

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.A-1883-MA of 2014 (O&M)

Date of decision: 01st October, 2015

Ravinder Singh

...Applicant

Versus

Prem Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Bhrigu Dutt Sharma, Advocate,
for the applicant.

INDERJIT SINGH, J.

Applicant Ravinder Singh has preferred this application under Section 378(4) Cr.P.C. seeking permission for leave to file appeal against respondents Prem Lal etc., challenging the impugned judgment dated 06.09.2014, passed by the learned Judicial Magistrate Ist Class, Jalandhar, whereby the complaint filed by him was dismissed and accused-respondents were acquitted.

It is stated in the application that the accompanying appeal has been filed which is likely to succeed. It is further stated that the learned trial Court has acquitted the respondents-accused in a totally illegal and arbitrary manner. It is prayed that leave be granted to the applicant to file appeal.

Brief facts of the case are that Ravinder Singh applicant-complainant (hereinreferred as 'the complainant') purchased an area measuring 2 marlas out of Khasra No.13/1/2 from Ranjit Singh vide registered sale deed dated 28.10.2003. The dimensions of that property was given. Accused No.1 Prem Lal also purchased an area

measuring 1½ marla from said Ranjit Singh on the basis of registered sale deed dated 02.02.2001. It is stated in the complaint that the complainant is absolute owner in possession of the property in dispute. On 24/25.04.2004, in the intervening night, at about 10:30/11:00 p.m., the accused-respondents (hereinreferred as 'the accused') forcibly entered into the property of complainant by breaking the locks of two rooms and committed theft of 700 jute bags (Bardana), two hand spray pumps, one power spray pump, two empty oil drums, one pair of old front tyres of tractor, one bench and few audio cassettes, which were kept in his shop type room. The accused also abused in filthy language. Entire occurrence was witnessed by Paramjit Singh, Daljit Singh, Makhan Singh and Mohinder Singh. Matter was reported to the police but no action was taken. Thereafter the complainant filed complaint under Sections 454, 380, 504, 506, 147, 149 IPC against the accused which was dismissed and all the accused were acquitted of the charges framed against them vide impugned judgment dated 06.09.2014, passed by the learned Judicial Magistrate Ist Class, Jalandhar.

Feeling aggrieved against the said judgment, the applicant has preferred the instant application.

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

From the perusal of the impugned judgment, it is nowhere shows that the findings can be held as perverse. Nothing has been pointed out as to which evidence has been misread and which material evidence has not been considered by the learned Court

below. The complainant himself has admitted that names of accused Nos.4 to 9 have not been mentioned in the complaint Ex.C4, given by him. As such, accused Nos.4 to 9 had been implicated in the case lateron. In the first version, which is mentioned in the complaint Ex.C4, the names of accused Nos.4 to 9 have not been mentioned; secondly as per version of said complaint, occurrence took place at the intervening night of 24/25.04.2004. The complainant is not the eye witness to the occurrence. It is also stated in the complaint that on 09.10.2004, Makhan Singh and Mohinder Singh came to the complainant and disclosed that they had also witnessed the occurrence. This version that the complainant came to know that Makhan Singh and Mohinder Singh witnessed the occurrence and told him after five months regarding this creates doubt and much reliance cannot be placed on his statement. CW3 Piara Singh, in his cross examination, has stated that he has got no personal knowledge about the occurrence, as alleged in the complaint. CW1 Ravinder Singh complainant, as discussed above, is not the eye witness. Now only statement of CW2 Paramjit Singh remains. This witness, in cross-examination has admitted that accused No.1 is running his business under the name and style of Prem Refershment and he is in possession of the same. This witness has also admitted that accused No.1 Prem Lal has purchased the property in question in the year 2001. He has further admitted that accused No.1 is the person, who was the owner of the property in dispute, prior to the complainant. From the evidence of DW1 Jaswant Singh, it has been proved that an electric connection was installed in the name of Prem

Lal in the property in dispute on 22.04.2003, which is much earlier to the occurrence. Further, there is delay of six months in filing the complaint. Therefore, the findings returned by the learned Court below are correct and as per evidence and law and do not require any interference by this Court.

From the aforesaid discussion, no ground for grant of leave to file appeal is made out. Therefore, the instant application stands dismissed.

01st October, 2015
mamta

(INDERJIT SINGH)
JUDGE