

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-360-MA of 2015 (O&M)
Date of decision: September 15, 2015

Jaswinder Kaur

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjeev Gupta, Advocate
 for the applicant.

INDERJIT SINGH, J.

Applicant-Jaswinder Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Punjab and other respondents, challenging the judgment dated 20.01.2015 passed by learned Sub Divisional Judicial Magistrate, Nabha, whereby the complaint filed by the applicant was dismissed and accused-respondents were acquitted.

It is stated in the application that accompanying appeal is likely to succeed. The applicant has fairly arguable points to convince the appeal. It is further stated that the evidence has not been scrutinized in right perspective. The applicant is quite sanguine of her success in appeal.

As per the record, the complainant Jaswinder Kaur filed a complaint against Balbir Chand Retd. Kanungo, Kulwinder Singh and

Jagdev Singh under Sections 509, 452, 323 and 506 IPC. As per complainant's version, on 20.10.2008 at about 2.30 P.M., she and her younger son Jujhar Singh were present in their house. The mason was constructing the drain lower in level before her house. She objected to this. The mason called Balbir Chand, who abused her. In the meantime, complainant's friend Sukhwinder Kaur and her sister Harjit Kaur came to her. Balbir Chand said that he would oust the complainant from the village and abused her in filthy language. Kulwinder Singh also abused her in filthy language. Accused persons entered into her house and started giving beating to her.

After framing the charges against the accused under Sections 452, 323, 506 and 34 IPC, the complainant led the evidence. Statements of accused under Section 313 Cr.P.C. were recorded.

After going through the record and after hearing learned counsel for the parties, learned SDJM, Nabha, vide impugned judgment dated 20.01.2015, acquitted the accused-respondents of the charges framed against them.

At the time of arguments, learned counsel for the applicant argued that findings given by the Court below are perverse and not as per evidence. Therefore, he argued that leave to appeal should be granted.

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

Nothing has been pointed out as to which evidence has been misread by the Court below and how the findings given by the

Court below are perverse. The Court below has discussed the evidence in minute detail. There are so many discrepancies in the statements of the witnesses which have been considered by the Courts. From the evidence, the Court held that complainant is a habitual litigant. The main defence of the accused persons is that complainant was herself at fault. She obstructed the construction work in the village and in this regard a resolution was also passed in the panchayat and even complainant apologized in this regard before police.

In pre-charge evidence, the complainant herself deposed that it is correct that she was called in the police station and there she undertook to not to interfere in the construction work and even she apologized there. Learned SDJM, Nabha further discussed that as per the case of the complainant, police personnel were called at the spot by the accused Balbir Chand and they also abused her but none of the police personnel has been made accused in the complaint. Otherwise also, no reason has been given as to why the police personnel abused her. Further, it is in the impugned judgment that complainant deposed that she got registered the DDR in the police station but that DDR has not been produced in the Court. She also stated that she had moved the complaint against the police officials but no such complaint has been placed on the record. She admitted that she had moved a complaint against one Darbara Singh, Kesar Singh and Pamma which is Ex.D1. CW-2 Jujhar Singh, son of the complainant stated that her mother got registered the complaint

against Darbara Singh, Kesar Singh and Pamma and in enquiry, joint statement of villagers was recorded. The copy of the statement is mark D-1, in which it is stated that complainant is a lady of quarrelsome nature. The Court also discussed the discrepancies regarding the presence of Sukhwinder Kaur and Harjit Kaur. As per the evidence, they came at 1.45 P.M., whereas the occurrence is stated to have taken place at 2.30 P.M. and as per evidence they came at that time. CW-2 Jhujar Singh deposed that when police came at the spot, Sukhwinder Kaur and Harjit Kaur were not present there. As per the complainant's version, number of people gathered at the spot but none of them has been examined. The witnesses examined by the complainant are her son, sister and her friend. No independent witness has supported the version. The Court discussed the discrepancies in the statements of the witnesses as to whether Sukhwinder Kaur and Harjit Kaur went to the police station along with Jaswinder Kaur or not etc. Further, there is no medical evidence on the record to show that any injury has been suffered by the complainant. She was not medico-legally examined.

In view of the above, I find that the evidence has been discussed in right perspective. The findings given by the Court below cannot be held as perverse. Neither evidence has been misread nor any material evidence has been left to be considered by the Court below.

From the above discussion, I find that judgment dated 20.01.2015 passed by learned SDJM, Nabha, is correct, as per

evidence and law.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

September 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE