

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

CRM-A-1325-MA of 2015 (O & M)

Date of decision : 20.5.2016

Baljeet Singh Dhabda

.....Applicant

v.

State of Punjab and others

.....Respondents

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

Present : Mr. R.P. Dhir, Advocate
for the applicant

RAMENDRA JAIN, J.

CRM No. 24366 of 2015 :

Heard. Sufficient cause has been shown for condonation of delay in applying for leave to appeal. The application is, therefore, accepted. The delay of 144 days in applying for leave to appeal is condoned.

CRM-A-1325-MA of 2015 :

On a private complaint, respondents No. 2 to 4 (the private respondents) were booked and tried under Sections 307, 506 and 120B IPC by the Additional Sessions Judge, Ludhiana.

For brevity, in the evening of 9.1.2004 complainant Baljeet Singh went to Village Baddowal to meet his wife Poonam Preet Kaur - respondent No.4 and requested her parents (respondents No.2 and 3) to send her to her matrimonial home alongwith their children. However, the private respondents started abusing the complainant and upon his asking to not to use

unparliamentary language, respondent No.2 -Gurwant Singh in anger, all of a sudden took out a revolver and fired a shot, which hit the chest of the complainant. The complainant was taken to DMC, Ludhaina, where he was medico legally examined and remained admitted upto 26.1.2004. Though the police had recorded the statement of the complainant, but did not take any action against the private respondents being under their undue influence. Thereafter, after more than five years on 23.2.2009 the complainant had gone to Ludhiana and after consulting his counsel there in a case pending before the JMIC, Ludhiana, when he reached on GT Road near military camp, Dholewal, the private respondents attacked him. Respondent No.2 by putting his revolver on the head of the complainant exhorted that he would not be able to escape from their hands. Respondents No. 3 and 4 caught hold the complainant and threw him on the road. This second occurrence was also reported to the police, but it did not take any action.

After recording preliminary evidence, the private respondents were summoned. On commitment of the case to the Court of Sessions, they were charge sheeted as narrated above in the opening part of this judgment.

The complainant examined himself as PW1 followed by Daljit Kaur PW2, Jasnoor Singh Dhadda PW3 and Dr. Sanjeev Kumar PW4.

On appraisal of evidence, the trial Court did not find itself convinced with the complainant's case and thus, acquitted the private respondents vide impugned judgment dated 22.12.2014.

Being aggrieved, the complainant has filed the instant application under Section 378 (4) Cr.P.C. seeking leave to file the accompanying appeal for conviction of the private respondents.

Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. The trial Court has failed to appreciate that respondent No.2 in his statement under Section 313 Cr.P.C. had admitted that the applicant had suffered injuries on account of mis-handling of his licenced revolver and was admitted in the hospital by her father in law which amounts to admission of the occurrence by the private respondents. Hence, their acquittal has wrongly been recorded by the court below. The deposition of PW3 minor Jasnoor Singh has wrongly been ignored by the trial Court on the ground that at the time of occurrence since he was four years old, thus, was not a competent witness. The trial Court has failed to appreciate that taking advantage of the admission of the applicant in injured condition in the hospital, respondent No.2 got manipulated the medical record. It has also failed to appreciate that the injury suffered by the applicant was dangerous to life in the ordinary course of nature/.

We have given our thoughtful consideration to the above submissions and find the present appeal completely devoid of any merit for the reasons to follow.

- (i) The initial occurrence took place on 9.1.2004 but, the applicant remained silent for about five years till the alleged second incident took place with him on 23.2.2009. According to him, though his statement was recorded by the police at the time of first incident, but under undue influence of the private respondents, it did not register any case against them. However, his above story is not believable, because had it been so, the applicant was well competent to file a complaint in the Court of competent jurisdiction

like the present one for the second occurrence. Since the first occurrence has been agitated belatedly by the applicant, therefore, the same is liable to be ignored in toto, more particularly, being uncorroborated by any evidence what to talk of any cogent and convincing. More so, there is also no explanation that why he did not lodge any protest to the higher police authorities against the police officials, who allegedly did not take any action against the private respondents, despite recording his statement in the hospital. His silence for five years in itself is sufficient to dislodge his grouse for the initial occurrence allegedly held on 9.1.2004.

(iii) DDR No.20 dated 10.1.2001 recorded on the next day of the first occurrence has demolished the entire case of the applicant. According to it, when the applicant was inspecting the revolver of his father in law, all of a sudden a shot fired from it and the bullet hit his stomach. There was no fault of respondent No.2 or his family members, because it was merely an accident.

(iv) The second occurrence allegedly took place on 23.2.2009. According to the applicant his statement was also recorded by the police in this respect, but he did not make any effort to bring the same on record, while adducing his evidence, rather as PW1 he admitted that he did not make any effort to lodge any FIR for the first incident and even did not report the second occurrence of 23.2.2009 to the police.

(v) The testimony of mother of the applicant namely Daljit Kaur CW2 relates to insignificant aspect of the case, because she has

simply testified that on 2.8.2004 her son had gone to meet his in-laws and children. She has admitted that she had not seen the alleged occurrence.

(vi) The Court below has rightly ignored the testimony of Jasnoor Singh PW3 qua initial occurrence of 9.1.2004, because at that time, he was only 3-4 years old and thus, was not able to remember the same for about six years.

(vii) The applicant did not lead any evidence that the alleged bullet injury received by him was in fact fired from the revolver/pistol of respondent No.2. Even the said pistol or revolver was not taken into possession.

(viii) The finding of the trial Court that the instant complaint was filed by the applicant with an ulterior motive to put pressure upon the private respondents to compromise the case under Guardian and Wards Act filed by them against him for appointment of guardian of minor Jasnoor Singh which was decided vide judgment dated 24.1.2012 is quite justified.

(ix) Undisputedly, injury report Ex.PW4/A and discharge summary Ex.CW4/D got proved by the applicant through Dr. Sanjeev Kumar by which injury on the person of the applicant was declared dangerous to life is of no consequence in view of the admission of the doctor that the applicant was brought by his father in law-respondent No.3 which corroborates the contents of DDR No.20 dated 20.1.2004 recorded by the applicant himself. Even otherwise, the aforesaid report and discharge summary have rightly been

ignored by the trial Court in view of the admission of above doctor that the same was not signed by him. This witness has also conceded that he had not brought the sheet in which history of the applicant was recorded that how he sustained injuries as the same was not available in the hospital being destroyed. In view of above factual position, the testimony of above doctor has no evidentiary value.

Even otherwise, the testimony of the applicant is full of improvements and contradictions. The depositions of remaining witnesses are of no avail, because PW2 was not eye witness of occurrence and PW3 seems to be tutored one being under the custody of the applicant.

Learned counsel for the applicant has miserably failed to put any dent in any of the findings of the Court below. We have also gone through the impugned judgment and found no illegality or perversity in the same.

Accordingly, the application being completely devoid of any merit, is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

20.5.2016
Ashwani