

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

CRM-A-796-MA of 2013 (O&M)

Date of decision: 01.12.2016

Bajrang

...Applicant

Versus

Jai Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanchit Punia, Advocate for the applicant.

Mr. S.L. Barwala, Advocate
for respondent Nos. 1 to 5.

Jitendra Chauhan, J. (Oral)

CRM-41164-2013

Keeping in view the averments made in the application, the same is allowed. The delay of 44 days in filing the present leave to appeal is hereby condoned.

Main Case

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed judgment dated 15.04.2013, passed by Additional Chief Judicial Magistrate, Hisar, dismissing the complaint and acquitting the accused/respondent Nos. 1 to 5 herein of the charges framed against them under Sections 323, 325 and 506 read with Section 34 of the

Indian Penal Code (for short 'IPC').

It is contended that the learned trial Court erred in dismissing the complaint without appreciating the fact that the applicants had fully proved their case beyond reasonable doubt by leading cogent and convincing evidence including the medical evidence. The learned Court has wrongly laid emphasis on the testimony of defence witness and further to appreciate the medical evidence on record.

On the other hand, the learned counsel for the respondent Nos. 1 to 5 submits that the learned trial Court has rightly dismissed the complaint of the applicant.

Heard the learned counsel for the parties and perused the record carefully.

The applicant has alleged that on 24.12.2006 at about 5.30/6.00 p.m., he along with Surender was sitting at the shop of his brother Ashok and in the meantime, respondents No.1 to 5 along with other 15/20 persons with muffled faces having bricks, lathis etc. in their hands started hurling abuses to the applicant and gave beatings to him. The applicant was admitted by his brother in-law in Civil Hospital. The matter was reported to the police. As per the version of the applicant, the said occurrence was witnessed by one Sunil, neighbour of the applicant. After registration of the FIR, the matter was investigated and the allegations were found to be false. The argument

of learned counsel for the applicant that the learned trial Court has laid much emphasis on the testimony of defence witness is repelled as there were material contradictions in the first version given in the FIR and in the complaint. In the FIR, there is no mention regarding 15/20 persons with muffled faces giving abuses to the applicant, whereas in the complaint there is mention of 15/20 persons and respondent No.6 has also been arrayed as accused. One Sunil was shown to be the eye witness in the FIR version and in the complainant Surender Kumar was stated to be sitting with the applicant in the shop of his brother. The injuries suffered by the applicant were also not proved on record by virtue of medical evidence. In the absence of any convincing material or evidence on record, it is highly improbable that the applicant had actually received injuries at the hands of the respondent Nos. 1 to 5. The version of FIR and complaint itself belies the story of the applicant.

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 special leave to appeal stands declined.

Dismissed.

01.12.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No