

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

CRM A-2379-MA of 2017

Date of Decision : September 4, 2018

Naresh Kumar

.....Applicant

Versus

State of Haryana and others

.... Respondents

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

Present : Mr. Nonish Kumar, Advocate
for the applicant.

T.P.S.MANN, J.

The applicant, who had received injuries in the occurrence and, thus, a victim, has filed the present application under Section 378(3) Cr.P.C. for leave to appeal against the judgment and order dated 22/23.8.2017 passed by the learned Additional Sessions Judge, Karnal.

Vide impugned judgment and order, learned trial Court acquitted respondents No. 2, 5 and 8, namely, Sunny Bakshi, Prem Singh and Himanshu Bhandari of the charges against them whereas respondents No.3, 4, 6 and 7, namely, Baljinder Singh, Sanjeev Kumar @ Kala, Sahil and Naveen @ Meena were convicted and sentenced under Sections 326/307/149, 148 and 120-B IPC. The applicant has prayed that the acquittal of respondents No.2, 5 and 8 be set-aside and the sentences of imprisonment and fine of respondents No. 3, 4, 6 and 7 be

enhanced, being inadequate.

According to the prosecution, there was a countrymade liquor vend in the name of Dr. Jitender Kalia. In the said liquor vend, the applicant and Paramjit Singh were the partners and they used to sit in the vend. On 18.7.2013 at about 8.45 p.m., they started for their house on a motor-cycle. It was driven by Paramjit Singh and the applicant was on its pillion seat. When they reached near Sidhpur turn in the area of Nilokheri, then one motor-cycle was seen coming from the opposite side. They became apprehensive that liquor might be carried on the said motor-cycle and, accordingly, stopped their own motor-cycle. However, the other motor-cycle did not stop. At about 9.00 p.m., one Alto car came from the side of Nilokheri and the driver of the said car hit the car against their motor-cycle. The applicant and his partner Paramjit Singh fell down on the road. Four unknown persons carrying deadly weapons in their hands got down from the said car and asked the applicant and his partner to stand on one side, otherwise they would kill them. Out of fear, the applicant and Paramjit Singh stood on one side. All the four assailants, who were armed with swords, dandas and gandansis caused injuries to the applicant on his head, arms and legs. The applicant raised an alarm. On hearing the same, the fifth person, who was sitting in the Alto car asked the four assailants to escape from the spot.

All of them, then fled away from the spot in the car towards village Sidhpur. The number plate of the car was also covered with mud.

At the outset, learned counsel for the applicant states that he may be allowed to withdraw the present application in so far as the respondents No. 3, 4, 6 and 7 are concerned with liberty to avail the remedy of filing of revision for enhancement of their sentences of imprisonment and fine. However, it is pleaded that respondents No.2, 5 and 8 have been wrongly acquitted of the charges against them.

Respondent No.5-Prem Singh was charged of the offence under Section 216 IPC. In order to substantiate the said charge, the prosecution examined PW31 Jeeta Ram who, however, did not support the case of the prosecution. According to him, he did not know anything about the case. He was cross-examined by the learned Public Prosecutor but nothing material could be elicited in favour of the prosecution. As such, no case is made out for setting aside the acquittal of respondent No.5-Prem Singh of the charge against him.

Respondents No.2 and 8, namely, Sunny Bakshi and Himanshu Bhandari were charged of the offence under Section 120-B IPC as they were apprising the location of the applicant to other accused at the instance of accused Dilbagh. PW9 Naresh Kumar testified that both Himanshu Bhandari and Sunny Bakshi

were keeping a watch at him prior to the incident as they were having grudge against him for the reason that his servants had apprehended them while indulging in sale of liquor. However, in his cross-examination PW9 Naresh Kumar deposed that respondent No.2-Sunny Bakshi was not present at the spot at the time of occurrence nor he had inflicted any injury to him. Sunny Bakshi is also not a liquor contractor. He further stated that he did not move any complaint regarding watching by respondent No.8-Himanshu Bhandari. He also did not make any complaint to the police regarding sale of liquor. He admitted that about an year ago, he had caught Himanshu Bhandari while selling liquor. He also stated that he had earlier faced a criminal case for committing the murder of Dilbagh Singh, though he was acquitted in that case. He also stated that no mobile was recovered from Himanshu Bhandari in his presence. He also stated that Himanshu Bhandari was not present at the spot at the time of the incident and the accused had met them by chance. Even the call details are not sufficient to prove charges against Sunny Bakshi and Himanshu Bhandari. Under these circumstances, no fault can be found with the impugned judgment passed by the learned trial Court to the extent of acquitting Sunny Bakshi and Himanshu Bhandari of the charges against them.

Resultantly, the application for leave to appeal against

respondents No. 3, 4, 6 and 7 is hereby dismissed as withdrawn with liberty to the applicant to avail the remedy of revision for seeking enhancement of their sentences whereas the same against the acquittal of Sunny Bhandari, Prem Singh and Himanshu Bhandari is dismissed being devoid of any merit and the leave to appeal is declined.

(T.P.S. MANN)
JUDGE

September 4, 2018
amit rana

(AMIT RAWAL)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No