



if the argument regarding maintainability of the application is to be overlooked in light of the fact that the present applicant after dismissal of his appeal vide judgment dated 06.01.2016 being Criminal Appeal No. 2099 of 2008 not only filed review petition, which was rejected on 03.05.2016 but also filed curative petition which again came to be dismissed on 11.01.2017. Despite having exhausted all these remedies, present miscellaneous application has been filed. As aforesaid, this application is pursued by the applicant taking clue from the observations made by this Court in the subsequent decision rendered in the case of co-accused (Surain Singh) dated 10.04.2017.

As regards, the role of the co-accused that had been dealt with in the judgment dated 10.04.2017. The applicant can, at best, rely on the opinion recorded by this Court in respect of the triggering of the dispute and resulting in inflicting of blows by the concerned accused to different persons belonging to the opposite party.

From the judgment of the Surain Singh (co-accused), it is noticed that he had given only two blows which the Court found to be not decisive factor of his intention to

kill the deceased Harbans Singh.

Insofar as present applicant, he had given six repeated blows to Santa Singh on vital parts of the body to which Santa Singh succumbed.

The finding given against the applicant by the High Court clearly suggests that the applicant acted in a cruel manner. The fact that the applicant had claimed alibi and the same being rejected, cannot absolve the applicant of the finding of fact recorded against him by the High Court. That finding had commended to this Court whilst dismissing the criminal appeal as well as subsequently the review petition and curative petition.

In the peculiar facts of the present case, no indulgence can be shown to the applicant much less to permit him to invoke the argument of parity with the role of co-accused Surain Singh who has been convicted for the offence punishable under Section 304 part-II of Indian Penal Code.

Taking overall view of the matter, therefore, this miscellaneous application deserves to be rejected and we do so.

(DEEPAK SINGH)  
COURT MASTER (SH)

(VIDYA NEGI)  
COURT MASTER (NSH)