

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.23660 of 2015 and
CRM-A-1217-MA-2015
DATE OF DECISION: May 18,2016

Dilbagh Singh

...Applicant

Versus

Harpal Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Sandeep Arora, Advocate for the applicant.

RAMENDRA JAIN, J.

CRM No.23660 of 2015

Sufficient cause has been shown to condone the delay in filing the accompanying application for leave to appeal.

Accordingly, the application is allowed. The delay of 420 days in applying for leave to appeal is condoned.

CRM-A-1217-MA-2015

The instant application under Section 378(4) CrPC has been filed by complainant Dilbagh, seeking leave to file the accompanying appeal against acquittal of the respondent, vide impugned judgment dated 10.3.2014 passed by the learned Judicial Magistrate Ist Class, Gurdaspur.

In his private complaint, according to the

applicant, around 8.30 a.m., on 26.1.2007, Jatinder Singh and Manjinder Singh both armed with kirpans, respondent-Harpal Singh and Ram Singh, having yellow flags in their hands came on the vacant plot of Kamaljit and Malkiat Singh, who stopped them from putting flags in their plot. Even Sucha Singh, Lambardar also stopped them from doing so. Jatinder Singh started abusing them. Harpal Singh gave a lalkara to kill them, Manjinder Singh had given a kirpan blow on the back side of head of Sucha Singh. When Malkiat Singh went ahead to rescue him, Ram Singh caught hold of him. Jatinder Singh again gave a kirpan blow on the left hand of Malkiat Singh. Respondent Harpal Singh and Ram Singh also gave fist blows to him. On raising hue and cry, the respondent and his accomplices with weapons ran away from the spot. Malkiat Singh and Sucha Singh were admitted to Civil Hospital, Gurdaspur. The matter was reported to the police. However, the police did not take any action.

The preliminary evidence was led. The respondent along with his accomplices, namely, Jatinder Singh @ Sonu, Manjinder Singh @ Shinda and Ram Singh was summoned under Sections 326,324 and 34 IPC.

During trial, Ram Singh died, therefore, proceedings against him were abated. The presence of

Majinder Singh and Jatinder Singh could not be secured. Hence, they were declared proclaimed offenders. After considering the pre-charge evidence, the charges under Sections 326,324 and 34 IPC were framed against the respondent.

The applicant examined as many as two witnesses in after-charge evidence.

After hearing learned counsel for both the parties, the trial Court acquitted the respondent of the above charges vide impugned judgment dated 10.3.2014.

Learned counsel for the applicant submitted that the impugned judgment is based on surmises and conjectures. The trial Court has erroneously acquitted the respondent despite no contradiction between medical evidence and the ocular version.

After giving our thoughtful consideration to the arguments advanced by learned counsel for the applicant, we find no merit in the instant application for the reasons to follow.

Applicant Dilbagh as PW1 ascribed a lalkara to respondent Harpal Singh while testifying that he did not cause any injury to him. According to his own admission, an FIR No.12 dated 26.1.2007 under Sections 324,326 IPC was registered against Malkiat Singh and Kamaljit Singh qua the

same incident in which they were convicted by the trial Court vide judgment dated 1.2.2013 for causing injuries to Ram Singh and Harpal Singh. The above fact is sufficient to show that the present complaint was a counter blast to the aforesaid FIR No.12 dated 26.1.2007 in order to settle the score with the respondent party.

According to medical evidence in the shape of MLRs Ex.CW4/A and Ex.CW4/B, injured Sucha Singh and Malkiat Singh were hospitalized by Kamaljit Singh, contrary to the stand of applicant that injured Malkiat Singh was got admitted by him. The above discrepancy clearly belie the deposition of the applicant, more particularly when it has come in evidence that there was party faction between the applicant and the respondent. More so, there was an inordinate and unexplained delay of more than nine months in filing the complaint.

In view of the aforesaid discussion, having no merit, this application is dismissed and the leave to appeal is declined.

T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

May 18,2016
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