

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No. A-1594-MA of 2014

Date of Decision : April 09, 2015

Jangir Singh

.....Applicant

VERSUS

Mangal Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MRS. JUSTICE SNEH PRASHAR

Present : Mr. U.K. Kanwar, Advocate

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 25.7.2014 passed by the Additional Sessions Judge, Fazilka whereby the respondents were acquitted of the charges under Sections 307/447/506 read with Section 34 IPC.

The case of the complainant, as set up by him while filing the criminal complaint, was that he was having civil litigation with his brother Mangal Singh-respondent No.1 which was decided in his favour. On 3.11.2008, when he was irrigating his land, Mangal Singh came there and restrained him from doing so. The complainant told him that he had sown fodder crop and as such he had to water his fields. Mangal Singh went to his house and returned on a tractor with his wife Jangiro Bai-respondent

No.2 and forcibly entered the fields of the complainant. At that time, Mangal Singh was having .12 bore gun with him. Jangiro Bai raised a *lalkara* asking her husband Mangal Singh to kill the complainant in order to teach a lesson for taking the possession of the land. Mangal Singh fired from the gun which hit the complainant near his right ear. The complainant fell on the ground. Jangiro Bai kept on raising *lalkaras* and abusing the complainant. The alarm raised by the complainant and firing of shot attracted his son Satnam Singh to the spot. Both the accused fled away from the spot on their tractor while carrying the gun. The complainant was, thereafter, rushed to Civil Hospital, Fazilka where he was given treatment. The complainant informed the police about the incident but no action was taken against the accused. Hence, the complaint by him.

After the complainant led preliminary evidence, both the accused were summoned. The case was committed to the Court of Sessions where the two accused were charged for the offences, as mentioned above. The trial of the case, however, ended with the acquittal of the respondents. Hence, the present application for grant of special leave to appeal.

Having heard learned counsel for the applicant and on perusing the lower Court record, this Court finds that as per the medico-legal report Ex.PA, only swelling and abrasion were noticed on the person of the complainant. X-ray was advised by

the doctor but there is nothing on the record that any such X-ray was got conducted by the complainant. There is also no evidence as to for how many days the complainant remained admitted in the hospital. He did not even bring on record the bed-head ticket. Going by the nature of injuries said to have been caused by Mangal Singh, it cannot be said that they were caused by firing of a shot and the accused had the intention to kill the complainant. As regards the offence under Section 447 IPC, it was the case of the complainant himself that the land where the occurrence had taken place was jointly owned by him and his brother Mangal Singh. Being co-sharer over the land, Mangal Singh cannot be said to have committed the offence of tress-passing into the land.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the trial Court.

The application is without any merit and, therefore, dismissed.

Special leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(SNEH PRASHAR)
JUDGE

April 09, 2015
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