

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-A-941-MA of 2014 (O&M)

Date of decision: 27.08.2015

Bhura Singh

...Applicant

Versus

Gurjeet Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. L.S. Sandhu, Advocate for the applicant.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed the order dated 05.05.2014, passed by the Sub Divisional Judicial Magistrate, Dabwali, dismissing the complaint and acquitting the accused therein of the charge framed against them under Sections 379, 323 of the Indian Penal Code (for short 'IPC').

Learned counsel for the applicant contends that learned trial Court dismissed the complaint of the applicant without appreciating the fact that the applicant had received injuries at the hands of respondents while he was on the way near Bus Stand Dabwali. The respondents were armed with lathi and hockey at the

time of alleged incident and gave injuries to the applicant and snatched Rs.50,000/- from him. He further contends that the applicant had moved an application to the SHO concerned regarding the incident on the same day. The applicant had duly corroborated the incident in pre-charge evidence before the trial Court. However, the trial Court has not taken into consideration the factual aspect of the matter.

Heard.

The learned Judicial Magistrate has recorded that a lot of doubt exists in the mind of the Court regarding the alleged incident and regarding the genuineness of the version of the applicant. In his complaint, the applicant had alleged that the respondents had given injuries to him, however, there is nothing on record to show that he had actually received injuries. No MLR or any other document was produced before the trial Court. Moreover, as per version of the applicant, he was near Bus Stand Dabwali at the time of alleged incident, however, no eye witness has been produced to substantiate the allegations levelled by him in his complaint. In the absence of any document, it is highly improbable that the applicant had actually received injuries at the hands of the respondents.

In the circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning

assigned by the trial Court for acquitting the accused/respondents. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the leave to appeal stands declined.

Dismissed.

27.08.2015

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(JITENDRA CHAUHAN)
JUDGE