

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

**CRM-A-1031-MA of 2014 (O & M)
Date of Decision:-19.12.2016**

Tarsem Singh

...Applicant

Versus

Mohan Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Deepak Aggarwal, Amicus Curiae
for the applicant.

Mr. Arnav Sood, Advocate
for respondents No.1 to 3.

Mr. Gurinderjit Singh, Deputy A.G., Punjab.

HARI PAL VERMA J.(Oral)

This application has been moved under [Section 378\(4\)](#) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 24.3.2014 passed by the Court of learned Sessions Judge, Hoshiarpur.

I have heard learned counsel for the applicant-appellant, besides perusing the record with due care and circumspection.

Leave granted.

Briefly stated the applicant/complainant Tarsem Singh has filed a complaint under Sections 323, 324, 341, 34, 506 IPC against the

respondents/accused alleging therein that on 6.1.2006 the applicant alongwith Rachhpal Singh alias Pallu were engaged by Sarabjit Singh alias Shabu son of Lachhman Singh resident of Village Kamalpur, on daily wage basis so as to spray fertilizer in the standing crop in the land of Jagdish Singh of village Kamalpur. The said land was under cultivation of Sarabjit Singh. Jagdish Singh was the real brother of accused Sital Singh and both were having inimical relations with each other. At about 2 PM accused Sital Singh and Mohan Singh armed with *datar*, whereas accused Karnail Singh and Jarnail Singh were empty handed, reached on the spot travelling through car. Accused Karnail Singh raised a lalkara for stopping the complainant and his co-labourers from spraying fertilizers in the crop. Complainant along with Rachhpal Singh requested them to settle the dispute with owner Jagdish Singh as they were just engaged as labourers for doing the job for earning their livelihood. However, accused Mohan Singh gave *datar* blow near left eye of Rachhpal Singh. When complainant attempted to save Rachhpal Singh, then accused Sital Singh gave blow on the head of complainant but in order to save himself, the complainant placed his hand over his head, due to which complainant sustained injury on his hand. Thereafter, Jarnail Singh and Karnail Singh accused picked up irregularly shaped wood sticks for inflicting blow on the back side of complainant. Meanwhile, Sarabjit Singh reached on the spot and saved the complainant as well as Rachhpal Singh from the accused persons. Accused ran away with their weapons. Thereafter, complainant and Rachhpal Singh were shifted to Civil Hospital, Tanda where they were medically examined.

The police inquired about the facts. The police registered a case i.e. FIR No.5 dated 6.1.2006 at Police Station Tanda against the complainant and others. Since the accused were politically influential and had monetary power, the police presented the challan in the FIR. However, when the complainant came to know about the submission of challan against them and that no action was taken on their complaint, they filed the complaint.

In the said complaint, on the basis of preliminary evidence and finding prima facie case, the accused were summoned for commission of offence punishable under Sections 323, 324 IPC vide order dated 20.9.2010 by learned Sub Divisional Judicial Magistrate, Dasuya. Since FIR No.5 dated 7.1.2006, under Sections 308, 341, 325, 323, 506 read with Section 34 IPC was already committed to the Sessions Court and pending before the Additional Sessions Judge, Hoshiarpur, the present complaint was also committed to the Sessions Court for trying the same along with the Sessions case No.36/2008 titled as 'State versus Sarabjit Singh etc.'.

The Trial Court framed the charges qua commission of offence under Sections 324, 323, 34 IPC vide order dated 8.7.2013 in which all the accused pleaded not guilty and claimed trial. Learned Sessions Judge vide his order dated 24.3.2014 acquitted the accused of the charges by extending them benefit of doubt.

Learned counsel for the applicant has argued that the impugned judgment acquitting the respondents/accused is against the law and the trial Court has failed to appreciate that there was a cross-version case in which both the parties received injuries. The learned trial Court only convicted

the applicant and other co-accused vide separate judgment dated 24.3.2014 whereas the respondents-accused were acquitted vide separate judgment of even date. The applicant and his co-injured were examined by the doctor and medical evidence was proved before the trial Court but still the respondents/accused have been acquitted. The injured witnesses have supported the case of the applicant, therefore, the respondents/accused were liable to be convicted.

I have heard learned counsel for the applicant.

The judgment passed by learned Sessions Judge, Hoshiarpur shows that the applicant had filed the complaint after an unexplained delay of 1 ½ years of the day of occurrence. As per the statements of PW2 and PW3, the occurrence had taken place on 6.1.2006 at about 2 PM whereas the complaint was filed on 4.8.2007. Thus, this Court finds that there is no plausible explanation for delay in lodging the complaint before the Magistrate and also does not find any illegality in the order passed by the Court below. The respondents/accused have rightly been acquitted by the trial Court.

Finding no merit in the present appeal, the same is hereby dismissed.

December 19, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No