter, was entrusted to the court of Additional Sessions Judge, Ludhiana, where respondents were tried for the offence under Sections 307/148/149 IPC.

The trial court, after sifting the evidence which had come on record, convicted Kulwant Singh @ Banti under Section 307 IPC and Section 25 of the Arms Act, 1959 but all the other accused (respondents no. 2 to 7) were acquitted of the charges levelled against them as the trial court was of the opinion that the prosecution had miserably failed to prove its case qua them. Such acquittal of respondents no. 2 to 7 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 7 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.

So far as respondents no. 3 to 7 are concerned, Bhavneet Singh, who was complainant Surjit Kaur's husband and one of the injured, while appearing before the trial court as PW-1, categorically stated that respondents no. 3 to 7 were not present at the time of occurrence. He was not declared hostile by the prosecution. Such admission on his part closes the case qua respondents no. 3 to 7. So far as respondent no. 2 Mandeep Singh is concerned, the record does not reveal any specific allegation qua him with regard to causing of any injury to either the complainant or Bhavneet Singh.

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

Leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 15, 2018
monika

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