

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

CRM-A-755-MA-2016

Date of Decision: 15.10.2018

SANDEEP

....Petitioner

VS.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sandeep Parkash Chahar, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This application is filed under Section 378 (3) of the Cr. P.C. for seeking special leave to appeal from an order of acquittal.

In brief, FIR No 76 dated 14.03.2013 under Section 148, 149, 323, 506, 325, 307 IPC was registered at Police Station Sampla, District Rohtak by Sandeep who was allegedly injured in an occurrence, took place at about 5.00 P.M. on 13.03.2013 while he was playing cricket with his friends; Nanha, Monu and Sunil, at Government Girls High School of the Village Atayal, District Rohtak. It is alleged therein that Ajay alias Rinku, Hunny, Sonu alias Devi Lal, Tinku alias Takkad, Kala and Ankit came there. Sonu picked the ball. When Sandeep asked him to return the ball, he started quarreling with him. Thereafter, Rinku shouted "*Saale Ko Maar*". Ankit gave a bat blow to Sandeep on account of which he sat down. Rinku gave a brick blow on the head of Sandeep. Sonu gave a bat blow to Ajay. The bricks thrown by Kale and Hunny hit on the back of Sandeep. Ankit gave leg and fist blows. Thereafter, Sandeep became unconscious and was saved by his friends. The offenders before leaving the place of occurrence told Sandeep that today he has been saved but in future they will kill him.

After the registration of the case, Section 307 IPC was also added. On the basis of the aforementioned allegations, the persons named as accused in the challan were charged for committing offence under Sections 148, 307, 325, 323, 506 read with Section 149 of the IPC.

The learned trial Court, after examining MLR (Ex. PU) and the fact that the persons cited as eye-witnesses had turned hostile and were not cross-examined by the prosecution to adjudge their veracity, came to a conclusion that the occurrence had not taken place in the manner as stated by Sandeep. Accordingly, all the persons sent up for trial were acquitted.

Learned counsel for the applicant-appellant has submitted that the occurrence took place at about 5 P.M. on 13.03.2013 and injured Sandeep was medico-legally examined at 8.32 P.M. on the same day. However, it has been stated by the doctor attending to him that Sandeep was brought with stitched injuries. It is also stated in the cross examination by the Doctor appearing as PW-7 that the injuries on the person of Sandeep are not possible by a fall or road accident. However, he could not tell the depth of the injury No. 1 which was declared dangerous to life because the wound was already stitched.

Learned counsel for the applicant-appellant has further submitted that the statement of the complainant (injured) himself is sufficient to hold that the accused named are responsible for causing injuries to him and has referred to the order dated 09.10.2014 passed by the Juvenile Justice Board by which one of the co-accused, namely; Ankit has been convicted and sentenced under Section 323 of the IPC for causing fist and kick blows to Sandeep.

We have heard learned counsel for the applicant-appellant and after perusal of the record, we are of the considered opinion that there is no merit in the present application for the purpose of seeking leave to appeal because not only the MLR (Ex. PU) suggests that the occurrence had not been taken place as stated by the complainant Sandeep but also the witnesses, who had allegedly seen the occurrence, allegedly turned hostile were not cross-examined by the prosecution to challenge their veracity. The fact that one of the co-accused; Ankit, who had been convicted and sentenced separately would not give any strength to the case of the applicant-appellant for the purpose of seeking leave to appeal for rehearing of the entire matter on merits.

Thus, in view of the aforesaid, we are of the considered opinion that there is hardly any substance in this application much less, in the appeal and therefore, the same is hereby dismissed.

[RAKESH KUMAR JAIN]
JUDGE

October 15, 2018

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[ANUPINDER SINGH GREWAL]
JUDGE