

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

CRM A-1562-MA of 2014

Date of Decision : February 26, 2015

Tulsi Singh

.....Applicant

VERSUS

Balwinder Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN**

Present : Mr. Kamaldip Singh Sidhu, Advocate
for the applicant.

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(4) Cr.P.C. whereby he seeks grant of special leave to appeal against the judgment dated 7.10.2013 passed by the Additional Chief Judicial Magistrate, Faridkot.

Vide impugned judgment, respondent-Balwinder Singh was acquitted of the charge under Section 326 IPC.

Having heard learned counsel for the applicant, this Court finds that in support of the ocular account, the applicant relied upon his own testimony as well as of his wife Chand Kaur. According to him, the occurrence was witnessed by Mota Singh and Darshan Singh also. Despite the same, the complainant never brought them before the trial Court in support of the ocular account. Being the wife of the complainant, Chand Kaur was a

highly interested witness. Had Mota Singh or Darshan Singh appeared before the trial Court in support of the ocular account, the position would have been different. The non-examination of Mota Singh and Darshan Singh casts a serious doubt on the veracity of the prosecution case.

Even otherwise the medical evidence was not in consonance with the ocular account. According to the complainant, he had received injuries on his back, chest, shoulders, legs etc. also apart from the grievous injury on his left little finger. However, Dr. Shilekh Mittal, who had medico-legally examined the complainant, had found only one injury i.e. injury on his left little finger. Furthermore, the occurrence was said to have taken place on 20.4.2009 in which the complainant had received only one injury and, that too, on his left little finger. For the said injury, the complainant was required to remain admitted in the hospital only for a couple of days. However, according to the complainant, he remained admitted in the hospital for about 20/25 days. Even if the stand of the complainant that he remained admitted in a hospital for about 20/25 days is taken as such then he would not have been in a position to submit applications to the Senior Superintendent of Police against the accused on 1.5.2009 and 2.5.2009.

The complainant and his wife Chand Kaur had admitted before the trial Court that regarding the occurrence, they did not inform Sarpanch, Panch or any other respectable, so much so that Chand Kaur testified about not informing even her neighbour. The complainant in his applications dated 1.5.2009 and 2.5.2009 did not attribute any specific motive to the respondent-accused for causing injuries to him. The motive was for the first time disclosed in the complaint instituted by the complainant and, thus, to be considered as an improvement.

In view of the above, no fault can be found with the impugned judgment of acquittal passed by the trial Court.

The application under Section 378(4) Cr.P.C. is without any merit and, therefore, dismissed.

Special leave to appeal is declined.

(T.P.S. MANN)
JUDGE

February 26, 2015
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(SHEKHER DHAWAN)
JUDGE

**CRMs 30071 of 2014 and 6646 of 2015 in
CRM A-1562-MA of 2014**

Tulsi Singh Vs. Balwinder Singh and others

Present : Mr. Kamaldip Singh Sidhu, Advocate
for the applicant.

CRM 6646 of 2015

The application is allowed, as prayed for.

Amended memo. of parties is taken on record.

CRM 30071 of 2014

Heard. Sufficient cause has been shown for
condonation of delay in applying for leave to appeal. The
application is, therefore, accepted and the delay of 291 days in
applying for leave to appeal is condoned.

**(T.P.S. MANN)
JUDGE**

**(SHEKHER DHAWAN)
JUDGE**

February 26, 2015
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