

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

Crl. Misc.No.A-765 of 2019 (O&M)

Date of Decision:- 21.05.2019

State of Haryana

....Appellant

VS.

Harish 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.

On 1.12.2014, police received information at Police Station Farrukh Nagar, District Gurgaon, that accused Harish and Vikas had killed one Subhash s/o Tej Singh by crushing him under their jeep. The Investigating Officer rushed to the spot where he met Ravinder Kumar (brother of the deceased) who got his statement recorded that his brother had been involved in a scuffle with accused Harish about two months ago, on account of which the said accused nursed a grudge. On the day of the incident, he and his brother had gone to their tubewell and when they were returning at about 4:20 p.m., accused Harish came in a jeep in which accused Vikas and some 3-4 unidentified persons were seated. The jeep was intentionally driven into his deceased brother Subhash and he was killed. While running away, they also fired upon him but he escaped.

Based on the aforementioned statement, FIR No.355 dated

01.12.2014, was registered at Police Station Farrukh Nagar, District Gurgaon, under Sections 302, 285, 120-B IPC and Section 25 of the Arms Act, 1959.

After trial, all the accused were acquitted of the offences under Sections 302, 285 and 120-B IPC and only accused Harish was convicted under Section 25 of the Arms Act, 1959 and sentenced accordingly.

Aggrieved by the aforementioned judgement of acquittal, the State of Haryana has sought leave to appeal.

The trial Court has disbelieved the prosecution case as the conduct of the eye witnesses has been found to be unnatural. Information regarding the death was given by two local persons namely, DW-1 Ombir and DW-2 Kanwar Singh. DW-2 Kanwar Singh informed the family members of the deceased. The daily diary entry Exhibit D-4 also shows that the first information received by the police was regarding an accidental death. Thus, the alleged eye witness account has been found to be false. It has also been found that the death was caused due to an accident but there was no rash and negligent driving involved. Accordingly, the accused have been acquitted.

Learned State counsel has not been able to successfully impeach the findings of the trial Court. There is also a delay of 177 days in seeking leave to appeal which has also not been properly explained.

The applications seeking condonation of delay and leave to appeal are accordingly dismissed.

(DAYA CHAUDHARY)
JUDGE

May 21, 2019

poonam

Whether speaking/reasoned

Whether reportable

(SUDHIR MITTAL)
JUDGE

Yes

No