

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

**(i) CRM No.A-679-MA of 2017 (O&M)**

Jagpreet Singh

...Applicant

VERSUS

State of Haryana and others

...Respondents

**(ii) CRM No.A-1989-MA of 2017 (O&M)**

State of Haryana

...Applicant

VERSUS

Sunny Sharma and others

...Respondents

**(iii) CRR No.2163 of 2017 (O&M)**

Jagpreet Singh

...Applicant

VERSUS

State of Haryana and others

...Respondents

**Date of Decision: February 10, 2020**

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN  
HON'BLE MRS. JUSTICE ARCHANA PURI**

**Present:** Mr.Balkar Singh, Advocate  
for the applicant and petitioner (in CRM No.A-679-MA of 2017  
and in CRR No.2163 of 2017).

Mr.Vikrant Pamboo, Deputy Advocate General, Haryana  
for the applicant-State (in CRM No.A-1989-MA of 2017).

**ARCHANA PURI, J.**

**CRM No.28567 of 2017**

The application is for condonation of delay of 83 days in filing the application seeking leave to appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and the delay of 83 days in filing the application seeking leave to appeal is hereby condoned subject to all just exceptions.

**Main cases**

Challenge in the batch of cases, is to the judgment dated 14.02.2017 and order of sentence dated 17.02.2017 passed by learned Addl. Sessions Judge, Ambala.

CRM No.A-679-MA of 2017 has been filed by the applicant-complainant Jagpreet Singh and CRM No.A-1989-MA of 2017 has been filed by the State of Haryana, thereby challenging the judgment of acquittal dated 14.02.2017 passed by learned Addl. Sessions Judge, Ambala, whereby respondents-accused Sunny Sharma, Satwinder Singh @ Kaka and Harminder @ Harry were acquitted in case FIR No.240 dated 08.07.2013 under Sections 364, 302, 201, 212, 34 and 120-B IPC, registered at Police Station Mahesh Nagar. Besides the same, there is also a revision petition i.e. CRR No.2163 of 2017, filed by the petitioner-complainant, seeking enhancement of the sentence imposed upon the convicts namely Randeep Singh @ Rana, Rajesh Kumar @ Don, Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal, Prabhjot @ Rajji and Bhim Sain @ Kaka Ganth, in the aforesaid FIR.

Background facts in nutshell are, as herein given:-

That, Gurpal Singh, father of complainant Jagpreet, had left the house at about 10.00 a.m., on 08.07.2013, in his Ford Fiesta car bearing registration No.HR-01V-1666. On that very day, his father Gurpal Singh, had gone to meet his sister Paramjit Kaur wife of Roshan Bharti, r/o Prabhu Prem Puram, Ambala Cantt, at about 6.30 p.m. After meeting, paternal aunt of the complainant, while his father was returning back to his house and had reached the main gate of Prabhu Prem Puram Ashram, then some unknown persons had stopped his car and abducted him (father of the complainant). The assailants were having one small white coloured car. All the assailants had taken away the car of the complainant as well as their own car. The complainant along with his Fufa (uncle, husband of father's sister) Roshan Bharti s/o Chandan Singh, had reached the spot and searched for his father, at their own level but no clue was found.

Proceedings in the present case, were initiated on the basis of the statement got recorded by Jagpreet and FIR was registered under Section 365 IPC. During the course of investigation, on 09.07.2013, dead body of one person, whose head, both hands and feet were amputated, was recovered and the same was identified by complainant Jagpreet, to be that of his father Gurpal Singh, on account of their being one old injury mark and one allergy mark. Addition of Sections 302 and 120-B IPC was made. Post-mortem examination of the dead body was conducted. On 09.07.2013, accused Randeep Singh @ Rana s/o Satwinder Singh as well as Rajesh @ Don s/o Jai Parkash, were arrested in the present case. On 10.07.2013, during the course of the police remand, the aforesaid accused had made disclosure statements, about having committed murder of Gurpal Singh and

thereafter, had chopped off his head, both legs and arms with 'iron chopper' (knife like weapon) and had thrown the torso along with body parts in the canal. Even, at the instance of the aforesaid accused, car bearing No.HR-01V-1666 make Ford Fiesta was recovered near Tangri reservoir and the same was taken into possession. After the identification of the spot of murder, blood stains were lifted. On 12.07.2013, during the course of investigation, both the aforesaid accused had also got recovered 'iron chopper', used in causing murder of Gurpal Singh as well as car used in the occurrence, bearing registration No.CH-03M-6052, make Maruti 800. Also, on 14.07.2013, various body parts of Gurpal Singh were recovered from the canal of Narwana Branch. Thereafter, on 15.07.2013, post-mortem examination of the body parts, so recovered, was also got conducted in PGIMS, Rohtak. The concerned doctor opined the cause of death of Gurpal Singh to be decapitation injury, described via injury No.1. In the subsequent post-mortem report, it has been opined that calculated length of the human being, whose mutilated body parts have been examined, is approximately 170 cms. Available mutilated body parts appear to be of some individual and bones show male characteristic features. The injuries described via injury No.1 to 3 are post-mortem in nature.

During the course of further investigation, other accused involved in the occurrence were arrested, namely Parveen @ Kala @ Topiwala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Sunny Sharma. Even, accused Randeep Singh @ Rana and his father Satinder Singh @ Kaka, in their statements, had disclosed about they along with other fellow accused, having committed murder of Gurpal Singh @ Pala, to take revenge

qua murder of their chacha/brother Joginder Singh @ Heera. Even, car

bearing registration No.HR-01Z-0202, in which, various body parts of Gurpal Singh @ Pala, after committing murder, were taken and disposed of in the canal of Narwana Branch, was also taken into possession. The CCTV footage of the relevant time of Bank of Baroda Branch, Kardhan Road, Prabhu Prem Puram Ashram, Ambala Cantt., was also obtained.

On completion of investigation, report under Section 173 Cr.P.C. was presented against all the accused.

After appraisal of the evidence, learned trial Court, vide judgment dated 14.02.2017, acquitted accused Sunny Sharma, Satwinder Singh @ Kaka and Harminder @ Harry. However, accused Randeep Singh @ Rana, Rajesh Kumar @ Don, Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal, Prabhjot @ Rajji and Bhim Sain @ Kaka Ganth were held guilty and convicted for the offence punishable under Sections 364, 302 read with Section 120-B IPC and 201 IPC and they were sentenced as under:-

| <i>Under Section</i> | <i>Sentence</i>       | <i>Fine</i> | <i>In default</i> |
|----------------------|-----------------------|-------------|-------------------|
| 364/120-B IPC        | Imprisonment for life | ₹10,000/-   | RI six months     |
| 302/120-B IPC        | Imprisonment for life | ₹10,000/-   | RI six months     |
| 201 IPC              | RI for three years    | ₹10,000/-   | RI two months     |

All the sentences were ordered to run concurrently.

Hence, the present applications under Sections 378(3) read with Section 372 Cr.P.C. have been filed seeking leave to file appeal against the judgment of acquittal and also revision petition has been filed by the complainant seeking enhancement of the sentence imposed upon the aforesaid convicts.

accused faced trial for commission of offence under Sections 364, 302, 201, 212, 34 and 120-B IPC. After culmination of the trial, vide judgment dated 14.02.2017, accused Sunny Sharma, Satwinder Singh @ Kaka and Harminder @ Harry were acquitted of the charges framed against them, whereas accused Randeep Singh @ Rana, Rajesh Kumar @ Don, Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal, Prabhjot @ Rajji and Bhim Sain @ Kaka Ganth were held guilty and convicted as stated in the earlier portion of the judgment.

To challenge the judgment of conviction dated 14.02.2017 and order of sentence dated 17.02.2017, convict-accused Bhim Sain @ Kaka Ganth had filed CRA No.D-335-DB of 2017, whereas remaining convicts had filed CRA No.D-398-DB of 2017. Vide separate judgment passed in the aforesaid appeals of the even date, appeal bearing No.CRA No.D-335-DB of 2017 filed by appellant Bhim Sain @ Kaka Ganth has been allowed whereas appeal bearing No.CRA No.D-398-DB of 2017 has been dismissed qua appellants-Randeep Singh @ Rana and Rajesh Kumar @ Don, whereas, it has been allowed qua appellants Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Prabhjot @ Rajji.

Learned trial Court had acquitted accused-respondents Sunny Sharma, Satwinder Singh @ Kaka and Harminder @ Harry, on the ground of no conclusive evidence having come on record. The prosecution had come up with the case against accused Sunny of having provided financial aid to the accused and accused Satwinder Singh @ Kaka and Harminder @ Harry of having conspired with the accused and even helped in hiding the accused persons. However, it was concluded by the trial Court about the

prosecution having failed to lead conclusive evidence and having failed to

establish the ownership of the house or place, where it is said that above accused had hidden fellow accused or whether, the above two accused namely Satwinder and Harminder had any right in the property where other accused were said to have concealed themselves. It was thus held by the trial Court about there being no conclusive evidence having come on record about Sunny accused to have provided financial aid to the other accused, since nothing was recovered in this regard and neither any evidence came that the accused provided any such financial aid to the fellow accused. Thus, on these grounds, the prosecution was held to have failed to prove its case and consequently, the aforesaid accused namely Sunny Sharma, Satwinder Singh @ Kaka and Harminder @ Harry were acquitted of the charges framed against them.

In view of the aforesaid applications, so filed, we have re-scanned the entire evidence available on record and find that the evidence brought on record viz-a-viz the role of above accused, has been appraised by the trial Court in right perspective. There is no perversity or illegality in the impugned judgment.

Even otherwise, it is a settled law as has been held in **C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750** that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Similarly, in '**Anil Kumar Gupta Vs. State of U.P., 2011 AIR**

(SC) (Criminal) 922, Hon'ble the Supreme Court has held as under:-

*“8. Shri R.K. Shukla, learned senior counsel appearing for the appellant mainly contended that the High Court in the process of reappreciating the evidence, ignored the vital evidence on record which proves the innocence of the appellant. It was submitted that the approach of the High Court is completely contrary to the decision of this Court in 'Ramesh Babulal Doshi v. State of Gujarat, 1996(3) R.C.R.(Criminal) 188 : (1996) 9 SCC 225' which was followed by this Court in 'Dwarka Das & Ors. v. State of Haryana, 2002(4) R.C.R. (Criminal) 794 : (2003) 1 SCC 204' The submission was that the High Court miserably failed to examine the reasons given by the trial Court for recording the order of acquittal.*

*9. Learned counsel for the State of U.P. supported the impugned judgment mainly relying on the circumstances that on that fateful night, the appellant alone was in the company of the deceased and it is one of the strong circumstances to hold that it is the appellant who administered poison to the deceased.*

*10. In Ramesh Babulal Doshi, this Court held that "the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence, cannot constitute a valid and sufficient ground to interfere an order of acquittal unless it comes to the conclusion that the en approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal, the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are pal ably wrote, manifestly erroneous or demonstrably unsustainable. If the appellate Court answers the above question in the negative, the order of acquittal is not to be disturbed. Conversely, if the appellate Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then-and then only- reappraise the evidence to arrive at its own conclusions".*

*11. In Dwarka Das, this Court following the decision in Ramesh Babulal Doshi, further observed that 'there cannot be any denial of the factum that the power and authority to appraise the evidence in an appeal, either against acquittal or conviction stands out to be very comprehensive and wide, but if two views are reasonably possible, on the state of evidence: one supporting the acquittal and the other indicating conviction, then and in that event, the High Court would not be justified in interfering with an order of acquittal, merely because it feels that it, sitting as a trial court, would have taken the other view. While reappreciating the evidence, the rule of prudence requires that the High Court should give proper weight and consideration to the views of the trial*

*Judge. But if the judgment of the Sessions Judge was absolutely perverse, legally erroneous and based on a wrong appreciation of the evidence, then it would be just and proper for the High Court to reverse the judgment of acquittal, recorded by the Sessions Judge, as otherwise, there would be gross miscarriage of justice".*

*12. In Chandrappa & Ors. v. State of Karnataka, 2007(2) R.C.R.(Criminal) 92 : 2007(1) R.A.J. 841 : (2007) 4 SCC 415 this Court reappreciating the aforesaid principles, further observed that "in case of acquittal, there is a double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person should be presumed to be innocent unless he is proved to be guilty by a competent court of law. Secondly, the accused having secured an acquittal, the presumption of his innocence is certainly not weakened but reinforced, reaffirmed and strengthened by the trial Court. Though the above principles are well established, a different note was struck in several decisions by various High Courts and even by this Court. It is, therefore, appropriate if we consider some of the leading decisions on the point". Having stated so, this Court also held that an appellate Court has full power to reappreciate, review and reconsider the evidence upon which the order of acquittal is founded. But it is well established that if two views are possible on the basis of evidence on record and one favourable view to the accused has been taken by the trial Court, it ought not to be disturbed by the appellate Court."*

Considering the aforesaid case law and the appraisal of the evidence by the trial Court, we are of the view that there is no merit in the aforesaid applications seeking leave to file appeal. Consequently, both the applications i.e. CRM No.A-679-MA of 2017 and CRM No.A-1989-MA of 2017 are hereby dismissed.

So far as, revision petition filed by complainant Jagpreet Singh seeking enhancement of the sentence is concerned, it is pertinent to mention that five of the accused namely Parveen Kumar @ Kala, Vivek @ Kali, Mohit @ Kaga, Chaman Lal and Prabhjot @ Rajji, who were convicted by the trial Court vide impugned judgment had also filed appeal i.e. CRA

No.D-398-DB of 2017 and their appeal was allowed by this Court vide separate judgment of even date, whereas the above appeal relating to appellants Randeep Singh @ Rana and Rajesh Kumar @ Don has been dismissed and the appeal filed by Bhim Sain @ Kaka Ganth has also been allowed. Vide impugned order of sentence dated 17.02.2017, sentence has been imposed upon the aforesaid convicts as detailed in the earlier portion of the judgment and sentence of imprisonment for life has been imposed for the commission of offence under Sections 364 and 302 read with Section 120-B IPC. The order of sentence passed by the trial Court is just and reasonable and the same has been upheld by this Court vide separate judgment of even date. Considering the same, there is no merit in the revision petition i.e. CRR No.2163 of 2017 and the same is also dismissed.

**(JITENDRA CHAUHAN)**  
**JUDGE**

**(ARCHANA PURI)**  
**JUDGE**

**February 10, 2020**

Vgulati

Whether speaking/reasoned  
Whether reportable

**Yes/No**  
**Yes/No**