

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.26416 of 2014
and
Criminal Misc. No.A-1353-MA of 2014

.....

Date of decision:29.2.2016

Satya Narain

...Applicant

v.

Vinod Kumar and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. S.K. Yadav, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.26416 of 2014:

For the reasons mentioned in the criminal miscellaneous application, the delay of 288 days in filing the application for grant of leave to file appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-1353-MA of 2014:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Vinod Kumar etc.-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 5.9.2013 passed by learned Additional Chief Judicial Magistrate, Narnaul, whereby the complaint filed by the

complainant/applicant for the offences under Sections 452, 323, 506 read with Section 34 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 Additional Chief Judicial Magistrate, Narnaul, has wrongly and illegally acquitted the respondents-accused No.1 to 3 from the charges under Sections 323, 452, 506 read with Section 34 IPC. 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-Satya Narain filed complaint against Vinod Kumar, Jitender and Vicky alias Vivek-accused/respondents for the offences under Sections 323, 452, 506 read with Section 34 IPC. The brief facts of the complaint as given by the learned Additional Chief Judicial Magistrate, Narnaul, are as under:-

“Brief facts of the case of the complainant are that complainant has brought this complaint against accused under sections 452/323/506 of IPC read with section 34 of IPC pleading therein that complainant is resident of village Begpur police station Ateli, Tehsil Narnaul Distt. Mahendergarh. On 3.2.2006

at about 7/7.30 AM the complainant was working in his small scale industry at his residence and his nephew Devender son of Babu Lal was ironing the clothes, accused Vinod Kumar, Jitender and Vicky @ Vivek in furtherance of their common intention to cause hurt to Devender, committed house trespass and raised alarm that they would kill him. They were armed with lathis. They started giving beatings to Devender and Devender received several industries (sic. - injuries). When he (complainant) tried to intervene to rescue Devender, accused Vicky alias Vivek gave lathi blow in the head of complainant. Accused Vinod also gave a lathi blow on leg of complainant. Accused Jitender gave a lathi blow on the head of complainant. On hearing noise raised by the complainant and Devender, Bir Singh son of Daulat Ram reached at the spot and rescued them from the clutches of accused. While leaving the spot, accused extended threat that they would kill him in future. The matter was reported to police but no action was taken by the police and rather signature of complainant and Devender were obtained by the police on 2/3 blank papers and DDR No.10 dated 4.2.2006 regarding compromise was registered which is illegal against facts and based on fraud and misrepresentation. Hence, this complaint.”

After going through the evidence on record, the learned Additional Chief Judicial Magistrate, Narnaul, vide impugned judgment dated 5.9.2013

acquitted the accused. A perusal of the judgment shows that the findings given by the Court below are correct as per evidence and law. In no way, these findings can be held as perverse or against the evidence. Nothing has been pointed out at the time of arguments as to which material evidence has been misread by the Court below and which material evidence has not been considered by the Court below. The accused have produced defence evidence and have brought the MLR of accused Vivek, which is Ex.DA, MLR of Vinod which is Ex.DB, DDR No.10 dated 4.2.2006 which is Ex.DC and DDR No.14 dated 3.2.2006 which is Ex.DD. A perusal of the record shows that the accused had also suffered injuries in the occurrence, but these injuries have not been explained by the complainant. It looks that the complainant had concealed the genesis of the occurrence. Non-explaining the injuries on the person of the accused creates a reasonable doubt in the prosecution version. Further more, as per the DDR the accused had also got registered DDR as per their version. As per the other DDR, a compromise was effected between the parties on 4.2.2006, but PW-3 Devender had stated that the Police obtained their signatures on the blank papers and stated that they would initiate proceedings. PW-4 Satya Narain had not stated about taking signatures on blank papers. The Court also held that the occurrence took place on 3.2.2006. DDR was recorded on 3.2.2006. DDR Ex.DD in respect of compromise also was recorded on 4.2.2006 and the complaint was filed by the complainant on 16.2.2006. The Court below found the witnesses not believable. Further more, PW-3 Devender had stated in cross-examination that his statement was recorded in the hospital

by the Police, but that statement is not on the Court file. The Court further held that MLR Ex.DA of Vinod shows four injuries and perusal of MLR Ex.DB of Vivek shows four injuries. The Court below held that in this case both the parties have sustained injuries. The learned Additional Chief Judicial Magistrate, Narnaul, after discussing the evidence on record in minute detail and after giving the benefit of doubt acquitted the accused/respondents. The impugned judgment passed by the learned Additional Chief Judicial Magistrate, Narnaul, is correct as per law and does not require any interference from this Court.

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

February 29, 2016.

(Inderjit Singh)
Judge

hsp