

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.9010 of 2014
and
Criminal Misc. No.A-421-MA of 2014 (O&M)

.....

Date of decision:30.1.2015

Banti Devi

...Applicant

v.

Satbir Singh and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Parminder Singh, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.9010 of 2014:

For the reasons mentioned in the criminal miscellaneous application, which is supported by an affidavit of applicant-Banti Devi, the delay of 42 days in filing the application for leave to appeal and the appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-421-MA of 2014 (O&M):

This criminal miscellaneous application has been filed under Section 378(4) of the Code of Criminal Procedure ('Cr.P.C.' for short) praying for leave to file an appeal against the impugned judgment of

acquittal dated 26.11.2013 passed by learned Additional Chief Judicial Magistrate, Karnal.

It is mainly stated that the applicant-appellant is filing the accompanying appeal and the grounds of the same may be read as part and parcel of adjudication of this application. It is further stated that the learned trial Court has given benefit of doubt to the respondents/accused just on the ground that the prosecution has not been able to bring home the guilt of the accused beyond shadow of reasonable doubt. It is prayed that leave may be granted to file the appeal against the judgment of acquittal.

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

From the record, I find that that Banti Devi-complainant filed the complainant against Satbir Singh and Saroj for the offences under Sections 427, 323 and 506 IPC. As per the allegations in the complaint on 24.9.2006 at about 4.30 p.m. and 5.00 p.m., when the complainant was going to field with her husband on tractor trolley, then the accused came there armed with 'Jaily' and assaulted the complainant and her husband. The matter was reported to the Police, but the challan was filed against the complainant and her husband. Hence, the complaint was filed.

The learned trial Court after discussing the evidence and after hearing learned counsel for the parties dismissed the complaint and acquitted the accused. The Court held that as regards the statement of independent witness CW-2 Vikram, he has only been examined in

examination-in-chief and has not been produced for cross-examination and his statement being incomplete cannot be read into the evidence. The Court has also held that there is no consistency in ocular and medical evidence because the complainant had deposed in her cross-examination that she sustained injuries with pointed weapon i.e. 'Jaily', but in the MLR of the complainant Banti Devi, it has not been mentioned that she had not sustained injuries by sharp-edged weapon. As per doctor, six injuries were there. Three injuries were only complain of pain, two were abrasions and only one injury was the lacerated wound and all these injuries were simple injuries and with blunt weapon. CW-5 Dr. Rakesh Mittal in his cross-examination has admitted that possibility of these injuries being self-suffered with friendly hand cannot be ruled out. The Court has also taken the notice of the fact that though it is stated that injuries were given to the husband of the complainant, namely, Jagbir Singh, but no MLR has been produced on the record regarding his injuries. The oral statement of the complainant Banti Devi as well as Jagbir Singh remained uncorroborated by any other independent witness. The Court from the evidence on record held that a reasonable doubt exists in the prosecution case and by giving the benefit of doubt acquitted the accused.

From the perusal of the record, keeping in view the evidence on record and the reasoning given by the learned Additional Chief Judicial Magistrate, Karnal, I find that the findings are correct and as per evidence and law, which do not require any interference from this Court.

From the record, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous application filed under Section 378(4) Cr.P.C. seeking leave to appeal, the same is dismissed.

January 30, 2015.

(Inderjit Singh)
Judge

hsp