

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-1059-MA of 2015 (O&M)

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Date of decision:2.9.2015

Jagir Chand

...Applicant/Complainant

v.

Hari Ram and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Atul Goyal, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Hari Ram and others-respondents praying for the grant of leave to appeal against the judgment of acquittal dated 21.3.2015 passed by learned Judicial Magistrate Ist Class, Samrala.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment dated 21.3.2015 passed by learned Judicial Magistrate Ist Class, Samrala, which is likely to succeed on the grounds mentioned in the appeal. The findings given by the trial Court are perverse and against the facts proved on the record. It is prayed that in the interest of justice leave to appeal be granted.

I have heard learned counsel for the applicant and have gone

through the record.

From the record, I find that Jagir Chand-complainant filed complaint against Hari Ram, Ramjit Dass, Bhagat Singh, Dev Raj, Moni and Amarjit Singh alias Hambi for the offences under Sections 323, 506 and 34 IPC on the allegation that on 28.5.2007 at about 8.45 a.m., Kulwant Singh son of the complainant brought his tractor from his house from the side of Gaushala Road to Ropar Road and stopped it towards his house side. As per the complainant, Hari Ram son of Maiya Ram came on his scooter from the side of Chakli Manga and also stopped his scooter in front of the tractor and started abusing Kulwant Singh on the ground that as to why he had parked his tractor there. Then as per the complainant, accused Hari Ram also started beating Kulwant Singh. The complainant came out from his house and Hari Ram was beating complainant's son in his presence and also started abusing the complainant. Then Hari Ram called some persons on telephone and within ten minutes Ramjit Dass brother of Hari Ram and six other unidentified persons came there and then all these above said persons, who were carrying sticks in their hands, attacked the complainant and his son due to which he and his son entered into their house and locked the door from inner side. As per the complainant, all the accused persons remained standing outside the house and continued to abuse the complainant and his son and made 'Lalkaras' that they will not spare the complainant and his family members. Surjit Singh brother of the complainant went to the Police Station and informed them about the incident upon which Police reached after some time at the spot and took into

custody accused Hari Ram and the complainant and took them to Police Station. It is also in the complaint that instead of taking action against the accused, the Police registered an FIR against the complainant, his sons Gurjit Singh and Kulwant Singh.

From the record, I find that the learned Judicial Magistrate Ist Class, Samrala, vide judgment dated 21.3.2015 while appreciating the evidence acquitted all the accused. First of all as per the complaint, the beatings were given to Kulwant Singh son of the complainant, but Kulwant Singh was not examined in the complaint to show that he received the injuries. Secondly, Kulwant Singh was not medico-legally examined and no doctor has been produced to prove any injury on his person. Further, I find that there is nothing in the complaint that the complainant party have also inflicted any injury to the accused. It is in the complaint itself that the FIR has been registered against the complainant party, but the genesis of the occurrence has been concealed by the complainant side. Nothing is there that they gave any beating to any one.

As regards the offence under Section 506 IPC, there is again no cogent evidence on record because in the complaint only 'Lalkaras' have been attributed to the accused side that they were raising 'Lalkaras' not to spare while standing outside the house.

The learned Judicial Magistrate Ist Class after appreciating the evidence has rightly reached to the conclusion while acquitting the accused. Nothing has been pointed out as to which evidence has been misread by the Court below or which material evidence has not been considered by the

Court. Nothing has been shown as to how the findings given by the Court below are perverse. Rather, as per the evidence in the FIR case, the present complainant party has been convicted and their appeal against the conviction has also been dismissed and the appellate Court released them on probation.

The learned Judicial Magistrate Ist Class after minutely discussing the cross-examination also reached to the conclusion that the complainant has not proved the case beyond reasonable doubt and the witnesses are discrepant on many material points and interested witnesses. The findings given by the Court below are correct, as per evidence and law and do not require any interference.

Therefore, I do not find any ground to grant leave to file appeal. Hence, finding no merit in the criminal miscellaneous application seeking leave to appeal, the same is dismissed.

September 2, 2015.

(Inderjit Singh)
Judge

hsp