

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.24361 of 2015
and
Criminal Misc. No.A-1324-MA of 2015

.....

Date of decision:30.9.2015

Prem Bala

...Applicant

v.

Rajesh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Surinder Dagar, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.24361 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 13 days in filing application for grant of leave to file appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-1324-MA of 2015:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C against Rajesh and others-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 30.4.2015 passed by learned Judicial Magistrate Ist Class, Gurgaon, in criminal complaint No.215 of 2009 dated

18.7.2009.

It is mainly stated in the application that the accompanying appeal is being filed against the impugned judgment dated 30.4.2015 passed by learned Judicial Magistrate Ist Class, Gurgaon, which is likely to succeed on the grounds mentioned therein. It is also stated that learned Judicial Magistrate Ist Class, Gurgaon, vide judgment dated 30.4.2015 acquitted the accused in the criminal complaint No.215 of 2009 without going through the facts of the case and law applicable to the present case and without considering the evidence produced by the applicant. Therefore, it is prayed that the leave to file appeal may be granted.

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

From the record, I find that Prem Bala filed complaint against Rajesh and 8 other accused for the offences under Sections 323, 325, 452 and 506 read with Section 34 IPC. As per the complainant's case, on 20.5.2009, the accused tried to dig foundation upon the land falling in the share of the complainant's husband and when the complainant tried to stop them, she was beaten up by the accused and her clothes were torn. The gold articles which the complainant was wearing were also snatched. On raising noise, the complainant's brother Lakhbir came there, but he too was beaten up badly by the accused persons. Accused Mahesh hit Lakhbir with the brick, accused Daya Kishan hit him with an iron rod and other co-accused also beaten the complainant badly. Thereafter, the complainant and her brother were rescued by the people who had gathered there. The accused

also threatened the complainant of threat to her life. It is also stated that the accused filed case against the complainant in which the complainant was granted interim bail by this Court. It is also stated that civil suit between the parties is pending, which has been filed by the complainant's husband. It is also stated that the matter was reported to the Police, but no action has been taken.

After perusing the evidence produced by the parties, the learned Judicial Magistrate Ist Class, Gurgaon, vide judgment dated 30.4.2015 acquitted all the accused of the charges framed against them.

After hearing the learned counsel for the applicant and after going through the record and especially, the judgment passed by the learned Judicial Magistrate Ist Class, Gurgaon, I find that nothing has been pointed out at the time of arguments as to how the findings given by the learned trial Court are perverse. Nothing has been pointed out as to which evidence has been misread by the Court below. Nothing has been pointed out at the time of arguments as to which evidence has not been considered by the Court in right perspective. A perusal of the record shows that the findings given by the Court below are correct, as per evidence and law. PW-1 Dr. Hazari Lal has proved the MLR of injured Lakhbir Singh and stated that injury No.1 was highly superficial and the same could have been resulted due to fall from height on a hard surface. He further stated that duration of the injuries could be known from the colour of injuries, but the colour of the injuries was not mentioned in the MLR. He also stated that the dimensions of injury No.2 were not mentioned in the MLR of the injured. Therefore, the Court

held that the injury could be said to be superficial in nature. In cross-examination, the PW-1 doctor stated that he treated another injured Daya Kishan, Devender and Mahesh on same day and he had prepared MLRs which are Ex.D.1 to Ex.D.3. He stated injuries of all the three above stated patients were fresh in nature and all the three patients had sustained injuries upon their head. This evidence itself shows that the accused had suffered injuries on their head which cannot be self-suffered, but the complainant has not explained any injury on the person of the accused. The complainant tried to conceal the genesis of the occurrence. Prem Bala has not proved the MLR regarding her injuries. Further more, there are only two injuries on the person of Lakhbir, which were treated as superficial in nature as no dimensions had been given. On the other hand, the accused have received serious injuries on their head in the occurrence and the FIR regarding the same has been registered against the present complainant side. The trial Court also discussed the evidence produced by the complainant side. The oral evidence produced by the complainant is also not supported by medical evidence. As per the complainant's version, so many injuries by nine persons were inflicted. This statement is not supported by MLR of Lakhbir. The trial Court discussed all this evidence and has correctly reached to the conclusion that the complainant has failed to prove the case against the accused beyond a reasonable shadow of doubt.

The findings given by the trial Court are correct as per the evidence and law which do not require any interference from this Court.

Therefore, I do not find any ground to grant leave to file

appeal. Hence, 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.

September 30, 2015.

(Inderjit Singh)
Judge

hsp