

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-450-MA of 2015 (O&M)
Date of decision: August 31, 2015

Sham Sunder

...Applicant

Versus

Ashok Kumar and others

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

INDERJIT SINGH, J.

Applicant-Sham Sunder has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Ashok Kumar and other respondents, challenging the judgment dated 08.01.2015 passed by learned Judicial Magistrate Ist Class, Karnal, 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 on the grounds taken therein. It is further stated that impugned judgment dated 08.01.2015 is illegal, erroneous and unsustainable in the eyes of law and the same is liable to be set aside on the grounds taken therein.

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

From the record, I find that Sham Sunder filed a complaint against Ashok Kumar, Sunny, Kaka and Sham Lal under Sections 120-B, 323, 392, 420 and 506 IPC. It is mainly stated in the complaint that on 25.04.2009 at about 1.30/2.00 P.M., complainant along with Raj Kumar was present in Naya Bazar Market, Indri on his motorcycle bearing registration No.HR-05R-7665 mark TVS Star City. Accused No.1 namely Ashok Kumar along with accused No.2 to 4 came to them and asked the complainant to pay his outstanding amount of clothes as well as payment of gem. On this, complainant stated that he has already made entire payment and nothing is due towards him. Complainant also told them that gem sold to him was duplicate. On this accused Ashok Kumar started giving abuses to the complainant and started beating him with the help of accused No.2 to 4. On raising noise, complainant was rescued by Raj Kumar from the clutches of the accused. It is further stated that accused forcibly took the key of motorcycle including RC, driving licence and also snatched golden ring and purse containing ₹2000/- from the complainant and went away.

Learned JMIC, Karnal, after appreciating the evidence on record, acquitted the accused.

I have gone through the record, especially the judgment passed by learned JMIC, Karnal. I find that learned Court below has minutely discussed the cross-examination of the complainant where he admitted that he used to take clothes on credit from accused Ashok Kumar. He also admitted that a gem was also purchased by

him from accused Ashok Kumar and the amount was still to be paid by him to the accused, whereas in the complaint, the complainant has stated that nothing was payable to accused Ashok Kumar. In cross-examination, the complainant stated that he was not rescued by Raj Kumar whereas in the complaint, it was stated that complainant was rescued by Raj Kumar.

Next, I find that the complainant has not got himself medico-legally examined. He also admitted that a suit for recovery was filed by the accused, which is already pending against him. The Court held that there were some money transactions between complainant and accused Ashok Kumar. No copy of RC of the motorcycle has been placed on the record to prove that complainant is the owner of the motorcycle in question.

Further, I find that CW-4 Vedpal has stated that quarrel between Sham Sunder and Ashok Kumar had taken place outside the shop of Dr.Sham Lal and during quarrel, slaps were given to the complainant by accused. He also stated in his cross-examination that Sham Sunder has gone to the shop of Dr.Sham Lal for taking medicines whereas the complainant has denied this fact. The complainant in cross-examination has specifically stated that he has not gone to the shop of Dr.Sham Lal for taking medicines. Though CW-4 Vedpal has stated that purse of the complainant, ring as well as motorcycle of the complainant were taken away by the accused but this version does not find mention in the complaint Ex.DW1/C which was moved by the complainant to police where only the version qua

taking of motorcycle has been mentioned by the complainant and there is nothing in the said complaint about snatching of purse or golden ring.

CW-2 Raj Kumar has stated in the cross-examination that there was only altercation between the complainant and the accused. Neither the injuries were caused by the accused to the complainant nor by the complainant to the accused.

Keeping in view the above discussion, I find that the findings given by learned Court below are correct and as per evidence. Nothing has been pointed out as to which material evidence has been misread and how the findings are perverse. The impugned judgment dated 08.01.2015 passed by learned JMJC, Karnal, 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.

August 31, 2015
Vgulati

(INDERJIT SINGH)
JUDGE