

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

CRM No.A-771-MA of 2016 (O&M)

Date of decision: November 29, 2016

JFM Committee, Forest Department

...Applicant

Versus

Darshi Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Avtar Singh Bhatti, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-JFM Committee, Forest Department has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents Darshi Ram, Satpal and State of Punjab, challenging the impugned judgment dated 30.01.2016 passed by learned Sub Divisional Judicial Magistrate, Dasuya, 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 further stated that the judgment dated 30.01.2016 is erroneous, unjust and not sustainable in the eyes of law. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant JFM committee, Forest

Department filed a complaint against accused Darshi Ram and Satpal under

Sections 379 and 411 IPC. The brief facts of the complaint as noted down in the judgment passed by learned SDJM, Dasuya, are as under:-

“2. The case of the complainant, in brief, is that the complainant is President of J.F.M., Committee Mastiwal (Forest Department) and the said committee has authorised him to file this complaint against the accused. The accused are residents of village Mastiwal, PS Garhdiwala. On 4.8.2010, both the accused cut and removed six trees of "Tahli" from the land of Forest Department and kept the said trees in their Haveli. Both the accused were apprehended by the complainant while cutting the above said trees. The complainant reported the matter to the Forest Department, upon which Forest Guard, BO and Range Officer visited the spot and the accused admitted before the above said employees of the Forest Department that they had cut six trees from the land of Forest Department and they promised to deposit the fine on or before 10.8.2010. Accordingly, damage report was prepared which was also signed by accused Darshi Ram. Earlier to the present occurrence, the complainant committee warned the accused two/three times not to cut the trees from the land of Forest Department, upon which the accused replied that in case they were found doing so, the complainant could apprehend them and they would be liable to pay the damages. It has further been averred that accused Darshi Ram had made illegal encroachment upon the Forest Land comprised in Kh.No.10//19/2, regarding which, a notice was issued by Range Officer, Forest Range, Haryana for the removal of said encroachment on the Govt. land. It has also been averred in complaint that the accused had also cut and removed trees of eucalyptus, "Tahli" and "jamun" from the passage of Gram Panchayat and had sold the same. The Sarpanch of Gram Panchayat reported the matter to Block Development and Panchayat Officer, Bhunga, who vide letter dated 1.12.2006, directed the SHO PS Garhdiwala to take action against the accused but no action was taken by the police against the accused. As per complainant, the accused have cut the trees from the land of forest department and have sold said trees. Hence the present complaint.”

Learned SDJM, Dasuya, vide judgment dated 30.01.2016, after appreciating the evidence, acquitted the accused-respondents.

Aggrieved from the above-said judgment, present appeal along with application for leave to appeal has been filed.

After hearing learned counsel for the applicant and after going

through the record, I find that applicant-complainant examined CW-1 Budh Singh, CW-2 Satwant Singh, who supported the complainant's version and CW-3 Ravinder Singh was partly examined in-chief and has not been produced for cross-examination. Therefore, his statement cannot be read into evidence.

After perusal of the evidence on record, learned Magistrate held that it is nowhere proved by the complainant by getting demarcation etc. that in which khasra numbers, these trees have been cut by the accused and whether that khasra numbers belong to Forest Department. The Forest Department has not made any complaint nor CWs from the Forest Department have come to the witness box to show that these trees have been cut from their land. The statement of CW-3 Ravinder Singh, who had not appeared for cross-examination, cannot be read into evidence nor any document can be looked into produced by the CW-3, as the opportunity to cross-examine CW-3 has not been given to the accused. Even, no jamabandi has been placed on the record, as admitted by the complainant in the cross-examination.

The perusal of the findings given by the Court below shows that learned trial Court has appreciated 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.

In view of the above discussion, I find that the impugned

judgment dated 30.01.2016 passed by learned SDJM, Dasuya, 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.

November 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No