

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

CRM-A-822-MA of 2016

DATE OF DECISION :- August 31, 2016

Dalbir Singh

...Appellant

Versus

Manjit Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE SNEH PRASHAR

Present:- Mr. Upender Prashar, Advocate for the appellant.

M.JEYAPPAUL, J.

Aggrieved by the acquittal of 2nd respondent Jaswinder Singh and the 3rd respondent Gurbaksh Singh and acquittal of respondent no.1 under Sections 452, 326 and 325 IPC, the present application has been filed by the complainant praying for grant of leave to appeal.

It is the case of the prosecution that accused Jaswinder Singh tried to give sword blow upon the head of the complainant, but the complainant sustained injuries on his left thumb when he made an attempt to save himself by raising his left hand. It is further the case of the prosecution that accused Gurbaksh Singh inflicted Dang blow to the complainant on his left shoulder.

The medical evidence established that complainant had not sustained any injury on his left shoulder. In other words, the ocular testimony of the complainant was not supported by the medical evidence. The doctor who was examined to establish the medico legal report has also deposed that there was no physical injury on the right shoulder of the

complainant.

Accused Jaswinder Singh allegedly made an attempt to give a sword blow upon the head of the complainant, but he sustained injury on his left thumb while making an attempt to ward off the attack by raising his left hand. Of course the medical evidence establishes that there is an injury measuring 1x0.2 on the base of the left thumb of the complainant. In our considered view, the trial Court has rightly disbelieved the version of the complainant inasmuch as an isolated injury on the base of the left thumb is quite impossible in case the attack launched by the accused Jaswinder Singh with a sword landed on the left hand.

In view of the above, we are of the considered view that the trial Court has rightly acquitted respondent no. 2 Jaswinder Singh and respondent no. 3 Gurbaksh Singh of all the charges framed against them. Further, there is dearth of evidence to convict respondent no. 1 under Sections 452, 326 and 325 IPC. Therefore, leave to appeal is declined and consequently the application is dismissed.

(M. JEYAPPAUL)
JUDGE

(SNEH PRASHAR)
JUDGE

August 31, 2016

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No