

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.2231 of 2015
and
Criminal Misc. No.A-134-MA of 2015

.....

Date of decision:17.12.2015

Satwinder Kaur

...Applicant

v.

Gurdeep Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Mani Ram Verma, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.2231 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 70 days in filing the application/appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-134-M A of 2015:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Gurdeep Singh etc.- respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 11.9.2014 passed by learned Sub Divisional Judicial Magistrate, Tohana, vide which the complaint filed by the

complainant has been dismissed.

It is mainly stated in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed on the grounds taken therein. It has been stated that the trial Court has seriously erred in law while acquitting the accused-petitioners for the reasons given in the grounds of appeal. It is also stated that the application be allowed and the leave to file appeal be granted against the judgment of acquittal dated 11.9.2014 passed by the learned Sub Divisional Judicial Magistrate, Tohana.

From the record, I find that Satwinder Kaur-complainant filed complaint against Gurdeep Singh, Manjeet Kaur, Baljeet Singh, Mehanga Singh, Sher Singh, Mohan Singh and Amrik Singh for the offences under Sections 323, 365, 511, 447, 452, 506, 148 and 149 IPC. It has been alleged in the complaint that accused Nos.1 and 2 are close relatives of the husband of the complainant. There was dispute between the parties regarding the correction of 'Girdawari'. Accused No.1 in connivance with the Police had lodged a false FIR against the husband of the complainant and he was behind the bars. It has been further stated that on 28.11.2007 at about 4.30 p.m., accused Nos. 1 to 7 along with 18-20 persons came in two cars. The accused made a 'Lalkara' that they would finish Satwinder Kaur and her sons, namely, Amrinder Singh and Pargat Singh and would put them in the cars. After hearing noise, the complainant came out from her house and requested accused No.1 that he had dispute with her husband Gurjant Singh and that when he would come out from jail then the accused should discuss

the matter with him. After hearing her request, accused No.1 got entered and caught hold her hand and gave three-four slaps on her face. Thereafter, accused No.1 and 3 came and caught hold her hand and accused No.1 dragged her mouth with 'dupatta'. Accused No.3 was having iron rod, who inflicted rod blows on her right elbow due to which she fell down. On raising hue and cry, her sisters-in-law Sukhwinder Kaur and Harjinder Kaur and 'Bua' Veer Kaur came at the spot. Accused Nos.1 to 5 gagged their mouths and threatened them that they would finish them as they were having the connection with 'Gundas'. It is also allegations that the accused damaged the crop of wheat and accused No.2 made a 'Lalkara' that they would kill them and thereby take the possession. Accused No.1 entered in the house and forcibly took away Amrinder Singh and Pargat Singh and had put them in the car. However, a farmer was going on from the spot, seeing whom the accused persons ran away. The matter was reported to the Police, but no action was taken.

On the basis of preliminary evidence led by the complainant, only accused Nos.1 to 3 were summoned for the commission of offences punishable under Sections 323 and 506 read with Section 34 IPC.

The learned Sub Divisional Judicial Magistrate, Tohana vide judgment dated 11.9.2014 after appreciating the evidence acquitted the accused-petitioners of all the charges framed against them.

I have heard learned counsel for the applicant and have gone through the record specially the impugned judgment passed by the learned trial Court.

From the record, I find that PW-1 Dr. Kusum Gupta has not proved the MLRs as original record was not brought. She only tendered the photo copies of MLRs. The Court has rightly not relied upon the photo copies of the MLR specially when the original record was not brought. No permission for leading secondary evidence was taken, therefore, photo copies of the MLRs are inadmissible in evidence. From the record, it is clear that the complainant has previous enmity with the accused persons and motive is double edged weapon and could be base for inflicting injuries as far as for filing false case. The trial Court further held that no recovery of any weapon etc. was effected by the Police during the investigation. Complaint was earlier sent under Section 156(3) Cr.P.C. to the SHO concerned for registration of the case and thereafter, the cancellation report was submitted by the Police. The trial Court further held that there was no record of the hospital showing of the admission of the complainant in the hospital as stated by the complainant.

Otherwise also, the version given by the complainant looks improbable. If 18-20 persons with 6-7 named accused had come to the complainant etc. the occurrence would have been different as they would not give only threatening to kill and they would not have inflicted simple injuries. No grievous injury has been caused to the complainant side. Therefore, the version of the complainant also looks doubtful. A perusal of the record shows that the findings given by the Court below are correct, as per evidence and law. Nothing has been pointed out as to which material evidence has not been appreciated in right perspective or which material

evidence has not been considered by the Court below. The findings given by the learned Sub Divisional Judicial Magistrate, Tohana, in no way, can be held as perverse.

Therefore, from the above discussion, I find that the findings given by the Court below 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.

December 17, 2015.

(Inderjit Singh)
Judge

hsp