

IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

CRM No.A-664 MA of 2014(O&M)

Date of decision: 08.01.2015

Ramchander

.....Applicant

versus

Nathu Ram and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ashok Kumar Jindal, Advocae for
Mr.Sanjay Mittal, Advocate for the applicant

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

The applicant has filed an application under Section 5 of the Limitation Act for condoning delay of 40 days. He has also filed an application for grant of leave to appeal under Section 378(4) Cr.P.C.

I have gone through the original judgment. It comes out that Ramchander complainant claimed that on 7.11.2002 accused who are his neighbours, climbed the roof of his newly constructed house and started breaking the roof, on account of which, three girders broken. It also comes out that complaint was sent to the police station under Section 156(3) Cr.P.C. However, the police submitted the cancellation report, saying that the allegations are not proved. Thereafter, the complainant raised objection to the report and led evidence. After summoning of the accused and recording the pre-charge evidence, the complaint was dismissed and the accused were discharged vide order dated 30.11.2012. However, the said order was set aside in revision

vide order dated 19.11.2013. A perusal of the said judgment shows that Ramchander complainant has admitted that he was not present at the time of occurrence and he came only on the next day. This is contrary to the facts stated by him in the complaint that he was present when the occurrence took place. He claimed that his mother had narrated him about the occurrence. His mother was not examined in the Court at all. Whereas Rajehswari wife of the complainant had claimed that one stone injury was received by her husband Ramchander complainant due to which his nail was bleeding. However, she also admitted that her husband came on the next day. Thereafter, left is the statement of one Bir Singh niece of the complainant regarding the occurrence.

I am of the view that since the case put forward by the complainant and his wife was not believed and the material witness i.e. mother of the complainant was not examined and even during investigation police found the allegations levelled in the complaint to be false, the learned Judicial Magistrate 1st Class, Magistrate Mahendergarh was justified in granting benefit of doubt to the accused and acquitting them of the charges framed against them.

It being so, there is no ground to grant leave to appeal. Consequently, the application for condonation of delay in filing the appeal as well as application under Section 378(4) Cr.P.C. are dismissed.

08.01.2015*gk***(Kuldip Singh)
Judge**