

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-1225-MA of 2014 (O&M)
Date of decision: November 28, 2015

Nirmal Singh

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Ruchi Sekhri, Advocate
 for the applicant.

INDERJIT SINGH, J.**CRM No.23344 of 2014**

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 14 days in re-filing the application seeking leave to appeal, is condoned.

CRM No.A-1225-MA of 2014

Applicant-Nirmal Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Punjab and other respondents, challenging the judgment dated 28.01.2014 passed by learned Addl. Sessions Judge, Amritsar, whereby the complaint filed by the complainant (present applicant) was dismissed.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. The evidence on record has clearly substantiated the averments made by the applicant in his complaint and thus respondents No.2 to 6 are liable to be convicted for the same offence they are charged with.

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

As per the record, the complainant Nirmal Singh filed a complaint against Harbhajan Singh and others under Sections 364-A, 323, 148, 149, 506 and 120-B IPC. As per complainant's version, he owned landed property and accused Harbhajan Singh was interested to purchase the land of the complainant but due to offering of very less price than the market value of the land, complainant sold his land to some one else. Accused No.1 and 2 gave a threat to get forcibly possession of land from the purchasers to whom complainant sold his land as complainant damaged their reputation. Accused No.1 to 5 in connivance with accused No.6 to 10 in order to fulfill their illegal desire, picked up the complainant from his house on 24.06.2007 and accused No.1 and 3 to 5 along with three police constables including accused No.6 and 7 of police station Dera Baba Nanak kept him in illegal custody in police post Dharamkot Randhawa. Complainant was released only on the intervention of Dalbir Singh, Baldev Singh and Baldev Singh son of Chanan Singh, on 27.06.2007 when they stood surety for the complainant for payment of ₹2 lacs demanded by the accused as ransom amount. On 27.06.2007, accused No.1, 2 and 3

along with above named guarantors came to village of the complainant and a sum of ₹2 lacs was handed over to the accused No.1 and 2. Complainant was released thereafter by them from their illegal detention. On 12.09.2007 at about 4.00 P.M., accused No.3 and 4 along with three constables of police station Dera Baba Nanak came to the house of the complainant and they took the complainant along with them forcibly on the pretext that they have to make an investigation against the complainant. Complainant was given merciless beatings in the police station and no one was allowed to meet the complainant in the police station. Complainant was released on 15.09.2007 in afternoon after obtaining his signatures on blank stamp papers, plain papers. It is also in the complaint that on 04.01.2008, police officials came to the house of the complainant and gave oral message that complainant was summoned by accused No.10 Mohan Lal in his office and in case of his failure, they gave threat to effect some kind of recovery from the complainant by arresting him.

Learned Addl. Sessions Judge, Amritsar, after appreciating the evidence, acquitted the accused of the charges framed against them vide impugned judgment dated 28.01.2014.

From the record, I find that nothing has been pointed out as to how the findings given by the Court below are perverse or against the law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. The perusal of the judgment

passed by the Court below shows that the findings have been given by appreciating the evidence in right perspective. There is allegation in the complaint that the complainant was kept in police custody from 12.09.2007 to 15.09.2007 and has been given merciless beating but no MLR has been produced on the record nor the complainant has been medico legally examined. Secondly, the wife of the complainant earlier gave complaint on 18.09.2007 but in that complaint, there was no mention of the occurrence regarding 24.06.2007 regarding illegal detaining of complainant and also regarding asking for ransom amount of ₹2 lacs from the complainant. The complaint dated 18.09.2007 filed by Narinder Kaur wife of complainant Nirmal Singh is the first version but there is no mention of occurrence of 24.06.2007 and regarding ransom amount of ₹2 lacs. Further, the Court held that accused on the other hand have averred that complainant obtained a sum of ₹2 lacs from Harbhajan Singh as token money for selling his land to Harbhajan Singh and complainant had sold his land to some other person instead of accused Harbhajan Singh and token money was received back from complainant by convening a panchayat consisting of Ranjit Singh, Sarpanch. Ranjit Singh, Sarpanch appeared in the Court and supported the defence version. The Court also held that it is in the complaint that Dalbir Singh and Baldev Singh etc. were guarantors and the amount of ₹2 lacs as ransom amount was paid in their presence but none of them has been examined by the complainant to corroborate his version.

Learned Court below after discussing the statement of

PW-2 Mukhwinder Singh, did not put much reliance and other witnesses are complainant and his wife. Learned Addl. Sessions Judge, Amritsar by appreciating the evidence in right perspective has acquitted the accused respondents.

In view of the above discussion, I find that the findings given by learned Addl. Sessions Judge, Amritsar, are as per evidence. The judgment dated 28.01.2015 passed by learned Addl. Sessions Judge, Amritsar, is correct, as per law and evidence and does not require any interference from this Court.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

November 28, 2015
Vgulati

(INDERJIT SINGH)
JUDGE