

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-902-MA of 2014(O&M)

Date of Decision : 15.05.2015

Ajit Kumar Sharma

....Applicant

Versus

Kewal Kumar Gupta and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. Vikram Bali, Advocate for the applicant

Mr. Ashok Saini, Advocate for the respondent

MAHESH GROVER, J.

CRM no. 18392 of 2014

Learned counsel for the non-applicant/respondent states that he has no objection if the application for condonation of delay of 1729 days in filing the petition is allowed.

In view of above, application stands allowed and the delay in filing the appeal is condoned.

Main case

The applicant impugns the order dated 5.9.2009 by which the respondents were acquitted of the charges framed against them. The applicant had filed a complaint against the present respondents under Sections 392, 352, 342, 506, 452, 447, 34 IPC alleging that when he was in his shop at about 11:30 A.M to 12:00 noon he was assaulted by respondent no.1 and other persons accompanying him.

The Court noticed that there was no independent witness produced by the applicant and his whole story sounded improbable as the

applicant did not report the matter instantly to the police but rather chose to send telegram to different authorities where he did not mention the names of accused and the fact of snatching by them. The Court also noticed that only one name in this telegram was mentioned i.e respondent no.1 namely Kewal Kumar Gupta. Cumulatively the Court observed that there was no reliable evidence to convict the respondents.

On due consideration of the matter and upon perusal of the impugned judgment, I am of the view that no perversity can be found in the impugned judgment to warrant interference. The Court was right in observing that when the incident had taken place in broad day light there ought to have been some eye witness to the incident but applicant produced only witnesses in the shape of his own employees. There was no independent witness. There was no medical conducted upon the applicant. Besides in the first version that applicant gives out is sending telegram after 30 to 40 minutes of the alleged occurrence mentioning the name of only one person i.e. Kewal Kumar Gupta without mentioning the name of any other person or the fact of any injury or cash being taken away from the shop.

Apart from this, there is no material which can connect the accused with the commission of the offence. In criminal jurisprudence there has to be quality evidence to warrant conviction of an accused. Finding none of them to be present, instant petition is held to be without any merit and therefore, does not warrant any interference. Hence, dismissed.

May 15, 2015
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(Mahesh Grover)
Judge