

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-462-MA of 2018(O&M)
Date of Decision : 03.07.2018

State of Haryana

...Applicant

Versus

Pawan alias Lala

...Respondent

CORAM: *HON'BLE MR. JUSTICE M.M.S. BEDI*
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. S.S. Pannu, Deputy Advocate General, Haryana
for the applicant.

M.M.S. Bedi, J.(Oral)

CRM-7016-2018

For the reasons mentioned in the application for condonation of delay, the delay of 30 days in filing of the appeal is condoned in the interest of justice.

The miscellaneous application is allowed.

CRM-A-462-MA-2018

The State has preferred an appeal against the order of acquittal passed on 26.09.2017 by the trial Court in a case registered at the instance of Ramesh alleging that on 21.02.2011, deceased Sachin, son of the complainant, received a call from Neelu. Thereafter he went out of the house. The complainant along with Gulshan followed his son and saw that Pawan @ Lala, respondent herein, along with Vinod had caught hold of the deceased. Accused

On receipt of gun shot in the chest, Sachin died.

Learned counsel for the State, has vehemently argued that similar role had been attributed to co-accused, Vinod, who has been convicted but the benefit of doubt has been wrongly given to respondent Pawan @ Lala, who had also caught hold of the deceased as per the testimony of Ramesh (complainant), PW15, which is corroborated by Gulshan Kumar, PW13.

We have heard learned counsel for the State at length and carefully gone through the judgment of the lower Court.

It is pertinent to observe here that respondent Pawan @ Lala along with Vinod had been though named in the FIR, were found innocent during course of investigation and were not challaned. Respondent Pawan @ Lala and co-accused Vinod were summoned as additional accused and tried along with the accused, originally challaned by the police.

We have carefully gone through the judgment of the lower Court, which indicates that disbelieving the eye witness qua Pawan @ Lala, benefit of doubt has been given to respondent, Pawan @ Lala. Even otherwise, the respondent has not been attributed any specific overt act or injury on the person of the deceased. The lower Court has also arrived at the conclusion that the probability of Pawan @ Lala having participated in the occurrence as alleged, is doubtful. On re-appreciation of the evidence, we also do not find any ground to convert the order of acquittal into the order of conviction merely because another co-accused of similar circumstance has been convicted. No ground is made out for granting leave to appeal

against acquittal of respondent Pawan @ Lala.

Application for leave to appeal is thus dismissed.

However, it is observed that dismissal of the appeal against acquittal will not in any manner affect the merits of the appeal (s) filed by the other accused.

(M.M.S. BEDI)
JUDGE

July 03, 2018
kanchan

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned? Yes
Whether reportable? No