

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc. No. A-292-MA of 2015 (O&M)
Date of decision: 11.08.2015

Mani Ram

..Applicant

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Raman Chawla, Advocate
for the applicant.

Daya Chaudhary, J.

CRM-5618 of 2015

There is a delay of 257 days in filing the application for grant of leave to appeal against judgment of acquittal.

Learned counsel for the applicant submits that after passing of judgment dated 24.03.2014 by the Judicial Magistrate Ist Class, Hissar, an appeal was filed before learned Additional Sessions Judge, Hissar on 21.04.2014 but the same was withdrawn with liberty to avail the remedy of revision/appeal. Thereafter, delay occurred in getting copy of the order and for availing wrong remedy. Learned counsel also submits that there was no intention of the applicant to delay the matter as he was not going to get any benefit out of that.

Application is allowed as per the grounds mentioned therein and delay of 257 days in filing the application is condoned.

CRM-A-292-MA of 2015

The present application has been filed under Section 378(4) of the Code of Criminal Procedure praying for special leave to appeal against the judgment of acquittal dated 24.03.2014 passed by the Judicial Magistrate 1st Class, Hissar, whereby, the complaint filed by the applicant-complainant has been dismissed and the accused-respondents No.2 to 4 have been acquitted of the charge.

Briefly, the facts of the case are that the applicant-complainant filed a criminal complaint against the accused persons for commission of offences punishable under Sections 323, 325, 452, 506 read with Section 34 of Indian Penal Code (for short 'IPC'). Complainant examined as many as three witnesses including himself as PW3 in the preliminary evidence. On the basis of preliminary evidence led by him, all the accused were summoned to face trial for commission of offences punishable under Sections 323, 325, 452 and 506 read with Section 34 IPC.

Thereafter, at the stage of pre-charge evidence, complainant examined himself as PW1, ASI Balbir Singh as PW2 and Ajay Nath, Medical Record Keeper, Agroha as PW3. The pre-charge evidence was closed and on the basis of pre-charge evidence, all the accused were charge-sheeted for the commission of aforesaid offences.

Thereafter, statements of accused under Section 313 Cr.P.C. were recorded.

In defence, accused examined Ram Singh as DW1, Rajesh Kumar as DW2 and Dariya Singh as DW3.

On appreciation of evidence available on record, the trial Court acquitted the accused by giving benefit of doubt vide judgment dated 24.03.2014.

Learned counsel for the applicant submits that the judgment passed by the trial Court is contrary to law and evidence as the accused have been acquitted of the charge without appreciation of evidence available on the record. Learned counsel further submits that the statement of applicant-complainant was corroborated by the statements of other witnesses and the trial Court has neither appreciated the medical evidence nor considered the ingredients of offences under Sections 452 and 506 IPC. The accused have been acquitted of the charge only on the ground that the Doctor, who conducted the MLR was not examined. Learned counsel also submits that PW3 Ajay Nath brought the medical record but the same was not considered.

Heard arguments of learned counsel for the applicant and have also perused the documents available on the file.

As per case of the applicant, oral as well as documentary evidence were not appreciated by the trial Court whereas the offence was proved beyond the shadow of reasonable doubt. As per the version of the complainant, all the accused caused injuries to him in his house on 22.05.2009. Statement of complainant was corroborated

by statements of other witnesses.

The trial Court while acquitting the accused has given a specific finding that neither the Doctor, who conducted radio logical examination was examined nor the X-ray report was produced in the Court. The statement of complainant was not supported by the medical evidence. The incident occurred on 22.05.2009 and all the accused caused injuries to him whereas as per case of the accused, the house where alleged incident took place was already sold by the complainant to accused-respondent No.2 for a sale consideration of ₹18,500/- and that amount was also received by the complainant. This statement was even affirmed by the statements of three witnesses. All the defence witnesses proved document Ex.D1, which is agreement vide which, the complainant sold the house to the accused-respondent No.2. Not only the presence of the parties in the house was proved but agreement (Ex.D1) executed between them was also proved. Hence, the offence under Section 452 IPC is not made out as all the accused were present in the house, which has been purchased from the complainant. Moreover, as per defence, there was no injury on the person of the complainant.

Not only the contradictions are there in the statements of complainant and other witnesses but also in the original complaint and the statement made by the complainant in the Court. In original complaint, the complainant has alleged that after getting beatings by the accused, he remained in the house due to fear whereas in the

statement recorded while appearing as PW1, he stated that he got fainted due to beatings given by all the accused. He has stated in the complaint that on the next date, he went to the hospital along with his wife but her wife was not produced as a witness in the case. As per statement of the complainant recorded in the Court, he went to hospital in the morning on 23.05.2009.

As per the allegations levelled in the complaint and statements of witnesses, no offence is made out under Section 506 IPC. None of the witnesses has stated that any such threat was given to the complainant.

In view of the facts as mentioned above, it is apparent that the trial Court has given a specific finding that the complainant has miserably failed to lead cogent and material evidence to prove the allegations levelled against the accused persons and all the accused were acquitted of the charge by giving benefit of doubt.

Hence, there is no merit in the contentions raised by learned counsel for the applicant and the application for grant of leave to appeal being devoid of any merit is hereby dismissed.

11.08.2015
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(DAYA CHAUDHARY)
JUDGE