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

CRM-A-346-2022 (O&M)
Decided on: 01.04.2024

Union of India Applicant

versus

Mohinder Pal @ Bittu Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manvinder Singh Sidhu, Advocate
for the applicant.

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Manjari Nehru Kaul, J. (Oral)

Instant application has been filed by the applicant-State under Section 378(4) Cr.PC feeling aggrieved against the order dated 18.02.2016 passed by learned Special Railway Magistrate (Punjab) Jalandhar vide which the accused has been acquitted of the charges framed against him.

2. Learned counsel for the applicant has reiterated the arguments and submissions made before the learned trial Court and has further asserted that the trial Court erred in acquitting the respondent by ignoring the crucial evidence on record. It has specifically been contended that co-accused Surinder Kumar @ Sonu and Malkit Singh were apprehended on the spot and stolen diesel recovered from them. Upon arrest, both these co-accused suffered their disclosure statements detailing the involvement of the respondent in the crime in question. Additionally, respondent too himself confessed

before a RPF Inspector qua his participation in the theft of diesel along side the co-accused. It has been vehemently contended by the learned counsel that the confession made by the respondent was a strong piece of evidence against him; this confession was admissible and not hit by Section 25 of the Evidence Act as the RPF Inspector could not be deemed a “police official” within the meaning of Section 25 of Evidence Act. Moreover, the RPF Inspector during trial corroborated the case of prosecution by affirming that the respondent had confessed regarding his role in the alleged theft of diesel. Learned counsel, thus, argued that the prosecution had been successful in proving the guilt of the respondent beyond a shadow of reasonable doubt, which warranted his conviction.

3. Heard learned counsel and perused the relevant material available on record.

4. No doubt, learned counsel for the applicant has laid a great deal of stress on the disclosure statements suffered by the co-accused as well as the confession made by the respondent to hammer-forth that there existed substantial and compelling evidence to establish the guilt of the respondent in the crime in question, however, it is well settled law that a conviction cannot be sustained only on the basis of such disclosure statements in the absence of additional supporting and credible evidence indicating the guilt of the accused. Notably the respondent-accused was neither apprehended at the spot nor was any stolen diesel recovered from him. Furthermore, upon perusing the

case file, it is apparent that one Kulwinder Kaur, a material witness, who was present, when the respondent made his confession before the RPF Inspector, was strangely not even examined by the prosecution. Given the aforementioned facts and circumstances, it cannot be concluded that the evidence putforth by the prosecution against the respondent-accused was of a nature sufficient to establish his guilt beyond reasonable doubt.

5. As a sequel to the above, the present application being devoid of any merit stands dismissed.

6. Since the main case already stands dismissed on merit, no separate order is required to be passed in the application for condonation of delay.

01.04.2024
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No