

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

CRM-A-1715-MA of 2014 (O&M)

Date of decision: 04.08.2016

Daya Singh

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Ms. Satwant Mehta, Advocate for the applicant.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'). the applicant has assailed the judgment dated 20.08.2014, passed by Judicial Magistrate 1st Class, Tarn Taran, dismissing the complaint and acquitting the accused/respondent Nos. 2 to 7 herein of the charges framed against them under Sections 427, 452, 506, 148 read with Section 149 of the Indian Penal Code (for short 'IPC').

On behalf of the applicant, it is contended that the learned trial Court dismissed the complaint without appreciating

the fact that the respondents/accused No.2 to 7 committed trespass in the midnight with deadly weapons, fired shot and threatened the applicant and his family members. The matter was reported to the police, however no action was taken and ultimately a cancellation report was filed in the matter. The contents of the complaint were duly proved before the learned trial Court resulting into charge sheeting of respondents No.2 to 7 for the alleged offences. The applicant and eye witness, Amarjit Kaur (wife of the applicant) had duly corroborated the incident in pre charge evidence before the trial Court. CW-3, Assa Singh, an independent witness has also testified the contents of the complaint. However, the trial Court did not take into consideration this factual aspect of the matter.

Heard.

Learned Judicial Magistrate has recorded that a lot of doubt exists in the mind of the Court regarding the alleged incident and regarding the genuineness of the version of the applicant. As per the record, the applicant moved an application dated 19.02.2007, Ex. DA to the concerned SHO wherein, he had simply mentioned that accused/respondent Nos. 2 to 7 after breaking the boundary wall had destroyed the trees and forcibly

installed a door in his land during the night time, whereas, the stand taken in the complaint is altogether different. Further, the applicant had alleged that accused/respondent Nos. 2 to 7 armed with deadly weapons fired shots, however, this fact has neither been mentioned in the complaint addressed to the police nor there is any mention about recovery of empty shell. Further, Assa Singh, CW-3 who is stated to be an eye witness has specifically admitted that when he came to the spot no one was present which clearly shows that he had no knowledge about the incident and he was just a made up witness to support the applicant. Perusal of the record further reveals that the parties were involved in civil litigation whereby, the civil suit was decided in favour of accused persons and the appeal preferred by the applicant also stood dismissed. As per testimony of DW1 HC Harjinder Singh, respondent No.4, Parmatma Singh had deposited his rifle with Police Station Sarhali on 06.02.2007 and the same was released on 05.03.2007, whereas the present incident pertains to 18.12.2007, so, the story of firing also becomes doubtful. In the absence of any strong evidence, it is highly improbable that the applicant had actually received any hurt at the hands of the private respondents.

In the circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondents. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the special leave to appeal stands declined.

Dismissed.

04.08.2016

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No