

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-768-MA-2017

DATE OF DECISION: April 30, 2018

Kulbir Singh

...Applicant

Versus

State of Punjab and others

...Respondents

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

Present: Mr.L.S.Sidhu, Advocate for the applicant.

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 the grant of leave against the judgment dated 9.12.2016 passed by the Additional Sessions Judge, Amritsar, (for short-the trial Court), through which respondents No.2 to 8 were acquitted of the charges framed against them under Sections 302/307/336/ 148 read with Section 149 of the Indian Penal Code, 1860 (for short-

the Code) and Section 27 of the Arms Act (for short-the Act).

Briefly stated, the case of the prosecution is that on 12.2.2014, complainant Balbir Singh was going on his motor-cycle, when Gursharandeep Singh alias Soni son of Gurpal Singh while driving a Fortuner and coming from the opposite side diverted his vehicle towards the complainant in an intimidating manner. However, the complainant managed to save himself by sharply turning his motor-cycle to one side of the road. Thereafter, the complainant along with others went to the house of Gurpal Singh to complain about the above incident. Over there, Gurpal Singh and Gursharandeep Singh became aggressive and hurled abuses on the complainant and others who had come along with him. The complainant and others then came back. Thereafter, Gurpal Singh, Gursharandeep Singh, Manbir Singh, Navjot Singh, Kirpal Singh, Jasbir Singh, Balwinder Kaur, Sandeep Singh alias Ganja, Shagandeep Singh along with three-four unidentified persons armed with deadly weapons came to the house of the complainant where Gurpal Singh, fired several shots which hit Diwan Singh, Raghbir Singh, Pardeep Singh, Tarsem Singh, Harchand Singh, Kashmir Singh and Mukhtar Singh. Gursharandeep Singh then took the rifle from his father and fired at Jujpreet

Singh which hit him on his chest. Manbir Singh who was armed with revolver also fired in the air. Thereafter, all the accused ran away along with their respective weapons. Jujpreet Singh succumbed to his injury on the way to the hospital and was declared dead by the doctor. The injured were admitted in the hospital for treatment.

On completion of investigation, report under Section 173 Cr.P.C. was filed against the accused before the Additional Chief Judicial Magistrate, Amritsar who committed the case to the Court of Sessions Judge, Amritsar, which entrusted the same to the trial Court. The trial Court charged the accused for the offences punishable under Sections 302/307/336/148 read with Section 149 of the Code and Section 27 of the Act. When the accused pleaded not guilty, they were put on trial.

The trial Court, after sifting the evidence which had come on record, convicted Gurpal Singh under Sections 302/34 and 307 of the Code and Section 27 of the Act. Since Gursharandeep Singh had been declared a proclaimed offender, the trial Court directed that as and when he is arrested, he be produced before the Court and on the happening of such an event, the case would be revived.

So far as respondents Nos.2 to 8 are concerned, they were acquitted and it is such acquittal of respondents Nos.2 to 8 which 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 respondents Nos. 2 to 8 have wrongly been acquitted as there was overwhelming evidence on record clearly proving them to have committed the offences for which they were charged.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant acceptance.

It was the case of the prosecution that accused Manbir Singh had fired in the air. The trial Court acquitted him after doubting the prosecution's story and holding that usually fire in the air is made in order to create terror and fear, but in the case in hand, before respondent Manbir Singh is said to have fired in the air, Gurpal Singh had already fired from his rifle and caused injuries. The trial Court was further of the opinion that in case Manbir Singh had come with a common intention with Gurpal Singh and Gursharandeep Singh, he would have used his revolver to fire at the complainant party and not in the air. Thus, giving him

the benefit of doubt, respondent-Manbir Singh was ordered to be acquitted. No argument was raised before us by learned counsel for the applicant which would persuade us to take a different view.

So far as the other respondents are concerned, the trial Court has specifically recorded a finding that no evidence is found on the record which would connect them with the crime and that they had been roped in by the complainant/prosecution only because they were related to accused Gurpal Singh and Gursharandeep Singh. No evidence in this regard was also brought to our attention.

In view of the above, no fault can be found in the impugned judgment acquitting respondents Nos.2 to 8.

Accordingly, the present application is found devoid of any merit and, therefore, dismissed.

Resultantly, leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

April 30, 2018
Kd

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