

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

CRM-A-512 of 2020 (O&M)

Date of Decision: 20.04.2023

State of Haryana

.....Applicant-appellant

Versus

Sumit and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Ashok Singh Chaudhary, Addl.AG Haryana for
the applicant-appellant.

Mr. Ravinder Hooda, Advocate for the respondents.

HARINDER SINGH SIDHU, J

Challenge in the instant application seeking leave to appeal, which is accompanied by an application seeking condonation of 118 days' delay in filing the same, has been directed against the judgment dated 20.07.2019 passed by the learned Addl. Sessions Judge, Rohtak, acquitting the accused-respondents herein for the alleged commission of offences.

The facts in brief are that on 21.02.2016, a police party headed by ASI Rajesh was on patrolling duty along with other police officials. In the meanwhile, hundreds of persons armed with *lathies, dandas, jaillies, knives, countrymade pistols and petrol bombs* etc were seen gathering at the Sheela by-pass crossing. A crowd was also seen approaching from Sonapat stand side. On the orders from the Duty Magistrate, the mob was warned to move away, but none of them stepped aside. Use of water canon and tear gas was unsuccessfully made to disperse the public. The mob attacked the police party and started setting the nearby buildings and property ablaze. The police officials fired in the air in an attempt to disperse the crowd. Some miscreants were apprehended from

the spot. Recovery of an iron pipe was made from Ashok son of Krishan. A

spring actuated knife was recovered from Vishal son of Satish. Sandeep, Sunil and Rahul got recovered wooden bats. All the weapons were seized as per law. The miscreants were taken into custody and an FIR No.69 dated 21.02.2016 under Sections 147,148,149,186,188,436 IPC and Sections 25,54,59 of the Arms Act was lodged against the accused. Subsequently, offences under Sections 353 and 511 IPC were also added.

Since the case was triable exclusively by the court of Sessions, this case was committed to the court of Sessions as per order dated 15.06.2017 passed by the then ACJM, Rohtak.

After having gone through all the material evidence and other relevant documents on record as well as on consideration of the totality of the facts and circumstances of the case, learned trial Court acquitted the accused-respondents of the charges framed against them, hence the instant appeal.

Upon notice, reply to the application seeking condonation of delay, has been filed by way of affidavit on behalf of respondent Nos.1 to 6,8 to 14 and 16 to 19 (respondent Nos.7 and 15 are stated to have already expired) stating that inordinate delay has been caused in filing the leave to appeal.

Learned State counsel representing the appellant-State of Haryana submits that the learned trial Court has committed grave error in acquitting the accused for, it has come on record that the accused-respondents were members of the said mob, who had attacked the police party. Trial Court cannot brush aside the testimonies of eye witnesses who have identified the accused persons only on the ground that they were unable to identify them separately by their names. The trial Court has also failed to take note of the fact that the recovery of wooden danda and iron pipe has also been proved on record.

Learned counsel appearing for the respondents submits that the

Learned trial Court has dealt with all the important aspects besides assessing the

prosecution evidence minutely before acquitting the respondents. None of the prosecution witnesses has identified any of the respondents specifically with disclosure having not been made regarding recovery of particular weapon from any of the respondents.

It has come on record that there was a huge agitation in Rohtak city at Sheela by-pass on the day of occurrence but no cogent evidence has been brought on record by the prosecution to show that any of the accused persons was actively involved in the crime. The prosecution has failed to substantiate that it was the respondents, who were members of the agitating mob of rioters or that they were armed or had attacked any police or other official in discharge of their official duties. A perusal of judgment of the trial Court clearly reveals that identity of the persons, who were stated to be in possession of alleged weapons, has not been established. That apart, none of the prosecution witnesses has been able to positively identify the accused, as has rightly been observed by the learned trial Court.

Having heard learned counsel for the parties and on perusal of the record, we are of the considered opinion that learned trial Court has rightly acquitted the respondents of the aforesaid charges as no such evidence has come on record so as to establish their involvement in the commission of crime.

There is no ground to condone the delay of 118 days in filing the application. Even otherwise, in view of the above discussion, there is no merit in the application for leave to appeal.

Dismissed.

(LALIT BATRA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

April 20, 2023

sjks

Whether speaking/reasoned: Yes
Whether Reportable: Yes/No