

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-1746-MA of 2014

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Date of decision:20.1.2015

Jaspal Singh

...Applicant

v.

Ram Saran and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Malhar Singh Dhami, Advocate for the applicant.

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Inderjit Singh, J.

This criminal miscellaneous application has been filed under Section 378(4) of the Code of Criminal Procedure ('Cr.P.C.' for short) seeking leave to file an appeal against the impugned judgment of acquittal dated 16.9.2014 passed by learned Sub Divisional Judicial Magistrate, Balachaur (S.B.S. Nagar), vide which the complaint filed by the applicant-complainant has been dismissed and the respondents have been acquitted of the charges framed for the offences under Sections 323 and 506 read with Section 34 IPC.

It is stated in the application that a perusal of the judgment dated 16.9.2014 would show that the respondents/accused have been wrongly acquitted by granting benefit of doubt for the offences under Sections 323 and 506 read with Section 34 IPC.

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

From the record, I find that Jaspal Singh-complainant filed the complaint against Ram Saran, Sunil Kumar, Inspector, Wild Life In-charge, Nikhil Sangar, President, Conservative Society and Rohit Sharma, Member, Conservative Society for the offences under Sections 323, 324, 506, 295-A, 379 and 34 IPC with the allegations that on 3.4.2010 at about 6.00 a.m., he along with Deepak Kumar was coming to Balachaur from Village Rampur Bilron, Tehsil Garhshankar, District Hoshiarpur and when they reached near Village Bilron, all the accused along with four unknown persons, stopped them and illegally and forcibly checked their scooter. They also snatched their double barrel gun and committed theft of ₹5,000/- along with his licence and other documents. Ram Saran, Forest Guard arrested him and during his personal search, got 'Gatra', ₹10,000/- and licence of gun. Thereafter, he was released on bail by the Court. On 22.4.2010 at about 6.00 p.m., he was going to his house from old Bus Stand Balachaur and when he reached at Bus Stand Nawanshahr/Balachaur, all the accused were standing there. Ram Saran-accused No.1 started abusing him and also threatened to register a false case against him. When he inquired as to why they were abusing him, all the accused got enraged. Nikhil and Rohit caught hold him and Ram Saran gave stick blows on his backside. Sunil Kumar gave blow on his mouth. All the accused beaten him mercilessly. On raising alarm, Sukhwinder Singh, Joginder Singh and Kamal Dev rescued him from the clutches of accused.

The accused fled away from the spot while hurling threats to eliminate him and register a false case against him. All the accused were summoned to face trial for the offences under Sections 323 and 506 read with Section 34 IPC.

After framing of charge, in order to prove his allegations in preliminary evidence, complainant himself stepped into the witness box as CW-1 and examined CW-2 Kamal Devi and CW-3 Dr. Manohar Lal and closed his evidence.

The learned Sub Divisional Judicial Magistrate, Balachaur, dismissed the complaint and acquitted the accused-respondents by appreciating the evidence on record correctly. The Court held that the complainant in examination-in-chief has deposed that he was apprehended by the Forest officials on 3.4.2010, whereas Ex.D.1 certified copy of the file of criminal trial pending against the complainant Jaspal Singh reveals that Jaspal Singh-complainant was apprehended on 3.4.2010 when he was illegally hunting in forest area of Village Rampur Bilron, meaning thereby the contention of Jaspal Singh that he was illegally arrested on 3.4.2010 has no merit. It is also held by the Court that the second incident claimed by the complainant that on 22.4.2010, when he got himself released on bail and was going towards Bus Stand, Balachaur, forest officials i.e. accused Ram Saran called him and started abusing him, when cross-examined, he has categorically admitted the fact that accused of the present complaint are forest officials and Sunil Kumar is Wild Life Inspector and Ram Saran is Forest Guard, who arrested him on 3.4.2010.

No licence of the gun, which he claimed to be licensed one, was produced in evidence. No copy of the complaint dated 22.4.2010 has been placed on record which the complainant states to have been moved to the Senior Superintendent of Police. Son of the complainant, who was eye witness, was also not examined. The place of occurrence is stated to be thickly populated area, but none of the shopkeepers of the place of alleged occurrence had been joined or brought on record to prove his allegations. The complainant deposed that no medico-legal examination was got conducted on him and simply medical slip placed on record as Ex.C.1, no where establishes the nature and extent of injuries on his person, as it simply proved that Jaspal Singh visited the hospital.

Keeping in view the discussion made by the learned Sub Divisional Judicial Magistrate, Balachaur, by discussing the statements of the complainant as well as CW-2 Kamal Dev alleged eye-witness and in view of the fact that there is no MLR placed on the record and the complainant of this case has already been arrested by the respondents-accused in official capacity while he was hunting illegally in the forest area, I do not find any ground in this criminal miscellaneous application filed under Section 378(4) Cr.P.C. for grant of leave to file appeal.

Therefore, finding no merit in the criminal miscellaneous application seeking leave to appeal, the same is dismissed.

January 20, 2015.

(Inderjit Singh)
Judge

hsp