

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

CRM-A-1201-MA-2015 (o&M)
Date of Decision: 17.09.2015

Ravinder

...Appellant(s)

Versus

Parbhat Kumar and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ram Avtar, Advocate
for the appellant.

ANITA CHAUDHRY, J.

CRM No.22701 of 2015

For the reasons set out in the application, same is allowed as prayed for and delay of 90 days in filing the appeal is condoned.

CRM-A-1201-MA-2015

This appeal had been filed by the complainant assailing the order of acquittal, passed by the Additional Chief Judicial Magistrate, Gurgaon.

Heard.

The allegations made by the complainant were that he knew the accused party and he had given a friendly loan and Prabhat Kumar had stood surety for repayment. A receipt in this regard was also issued by Prabhat Kumar. The allegations are that on 25.01.2009, when the complainant wanted his money back, Prabhat Kumar sought one month's

time and assured that the payment would be made. The allegations are that accused nos.4 to 7 tried to take forcible possession of his plot in Dharam Colony and threatened the complainant and asked for return of the receipt. The complainant approached the police. Upon this the accused persons handed back the possession of his plot. Three months later on 29.03.2009, accused Prabhat Kumar and accused nos.3 to 7 arrayed in the complaint, along with some other persons came to his house armed with lathis, swords and pistols and asked for the documents and threatened to kill him. The complainant told them that the papers were lying in the bank and he would give it after some time. The complainant approached the police and made a complaint but no action was taken. The allegations are that on 07.04.2009 when the complainant along with his son was returning from his fields, Prabhat Kumar, Shyambir and two other persons met them and they were beaten up.

Preliminary evidence was recorded and accused nos.1 and 3 to 7 were summoned. Complaint qua accused no.2 was dismissed.

The trial Court, after examining the evidence noted that the complainant did not appear to face the test of cross-examination and with respect to the injury attributed to his son, there was no corroboration from medical evidence. It noted that Dr. Nawal Kishore PW6 had stated that no MLR had been prepared nor he had given any treatment. The concluding paragraph of the judgment reads

as under:-

"11. If the version rendered by the complainant is taken at its face value that he was mercilessly assaulted by as many as seven well armed accused, the medical evidence would have revealed a more gory, horrifying and a bloody picture but in this case, the complainant did not even receive a single injury and the injury received by his son Naveen was never medically examined by Doctor Nawal Kishore (PW6). Rather a stitched wound was shown to the doctor. No wonder the only witness of the complainant i.e. injured Naveen is completely silent regarding any active role played by any of the accused, namely Sushil, Mahesh, Bhim, Uddal and Pawan. As such, the charges under Sections 148 & 506 read with Section 149 of Indian Penal Code must also fail.

12. Otherwise also, there is enough evidence on record to prove that the dispute between the parties is of civil nature. Accused Prabhat Kumar and complainant Ravinder were concededly on good terms and the accused borrowed some money from the complainant due to some financial crunch and as security thereof kept the title deeds of his plots with the complainant. As the accused failed to return the money to the complainant within the stipulated time the complainant was pressurizing the accused into returning his money thus the defence version that the instant complaint is a counter blast to the criminal case already filed against the complainant as the complainant and his family members had assaulted the accused and his family members cannot be brushed aside being wholly untenable & the FIR is Ex.DA."

The trial Court had minutely examined the

evidence which was led by the complainant. In the absence of any statement of the complainant and with no medical evidence come into support, the trial Court had rightly dismissed the complaint.

The appeal is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

17.09.2015

sunil