

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

Crl. Misc.No.A-676 of 2019 (O&M)

Date of Decision:- 21.05.2019

State of Haryana

....Appellant

vs.

Naresh Kumar and others

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Mr. Rajesh Kumar Sheoran, Addl. A.G. Haryana,
for the appellant.

SUDHIR MITTAL, J.

According to the case of the prosecution, a police party received secret information on 7.5.2016 that four boys were standing near gas godown in an i20 car without number plate and were trying to rob the vehicles passing by. They were also in possession of illegal arms. Finding the information to be credible, the police party reached the gas godown in a vehicle. The vehicle was stopped by the accused persons by showing torch light. Two boys carrying fire-arms came to the driver side and when the police personnel disembarked, one person fired at them which hit the bumper of the vehicle and the other person fired in the air. They tried to run away but were caught. Recovery of .315 bore country made pistol and a .32 bore pistol was made. Accordingly, FIR No.238 dated 7.5.2016 was registered at Police Station City Fatehabad, under Sections

307, 398, 401 IPC and Section 25 of the Arms Act, 1959.

The accused were chargesheeted for offences under Sections 398, 401 and 307 IPC read with Section 34 IPC as well as Section 25 of the Arms Act, 1959.

On conclusion of the trial, the accused were acquitted of the offences under Sections 307, 398 & 401 IPC read with Section 34 IPC but accused Aarmogam and Shashi were convicted under Section 25 of the Arms Act, 1959.

Aggrieved by the aforementioned judgement of acquittal, the present application for leave to appeal has been preferred by the State of Haryana.

A perusal of the impugned judgement shows that the judgement of acquittal is based upon proper appreciation of the evidence and the law. The trial Court has found that a number of vehicles were passing by when the incident took place but none of them stopped to see what was transpiring. Further, the place of occurrence was very close to a village and yet there was no independent corroboration of the crime. No recovery of robbed property was made and, thus, the prosecution version has rightly been disbelieved so far as the offence under Section 398 IPC is concerned. The offence under Section 401 IPC has also been found to have been not proved because there was no evidence that the accused persons belonged to any gang or were involved in more than one case of robbery. Regarding the offence under Section 307 IPC, it has been found that one shot was fired in the air and the other was fired at the bumper of the vehicle which was at a height of 2-2½ feet and under the circumstances, it could not be held that any attempt to commit murder had been made.

Learned counsel for the State has not been able to successfully impeach the findings of the trial Court and, thus, the appeal has no merit.

There is also a delay of 162 days in filing the appeal for which no reasonable explanation has been given.

Thus, the applications for leave to appeal as well as for condonation of delay, are dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

May 21, 2019
poonam

Whether speaking/reasoned	Yes
Whether reportable	No