

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.24370 of 2015  
and  
Criminal Misc. No.A-1327-MA of 2015

.....

Date of decision:4.3.2016

Jagtar Singh

...Applicant

v.

Arjan Dass and others

...Respondents

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

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Present: Mr. Inderjit Sharma, Advocate for the applicant.

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**Inderjit Singh, J.**

Cr. Misc. No.24370 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 23 days in filing the criminal miscellaneous application for grant of leave to file appeal is allowed.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-1327-MA of 2015:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Arjan Dass etc.- respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 9.3.2015 passed by learned Judicial Magistrate Ist Class, Jalalabad (W), whereby the complaint filed by the complainant/ applicant for the offences under Sections 452, 323, 506, 148 and 149 IPC

has been dismissed and the accused/respondents have been acquitted.

It has been mainly submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It has been further stated that the learned Judicial Magistrate Ist Class, Jalalabad (W), has not taken into consideration that the complainant has examined four other witnesses, who had fully supported the case of the prosecution, as such the accused should have been convicted. It has been prayed that the application may be allowed and in the interest of justice leave to file appeal may be granted against the judgment of acquittal.

I have heard learned counsel for the applicant and have gone through the record.

From the record, I find that complainant-Jagtar Singh filed complaint against Arjan Dass, Rajiv Kumar, Mithu Singh, Rajinder Kumar and Paramjit Singh-accused/respondents for the offences under Sections 452, 323, 506, 148 and 149 IPC. As per the complainant's version on 27.6.2011, a car stopped behind the house of the complainant and the accused stepped out from this car and illegally and forcibly entered into the house of the complainant. At that time, the son of the complainant, namely, Gurdeep Singh and his wife were also present at home. The accused asked that he is to face the consequences for giving evidence in the case of Gurcharan Singh. Then Arjan Dass caught hold the complainant and started abusing. Then Arjan Dass caught him from the collar and started giving slaps and then dragged him after catching him from the hair. Rajiv

Kumar also caught hold his arms. When Gurcharan Singh tried to rescue the complainant, then accused Rajinder Kumar and Paramjit Singh alias Pamma caught him and gave fist blows and also abused. The occurrence was seen by Swaran Singh as well as Iqbal Singh. It is also stated that the accused Mithu Singh had taken away the golden chain which complainant's son was wearing.

The learned Judicial Magistrate Ist Class, Jalalabad (W), vide judgment dated 9.3.2015 acquitted the accused. A perusal of the judgment passed by the learned Judicial Magistrate Ist Class, Jalalabad (W), shows that the findings have been given as per evidence. In no way, these findings can be held as perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered. The complainant alleged that the accused had given slaps to him and he has been dragged and also fist blows have been given to his son Gurcharan Singh, but neither they have been medico-legally examined nor there is any corroboration by medical evidence. Secondly, it is admitted fact that there is matrimonial dispute between the daughter of Arjan Dass and Gurcharan Singh etc. and the present complainant was a witness on behalf of Gurcharan Singh. He admitted that he was to appear in the Court after two-three days, but the accused did not want that he should depose in favour of the above said Gurcharan Singh, but he has not mentioned about this occurrence in the Court at the time of evidence. The Court below also held that CW-2 Swaran Singh, who has categorically deposed that neither any

injury was caused on the person of the complainant nor did he try to get the complainant to hospital or Police Station. The Court below further held that there is no independent corroboration in this case. Further more, the Court below held that the statements are full of material contradictions. Motive is also there to implicate the accused. Otherwise also, it looks improbable that five persons in a car will forcibly commit criminal trespass and will not cause any serious injury to the complainant or other family members and they will come back only after giving abuses etc. Further more, there is delay of 22 days in filing the complaint. Even the matter was reported to the Police after about five days.

The trial Court in view of these facts held that a reasonable doubt exists in the complainant's version. The findings have been given by the Court below after appreciating the evidence in right perspective. These findings are correct as per evidence and law which do not require any interference from this Court. The findings cannot be held as perverse.

Therefore, I do not find any ground to grant leave to file appeal. Hence, finding no merit, the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal is dismissed.

March 4, 2016.

**(Inderjit Singh)**  
**Judge**

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