

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

CRM No.A-719-MA of 2016 (O&M)

Date of decision: October 20, 2016

Prabhjot Kaur @ Veerpal Kaur

...Applicant

Versus

Inderjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Deepak Aggarwal, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Prabhjot Kaur @ Veerpal Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Inderjit Singh and other respondents, challenging the impugned judgment dated 14.01.2016 passed by learned Judicial Magistrate Ist Class, Phul, vide which the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Prabhjot Kaur @ Veerpal Kaur filed a complaint against Inderjit Singh and other 11 accused under Sections 323, 324, 325, 307, 342, 354, 409, 420, 427, 457, 380, 506, 192, 193, 465, 466, 467, 468, 471, 120-B IPC and under Sections 25 and 27 of

the Arms Act. The brief facts of the case as noted down in the judgment

dated 14.01.2016 passed by learned JMIC, Phul are as under:-

“Complainant Prabhjot Kaur @ Veerpal Kaur approached the court with the assertions that the complainant is aged about 40 years and is law abiding citizen. Complainant is illiterate lady and was married to Chamkaur Singh. The complainant and Chamkaur Singh are residing at village Burj Ladha where they have constructed their own house in the fields and are residing with their family. Chamkaur Singh is working as a Granthi in Dera Romiwala, District Bathinda. After death of Sandhura Singh, father-in-law of the complainant, land comprised in khata No.21/51 and 22/52 bearing khasra No.897(13-10), 898 (11-2), 899(8-18) situated in the village Buraj Ladha Singh Wala, was inherited by Surjit Kaur, Chamkaur Singh, Sukhdev Singh, Sukhraj Singh, Jasvir Kaur, Shinder Kaur in equal share. The land is joint but under exclusive possession of the complainant from the last 15-16 years. Since then, complainant and her husband are cultivating the land without any interference and have constructed their house in the same by spending money from their own pocket. Sukhtej Singh, Sukhdev Singh and Jasmail Kaur have left their share in the property to the husband of the complainant under the oral settlement and Sukhdev Singh obtained Rs.80,000/- from the complainant for going abroad and Jasmail Kaur obtained Rs.1 lac for marriage of his son from the husband of the complainant. Sukhtej Singh has kept the ancestral house in the village in lieu of his share in the land. Accused Sukhdev Singh, Sukhtej Singh and Jasmail Kaur have resiled from executing the sale deed in favour of the husband of the complainant even after agreeing to do the same. Since then the complainant and her husband are in possession of the property as owner. The accused in order to commit fraud with the complainant and her husband executed a registered sale deed dated 27.09.2010 in favour of Inderjit Singh and Sukhdeep Singh regarding their share in the property and mutation of undivided share in the property was sanctioned in their favour by SDM Phul on 19.11.2010. When the complainant alongwith her husband came to the office of SDM Phul on 19.11.2010, then the above said accused hatched the conspiracy and attacked the house of the complainant armed with rifle, pistol, gandasa, sticks and sword. The time of occurrence was about 2.00 PM. At that time son of the complainant and his brother Pargat Singh were alone in the house and the above said accused with intention to kill them fired several shots but son of the complainant and her brother hide themselves in the fields. The accused broke the door of the house and demolished the wall and also damaged the wheat crop by ploughing the land with the help of cultivator attached with the tractor. Complainant told everything to SHO Daljit Singh, Bhagta Bhaika. The accused without getting the property partitioned wants to take possession of prime portion of the property. Accused Daljit

Singh told the complainant that mutation was sanctioned in favour of the accused and he cannot do anything. The complainant approached the SSP Bathinda, DSP and SDM Rampura Phul and moved complaint with them but no action was taken. Then on 22.11.10 accused in connivance with the SHO again forcibly entered in side the house of the complainant and started beating her. Accused tied the complainant in her house and started giving water to the crop and damaging the crop in the other field with the help of spade. Brother of the complainant came at the spot and informed about the same to SSP Bathinda at his orders Daljit Singh SHO came at the spot with police party at 6.00 PM and saved the complainant from the accused and also assured her that he will do the needful against the accused. He also obtained signature of the complainant on three documents and stated that he will keep the same in his record and record of SSP, Bathinda and DSP Phul. He also called the complainant to the police station at 9.00 a.m. On the next day, the complainant reached the police station at 9.00 A.M where SHO Daljit Singh told her that she has entered into a compromise yesterday and also told her that he has obtained signature of the complainant on the compromise by his representation as she had not agreed for the same. SHO Daljit Singh also told her that if she took any action against the accused then he will falsely implicate her in other case and put her in the lock-up. Then the complainant was turned out from the police station and no action was taken against the accused. Hence, the present complaint.”

On the basis of pre-charge evidence, charges were framed under Sections 148, 452, 427, 379, 342, 323, 156 IPC read with Section 149 IPC, to which the accused pleaded not guilty and claimed trial.

In defence, accused tendered certified copy of judgment dated 18.02.2015 Ex.D1 and decree sheet Ex.D2 and closed the defence evidence.

Learned Magistrate, after going through the evidence and after hearing learned counsel for the parties, acquitted the accused-respondents vide judgment dated 14.01.2016.

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

From the perusal of the record, especially the impugned

judgment, I find that the findings have been given by learned JMIC, Phul, while appreciating the evidence in right perspective. In no way, the findings can be held as perverse. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below.

It is in the cross-examination of the complainant that she identifies her signature on the complaint dated 23.11.2010 and she also got recorded her statement in the court on 19.07.2011 and she also identifies her signature on the statement dated 19.07.2011. She also stated that she had written in her complaint that ₹1 lakh was given to Jasmail Kaur as Nanak Shak, but the attention of complainant was drawn towards the complaint, where it so was not written. Further during cross-examination she deposed that Jasmail Kaur, Sukhdev Singh, Sukhtej Singh in connivance with Inderjit Singh @ Bitu, Sukhjit Singh @ Sukhi, Teja Singh, Gurjant Singh, Binder Singh, Nirmal Singh, Bikkar Singh Nambardar, Balvir Singh, Titra have got prepared sale deed dated 27.09.2010 but the attention of the witness was drawn towards the complaint, where it was not so written. She further deposed in the cross-examination that when she and her husband reached to their house, then accused armed with weapons like rifle, kirpan along with 50-60 unidentified persons were present there, but the attention of the complainant was drawn towards her complaint dated 23.11.2010 and her statement dated 19.07.2011, where it was not so written. During cross-examination, the complainant further deposed that she also got recorded in

house was also demolished with the tractor and they also fired shot with rifle, but the attention of witness was drawn towards her complaint dated 23.11.2010 and her statement dated 19.07.2011, where it was not so written.

The Court after discussing the cross-examination of the complainant and the discrepancies in the statement, found that a reasonable doubt exists in the prosecution version. Moreover, the complainant in cross-examination denied for want of knowledge that in khewat No.21, 22 accused Teja Singh, Gurmail Singh, Gurdev Singh and Jasvir Singh are also co-sharer alongwith the complainant. She has further admitted the fact that no partition of the joint property has ever taken place between the co-sharers.

The accused have placed on record the judgment dated 18.02.2015 passed by learned Civil Judge (Junior Division), Phul. The husband of complainant namely Chamkaur Singh had filed the said suit, in which it has been held that the suit property is joint property and no partition of the joint property has taken place between the co-sharer.

The court below further held that complainant also failed to prove that 15 trees existed on the land qua which she is alleging theft.

The findings have been given by learned JMIC, Phul, after appreciating the evidence in right perspective. The version of the complainant is improbable and not believable and reasonable doubt exists in view of the statement of the complainant and version while appearing in the Court.

In view of the above discussion, I find that the impugned judgment dated 14.01.2016 passed by learned JMIC, Phul, is correct, as per law and evidence and does not require any interference from this Court. No

ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

October 20, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No