

CRM-A-2229-MA-2017 (O/M)
Date of decision : 26.7.2018

Bhupender Singh alias Bhupi

..... Applicant

Versus

State of Haryana and others

..... Respondents

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

Present:- Mr. Aman Pal, Advocate,
for applicant-appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH, J

Bhupender Singh alias Bhupi (complainant) has preferred this appeal against judgment of acquittal, dated 27.7.2017, recorded by learned Additional Sessions Judge, Karnal, vide which two accused, namely, Arun Kumar son of Rajinder Singh and Rajinder Singh son of Maha Singh, were acquitted of the charges framed against them. Alongwith this appeal, an application under Section 378 (3) Cr.P.C. has been filed for grant of leave to appeal against said judgment of acquittal.

The version put-forth by complainant Bhupender Singh alias Bhupi in his complaint to police is that he was student of 12th class. On the day of occurrence i.e. 9.1.2012, at about 9:30 PM, he was bringing his household goods to his house from a shop at Kaithal road. When he was about to take a turn to his house, Rajinder Singh (accused), who is working as Assistant Sub Inspector in Haryana Police, came in a Santro car No. HR-05AB-2323 from rear side, and after overtaking the complainant, got

down and halted his car in the street and told the complainant that he had stabbed his son Arun and he would teach him a lesson. Saying so, Rajinder Singh fired two gunshots at complainant, while he was running towards his house. Complainant ran towards gate of his house and called his parents. In the meanwhile, Rajinder Singh has also come to his house in his vehicle. His house is opposite to the house of complainant. Rajinder Singh called out his brother Jasbir Singh alias Jagga, his son Arun alias Rinku and his wife Ram Murti and a boy whom they were calling by the name Bhupinder and started abusing the complainant. On hearing the noise, Shamsheer Singh son of Maman Ram, neighbor of complainant also came there and asked them to go to their respective houses. At this Arun alias Rinku son of Rajinder Singh fired directly at the complainant with intention to kill him. However, when Arun alias Rinku was firing, Shamsheer Singh caught hold of his arm and moved it upwards, as a result of which the shot did not hit complainant. After the incident, the police reached the spot. FIR No. 20, dated 10.1.201 under Sections 148, 149, 307, 506 and under Section of the 25 of Arms Act, 1959, was registered at Police Station City Karnal.

After the completion of investigation, only Arun Kumar alias Rinku and Rajinder Singh were chargesheeted whereas Ram Murti wife of Rajinder Singh, Jasbir Singh alias Jagga and Bhupinder were found innocent. It was also found that Rajinder Singh has not committed crime under Section 307, 506 IPC. Accused Rajinder Singh was chargesheeted under Section 30 of the Arms Act, 1959, whereas accused Arun Kumar alias Rinku was chargesheeted under Sections 307, 506 IPC and under Sections 27 and 25 of the Arms Act, 1959.

To support his case, prosecution examined as many as 12

witnesses. The material witnesses being Bhupender Singh alias Bhupi (complainant/ PW1), his father Satbir Singh, eye witness Shamsheer Singh, and the investigating officer, namely, Om Parkash, retired inspector (PW7), were examined.

In the statement recorded under Section 313 Cr.P.C., accused denied the incident and claimed that they have been falsely implicated. Accused also led defence evidence to support their case stating that they have been falsely implicated on account of criminal case being lodged by them against complainant Bhupender Singh alias Bhupi.

After hearing prosecution and learned counsel for accused and going through evidence, the learned Additional Sessions Judge, Karnal, found that charges are not proved, therefore, acquitted the accused.

We have heard learned counsel for appellant and have also carefully gone through the record.

We are of the view that there is no illegality or infirmity in the findings recorded by the learned Additional Session Judge, Karnal. Trial Court has taken one of the possible view on the basis of evidence, recorded during trial. In this case, Rajinder Singh (accused) is working as ASI in Haryana Police. He was living opposite the house of Satbir Singh, father of complainant. Satbir is also retired police officer from Haryana Police. Ram Murti, wife of accused Rajinder Singh, is also working in Haryana Police as Inspector. Shamsheer Singh, eye witness to occurrence, is also a retired Sub Inspector from Haryana Police. During investigation, it was found that story of the complainant that Rajinder Singh fired two gunshots at him, was not proved. Therefore, he was not charged under Sections 307, 506 IPC.

It is also not a denying fact that Arun Kumar alias Rinku had got

registered a case under Section 307 IPC against complainant and his father Satbir Singh for which both were challaned. Therefore, they had grievance against the accused party. The father of complainant is a retired Police Officer from Haryana Police, whereas accused Rajinder Singh and his wife Ram Murti are still working in Haryana Police. Therefore, both parties are well conversant with the tactics of complaints and litigation. The statement of investigating officer Om Parkash, retired inspector, shows that after the crime, the police party inspected the spot. Admittedly, the gunshot did not hit complainant or any other member of his family. Height of wall of house at place of occurrence is 20 feet. The bullet was not found to have even hit the building. The learned Additional Sessions Judge, Karnal, has found that the story of complainant that Rajinder Singh fired two gunshots at him is not trustworthy. The revolver belongs to Rajinder Singh, who is working as Assistant Sub Inspector in Haryana Police. Then, it is not known as to how it came in the hands of Arun Kumar alias Rinku when Rajinder Singh was already present at the spot and Arun Kumar alias Rinku came at the spot later on. Rajinder Singh was allegedly following the complainant in his Santro car. The learned Additional Sessions Judge, Karnal, has also found that no empties of gunshots were recovered from the place of occurrence. The weapon, belonging to ASI Rajinder Singh, was allegedly recovered from the shop of Arun Kumar alias Rinku, after 16 days. At the time of recovery, one empty cartridge was found in the chamber of revolver, whereas as per complainant, two shots were fired by Rajinder Singh and one by Arun Kumar alias Rinku. There was delay of 15 days in sending revolver to FSL. The occurrence took place at 9:30 PM and FIR registered around midnight, giving ample time to complainant party to make

up their mind to rope in the other family members of accused party, which they conveniently did. Ram murti, wife of Rajinder Singh, who is working as Inspector in Haryana Police, Jasbir Singh, brother of Rajinder Singh, who is working in a bank, were all other family members, who were also named as accused. The police, during investigation, found them to be innocent. Trial Court also took into consideration that accused had examined four witnesses in defence, who stated that they did not hear the noise of gunshots or even quarrel on 9.1.2012 at 9:30 PM. It was also found that in the criminal case, accused had deposed against complainant Bhupender Singh alias Bhupi and his father Satbir Singh. Therefore, the possibility of present case being counter blast to the case got registered by accused party cannot be ruled out. Shamsheer Singh, who is stated to be eye witness to the occurrence and stated to have caught hold the hand of Arun Kumar alias Rinku, while he was allegedly firing at complainant, when subjected to cross examination had admitted that he has got recorded his statement under Section 161 Cr.P.C. that there was only verbal brawl between both parties. Therefore, the possibility of petty verbal brawl being exaggerated to lodge the present FIR, cannot be ruled out. The spot was inspected by many police officials. The investigating officer also visited the roof of all the houses nearby to find out lead bullet of firearm, but it was not found, nor any mark of bullet was found. The FSL team had also inspected the spot and found no trace of firing. It being so, we find that there is no illegality or perversity in the findings recorded by learned Additional Sessions Judge, Karnal. Trial Court on the appreciation of evidence has taken one of the possible views. Consequently, there is no ground to grant leave of appeal against judgment of acquittal dated 27.7.2017, passed by learned Additional

Sessions Judge, Karnal. Consequently, application filed under
Section 378(3) Cr.P.C., is dismissed. Consequently, appeal is also dismissed.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

26.7.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No