

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

258

CRM-29125-2017 in/and
CRM-A-2034-MA-2017
Date of Decision :15.1.2020

State of Haryana

.....

Appellant

Versus

Asru and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr. Vikrant Pamboo, Advocate
for the applicant-appellant.

Mr. Sarfraj Hussain, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

CRM-29125-2017

This is an application for condonation of delay of 542 days in
filing the appeal.

No reply has been filed.

For the reasons recorded, the application is allowed. Delay of
542 days in filing the appeal is condoned.

CRM-A-2034-MA-2017

1. This appeal has been filed against the acquittal of the
respondents under Sections 302, 201, 34 IPC in FIR No. 127 dated
9.3.2012 registered at Police Station Nuh.

2. Brief facts are that on 9.3.2012 a missing person report in

respect of a child Talim was lodged wherein the complainant has stated that the child Talim was missing since 11:00 am on 8.3.2012. The family members started searching him from 3:00 pm but could not able to find him till the lodging of the FIR i.e. till 8:00 pm. Later on, it transpired that dead body of Talim was recovered from the wheat field of Juber s/o Rajjak at about 11:00 pm. The respondents were named on suspicion. One Phooli (PW-10) was stated to be an eye witness who stated about the incident that he saw that the child had been taken by the accused persons towards crop field of wheat and later on, when accused persons came back (after about one hour) put a country made pistol on his head and threatened him not to disclose about the facts he had seen to any one. Thereafter, the said Phooli became perplexed and went home. One reason which weighed with the Court for acquitting the respondents was that even though the family members of Talim were searching for Talim, but Phooli did not disclose to them what he had seen. The Court also noticed further other contradictions in his story.

3. The Court further noticed that this is an admitted case of enmity and political rivalry between both the parties and the theory of enmity is double edged sword which can be used on any of the side and ultimately held that the prosecution had not been able to prove the commission of offence beyond reasonable doubt.

4. Having been taken through the record by the learned Additional Advocate General, we are not persuaded that the judgment of the trial Court is vitiated or that, in view of the infirmities pointed out in the judgment the prosecution has in fact been able to bring home the charge

beyond reasonable doubt.

5. In the circumstances, we do not find any ground to grant leave to file appeal. Therefore, finding no merit in criminal miscellaneous application seeking leave to appeal, the same is dismissed.

6. Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

15.1.2020
anuradha

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