

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-630-MA of 2013 (O&M)

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Date of decision:12.10.2015

Manjit Singh

...Applicant

v.

State of Haryana and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. J.S. Chatrath, Advocate for the applicant.

Mr. Anmol Malik, Assistant Advocate General, Haryana for
the respondent-State.

Mr. Amit Chaudhary, Advocate for the respondents No.2 to 4.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C against the respondents seeking grant of leave to file appeal against the impugned judgment dated 30.3.2013 passed by learned Additional Sessions Judge, Ambala, vide which the appeal filed against the impugned judgment dated 28.8.2012 passed by the learned Judicial Magistrate Ist Class, Ambala in criminal complaint No.322/1 of 2007, whereby the learned trial Court has acquitted the accused/respondents, has been dismissed.

It is mainly stated in the application that the accompanying

appeal is being filed against the impugned judgments, which is likely to succeed on the grounds mentioned therein. It is prayed that the application may be allowed and leave to file appeal may be granted.

Notice of motion has been issued in this case.

Mr. Anmol Malik, learned Assistant Advocate General, Haryana has put in appearance on behalf of the respondent-State and Mr. Amit Chaudhary, learned Advocate has appeared on behalf of respondents No.2 to 4 and contested this application.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Manjit Singh-applicant filed complaint for the offences under Sections 290, 440, 427, 323, 324, 504, 506 and 34 IPC against Harnek Singh, Amar, Amandeep and Nirmal Singh-accused/respondents. It is stated that on 20.4.2007, Harnek Singh came to his shop at about 7.00 p.m. under the influence of liquor and spoke harsh words and upon this he asked Harnek to leave, upon which he started abusing and thereafter, he forced him to leave the shop. According to the complainant at the time of leaving, Harnek Singh threatened to kill him in future. On 21.4.2007 at about 12.30 p.m., accused No.2 Amar came to his shop and inquired about him from the neighbour Rakesh and contacted him on cell phone. According to the complainant, Amar requested him to go for photographing the engagement ceremony of his friend's sister near Gian Dawaj School, near Cremation Ground of Durga Nagar, Ambala City and Amar promised the complainant to meet near Gian Dawaj School.

According to the complainant, when he reached at the appointed place with camera, Amar led him towards the cremation ground, where seven young men including all the accused were standing armed with 'dandas' in their hands and started beating him with 'dandas' and also broke his camera. According to the complainant, Amar and Harnek were saying while beating him that he is being taught a lesson for misbehaving.

The complainant in pre-charge evidence, examined himself as CW-1 and reiterated the allegations and after pre-charge evidence again examined himself and no other evidence was brought.

The learned Judicial Magistrate Ist Class, Ambala, after going through the evidence on record held that neither any doctor was examined by the complainant nor the injuries were proved. Otherwise also, the version of the complainant that seven persons with 'dandas' gave injuries to him and the complainant had not suffered any serious injury looks improbable. The trial Court also discussed the discrepancy which is, in my view, material and goes to the root of the case. As per the complaint, the complainant stated that Amar contacted him on cell phone and asked him to reach near the Gian Dawaj School, whereas in the statement, he stated that accused-Amar came to his shop and from there Amar accompanied upto Gian Dawaj School. The trial Court also discussed the fact that in the complaint made to the Police, it is nowhere mentioned that after the injuries, the complainant called his uncle Karam Singh. Otherwise also, Karam Singh was not examined.

From the reasoning given by the learned Judicial Magistrate Ist

Class, Ambala in the judgment dated 28.8.2012, I find that these findings are correct, as per evidence and law. Nothing has been pointed out as to how these findings are perverse or against the evidence. Nothing has been pointed out as to which material evidence has not been considered by the Courts below and which material evidence has been misread by the Courts below.

Therefore, from the above discussion, I do not find any ground to grant leave to file appeal. Finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

October 12, 2015.

(Inderjit Singh)
Judge

hsp