

In the High Court of Punjab and Haryana at Chandigarh

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CRM-A-52-MA-2015

Date of decision: 12.8.2015

Harpreet Singh

.....Applicant

Versus

Iqbal Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Jai Bhagwan, Advocate,
for the applicant-appellant.

- 1. Whether Reporters of local papers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest?**
- 4.**

RAJ MOHAN SINGH, J.

1. Accused-respondent Iqbal Singh was acquitted vide judgment dated 16.10.2014 in a criminal complaint filed by the applicant-appellant under Sections 323, 324, 452, 506 and 34 IPC by the Court of Judicial Magistrate, 1st Class, Malerkotla. . The application under Section 378 (4) Cr.P.C. has been filed by the applicant-complainant with a prayer for grant of leave to file an appeal against the judgment of acquittal.

2. Complaint was filed by applicant-complainant Harpreet Singh with the allegations that on 12.5.2009 at about

8.00 P.M. he was present in his house. Respondent Iqbal Singh entered the house in drunkard condition along with a stick in his hand and he gave stick blows on the head of complainant. Complainant fell down and thereafter, accused gave stick blows on his right hand and arm, resulting in injury on his middle finger of right hand and right arm. Complainant was rescued by his cousin Krishan Singh and, thereafter, accused Iqbal Singh fled away from the spot by giving threats that he will teach him a lesson on some other day. The motive attributed to accused Iqbal Singh was that he used to misbehave with the sister of the complainant and on being objected, he was keeping grudge against him. The complainant was hospitalised by Krishan Singh, where he was medico legally examined. It has also been alleged by the complainant that when the brother of the complainant, Balvinder Singh, and aforesaid Krishan Singh were on their way to hospital with food of the complainant at about 10.30 P.M., then accused along with Daljit Singh met them and inflicted stick blows on the person of brother of the complainant. He was also saved by Krishan Singh from the clutches of the accused person. Balvinder Singh was also hospitalised and was also medico legally examined.

3. Complainant led preliminary evidence and on the basis of which Iqbal Singh-respondent was summoned for having committed an offence under Sections 323, 324, 452 IPC.

In pre-charge evidence, complainant examined Dr.Rajesh Garg as CW-1, injured Balwinder Singh as CW-2, complainant himself as CW-3 and Krishan Singh as CW-4. Accused-respondent was accordingly chargesheeted for the offence under Sections 323/ 452 IPC, to which he pleaded not guilty and claimed trial. In after charge evidence, complainant (CW-3) and Krishan (CW-4) were recalled for cross-examination.

4. In his defence, accused-respondent after denying all the circumstances appearing against him in his statement under Section 313 Cr.P.C., led defence evidence thereby taking plea of alibi and claimed that the filing of present complaint was a counter blast to FIR No.81 dated 15.5.2009, which was registered against the complainant and his brother. No injury was caused by the accused on the person of the complainant as suggested by him in the complaint. In defence evidence, accused examined Constable Gurpreet Singh as DW-1, who proved the FIR No.81 dated 15.5.2009 under Sections 324, 326, 341, 34 IPC (Ex.D-1), Dr.Gurdeep Singh as DW-2, who proved X-ray report of Iqbal Singh as Ex.D-2 and Dr.Rajesh Garg as DW-3, who deposed by way of affidavit Ex.DW-3/A and proved MLR of injured Iqbal Singh as Ex.D-3 and his report dated 18.5.2009. Accused also tendered copy of his statement dated 15.5.2009 as Ex.D4, certified copy of chargesheet Ex.D-5, certified copy of application and endorsement dated 12.5.2009

as Ex.D-6 and a copy of application and endorsement dated 13.5.2009 and 14.5.2009 as Ex.D-7 and Ex.D-8 respectively. The trial Court found the plea of alibi taken by the accused to be correct on the basis of voluminous defence evidence adduced by the accused.

5. It has been stated by the complainant that on 12.5.2009 at about 8.00 P.M., the accused inflicted injuries on his person and, thereafter, on the same day at about 10.30 A.M., accused –respondent inflicted injuries to his brother Balwinder Singh. Perusal of defence evidence shows that Dr.Rajesh Garg, DW-3, has specifically stated that respondent Iqbal Singh was medico legally examined by him on 12.5.2009 at about 12.45 P.M. The statement of the complainant is in utter contradiction with statement of DW-3 Dr.Rajesh Garg and MLR of accused-respondent Iqbal Singh dated 12.5.2009. It is highly unbelievable that the accused inflicted injuries on the person of complainant and Balwinder Singh. Link evidence is missing altogether in the form of direct and cogent evidence in order to connect the accused with that of occurrence as stated by the complainant. Motive as projected by the complainant has not been substantiated. The instances of misbehaviour with his sister could not be proved by the complainant by way of examining any witness in that behalf, nor any complaint was ever moved in respect of alleged misbehaviour done by the

accused vis-à-vis sister of the complainant. Complainant even failed to examine his sister before the Court. Further the stand of the complainant, that his statement was not properly recorded by the police, was also equally discrepant as nobody stopped him from moving complaint to higher authorities.

6. Present complaint was filed on 1.7.2009 i.e. after more than 1 ½ month of the alleged occurrence. No reasonable explanation has been given by the complainant for filing the complaint after unexplained delay. The alleged plea of the accused being in the state of intoxication could not be materialised by way of any cogent medical evidence on record. The complaint in question was instituted as a counter-blast to FIR No.81 dated 15.5.2009 and that is how the delay in filing the complaint corroborated the plea of the accused to show that the complaint was the result of due deliberations and concoctions. The witnesses examined by the complainant i.e. Krishan Singh (CW-4) was found to be interested witness being close relative.

7. No fault can be found in the view expressed by the trial Court in acquitting the accused-respondent. The findings of acquittal cannot be converted into findings of conviction without there being any lawful ground and attending circumstances involved in the case. No parallel view is possible to be taken in the case in hand, therefore, this Court finds no illegality in the order of acquittal passed by Judicial Magistrate, Ist Class,

Malerkotla. Hence, no ground is made out to grant leave to file an appeal. Accordingly, this application is dismissed.

(RAJ MOHAN SINGH)
JUDGE

August 12, 2015
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