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

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**CRM-19361-2017 in/and  
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Date of decision : 06.02.2025

Sandeep Kaur

... Applicant/Appellant

Versus

State of Punjab and others

.. Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL  
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present:- Mr. Gagandeep Singh Sirphikhi, Advocate for the applicant.

Mr. Aftab Singh Khara, Senior DAG, Punjab.

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**Anupinder Singh Grewal, J. (Oral)**

**CRM-19361-2017**

This is an application seeking condonation of delay of 40 days in preferring the application under Section 378(3) Cr.P.C, seeking leave to appeal against the acquittal of respondents No.2 to 6 under Section 307 IPC and Section 25 of the Arms Act.

2. Heard.

3. For the reasons stated in the application, the same is allowed, and delay of 40 days in preferring the application under Section 378(3) Cr.P.C., seeking leave to appeal against the acquittal of respondents No.2 to 6, under Section 307 IPC and Section 25 of the Arms Act, is condoned.



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**Main case**

This application seeking leave to appeal, is directed against the judgment of the trial Court dated 10.01.2017 whereby respondents No.2 to 6, have been acquitted under Section 307 IPC and Section 25 of the Arms Act in FIR No.179 dated 12.08.2013, registered under, Sections 307, 452, 506, 427 IPC and Section 25 & 27-A of the Arms Act, registered at Police Station Beas, Amritsar.

2. Learned counsel for the applicant points out that during the pendency of the present application, respondent No.2 Lakhwinder Singh @ Lakha has expired. He further submits that it was evident from the prosecution evidence in the form of statements of PW-1 & PW-2 that respondent No.2, namely, Lakhwinder Singh @ Lakha (hereinafter referred to as 'Lakhwinder Singh') had fired multiple shots from his pistol at the complainant, which had narrowly missed her. Thus, there was a clear intention on part of the accused to murder her and Lakhwinder Singh ought to have been convicted under Section 307, whereas, the other respondents no. 3 to 6, who alongwith Lakhwinder Singh, in furtherance of their common object, had actively participated in the plot to murder the complainant, and should have been convicted under Section 307 read with Section 149 IPC.

3. We have heard the learned counsel for the applicant and have perused the material on record.

4. It is the case of the prosecution that a complaint was made by the present applicant namely, Sandeep Kaur, that on 11.8.2013, a scuffle took place



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between husband of the complainant, who worked as a *granthi*, and Dalbir Singh, father of Lakhwinder Singh. On 12.08.2013, around 2.30 am, the complainant awoke from her sleep after hearing some noises coming from the courtyard of her house. She switched on the light, and went outside, when she saw that Lakhwinder Singh was armed with a pistol, Malkit Singh, Salwant Singh @ Babbu, Minta were each armed with a *dang*, and Kewal Singh, Sarwan Singh who were armed with *kirpan*, and all were standing there. Lakhwinder Singh on seeing her, fired a shot from his pistol towards her, which hit her on the right arm. He then fired another shot towards her which went over her head. The other accused started breaking the doors and window panes with their weapons. The nephew of the complainant, namely, Gursubegbir Singh also witnessed the incident. Then, she and her nephew, raised a hue and cry. Thereafter, all the assailants ran away. As per the complainant, Dalbir Singh wanted to remove her husband from the post of *granthi* of the Gurudwara and had also threatened to kill her husband. Hence, on the basis of the statement of complainant the FIR was lodged against the accused for taking action as per the law.

5. The investigation was carried out, during which broken pieces of glass and brickbats were recovered from the spot and taken into possession. The accused were arrested and search was carried out during which *kirpans* and *dangs* were recovered from the accused. The chargesheet was filed by the Investigating Officer against the accused Lakhwinder Singh/respondent no.2, Malkit Singh/respondent no.3, Kewal Singh/respondent no.4, Sarwan



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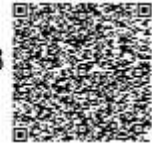
Singh/respondent no.5, and Salwant Singh @ Kulwant Singh @ Babbu/respondent no.6. The case was committed to the court of Sessions by order dated 03.12.2015. Charges were framed against all the accused under Sections 307/452/427/596/148 read with Section 149 of IPC and Section 25 of the Arms Act.

6. The prosecution examined the complainant/applicant Sandeep Kaur as PW-2, who had supported the prosecution case as set out in the FIR. The eye-witness, namely, Gursubegbir Singh was examined as PW-1. The remaining 07 witnesses were all official witnesses.

7. The defence had examined the father of Lakhwinder Singh, namely, Dalbir Singh as DW1, and Talwinder Kaur- wife of Lakhwinder Singh, as DW2 in support of the argument that the applicant had falsely implicated Lakhwinder Singh as she and her family were nursing a grudge against their family. Dalbir Singh was the Vice-President of the Gurdwara Prabandhak Committee when the husband of the applicant was let go from the post of *granthi*.

8. The Sessions Court after hearing the arguments and going through the evidence, by the impugned judgement dated 10.01.2017, found all the accused guilty under Sections 148, 427/149, 452/149, 506/149 IPC, but acquitted them for offences under Section 307 IPC and Section 25 of the Arms Act.

9. The primary grievance of the applicant/complainant is that the respondents ought to have been convicted of the offence under Section 307



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IPC. We deem it appropriate to reproduce Section 307 IPC, which reads as under:-

“307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. Attempts by life convicts.— When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.”

10. At this stage, we regard it necessary to consider the law as laid down by the Supreme Court in respect of this section.

10.1 In **State of Maharashtra v. Kashirao, (2003) 10 SCC 434**, the Supreme Court identified the essential ingredients for the applicability of the section. The relevant extract is as below:

“The essential ingredients required to be proved in the case of an offence under Section 307 are:

(i) that the death of a human being was attempted;  
(ii) that such death was attempted to be caused by, or in consequence of the act of the accused; and  
(iii) that such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as:

(a) the accused knew to be likely to cause death; or  
(b) was sufficient in the ordinary course of nature to cause death, or  
(c) that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause (a) death, or (b) such bodily injury as is



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likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury.”

10.2 In **Hari Mohan Mandal v. State of Jharkhand** reported as (2004) 12 SCC 220 it was held that the nature or extent of injury suffered, are irrelevant factors for the conviction under Section 307 IPC, *so long as the injury is inflicted with animus*. The relevant extract of the judgement is reproduced herein below.

“10. ...To justify a conviction under this section, it is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. ...What the court has to see is whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof.

11. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. If the injury inflicted has been with the avowed object or intention to cause death, the ritual nature, extent or character of the injury or whether such injury is sufficient to actually causing death are really factors which are wholly irrelevant for adjudging the culpability under Section 307 IPC. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, it is not correct to acquit an accused of the charge under Section 307 IPC merely because the injuries inflicted on



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the victim were in the nature of a simple hurt.”

(emphasis supplied)

11. A bare reading of the aforementioned judgements reveals that for conviction under Section 307 IPC:

- i) There should be an attempt to cause death of a human being;
- ii) There must be an intention or knowledge to cause death;
- iii) The nature and number of injuries be given due consideration but that would not be conclusive.

12. In the case at hand, the complainant had stated in the FIR that the first shot fired by Lakhwinder Singh had hit her in her right arm while the second shot went above her head. However, in her deposition before the trial court, she stated that when Lakhwinder Singh fired the first shot, it missed her as she sat down and the second shot went by her side and also missed her. No MLR was produced before the Trial Court to contend that the complainant had sustained any injuries. It is significant that during her cross-examination, she admitted that she had not received any firearm injury.

13. Moreover, it was stated both by the complainant and the eye-witness, that Lakhwinder Singh had fired multiple shots from his pistol at the complainant. However, ASI Gurwinder Singh, who was examined as PW-3, had stated in his deposition before the Trial Court that no pellets, or empty cartridges of any firearm were taken into possession either by him or Inspector Harkrishan Singh. No bullet marks or its photographs was produced before the



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trial Court. The only weapons which had been recovered initially were *kirpans* and *dangs*.

14. Furthermore, even the alleged firearm/ pistol allegedly used in the incident was never recovered during the initial months of investigation but a 30 bore pistol is stated to have been recovered from Lakhwinder Singh, in another FIR bearing No.297 dated 11.12.2013, registered at Police Station Beas. However, no evidence was brought on record to indicate that the aforementioned 30 bore pistol was the same 'pistol' used in the alleged occurrence.

15. It is, therefore, evident that the prosecution has not been able to establish that an attempt was made to murder the complainant. Even if the complainant's testimony is considered *in toto*, it cannot be made sole basis for conviction, as it suffers from glaring and material contradictions. Furthermore, the role attributed to the other respondents, apart from Lakhwinder Singh, is not specific. The general allegation against them was that they broke the glass windows etc. The specific role of an overt act to attempt to murder the complainant was only attributed to Lakhwinder Singh, who is since deceased.

16. It was in this back drop, that the Trial court had taken the view that not only the prosecution had miserably failed to lead any evidence to prove that the offence under Section 307 IPC was made out against the private respondents, but there were also glaring inconsistencies in the prosecution evidence with regard to the charge under Section 307 IPC and Section 25 of the Arms Act.



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17. In the light of aforementioned facts and circumstances, we are inclined to conclude that the overt act attributed to the respondents does not bring the case within the four corners of Section 307 of IPC, either on a stand-alone basis or as held above with the aid of Section 149 of IPC. We are, therefore, of the considered opinion that the view taken by the trial Court cannot be said to be perverse or wholly unreasonable or suffers from a misreading of evidence on record.

18. It is also trite that by an order of acquittal, the presumption of innocence is reinforced. Interference would be called for only when there is manifest illegality or perversity in the judgment resulting in a miscarriage of justice. Even if another view is possible while appreciating the evidence, the Appellate Court should refrain from such interference. Reference can be made to the judgment of the Supreme Court in the case of **Chandrappa and others vs. State of Karnataka (2007) 4 SCC 415**. The relevant extract thereof is reproduced hereunder:-

“42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) to (3) xxxxxxxxx

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is 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 shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by trial court.



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(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

19. In view of the above legal position and the factual aspects of the case, we are of the view that the acquittal of respondents No.2 to 6 under Section 307 IPC and Section 25 of the Arms Act, by the trial Court cannot be faulted with.

20. Consequently, the application being devoid of any merit, stands dismissed.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**(DEEPAK MANCHANDA)**  
**JUDGE**

**February 06, 2025**

sonia gugnani

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No