

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-898-MA-2016 (O&M)

DATE OF DECISION: AUGUST 11, 2016

SANDEEP KAUR

...APPLICANT

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MRS. JUSTICE SNEH PRASHAR.**

PRESENT: MS. AMANPREET KAUR, ADVOCATE FOR THE APPLICANT.

M. JEYAPPAUL, J.

CRM-14351-2016

1. There is a delay of 131 days in filing the appeal.
2. For the reasons set out in the application, the delay is condoned and the application is allowed.

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3. Aggrieved by the acquittal of the accused under Section 313 read with Section 34 IPC, the application has been filed seeking special leave to appeal by the complainant
4. The case of the prosecution is that on 20.7.2012 at about 12.30 p.m. when the complainant was engaged in some work in front of her house, all the accused having abused her, delivered fist blows on her abdomen and also on her back which led to her abortion.
5. Heard the submissions made by learned counsel appearing for the applicant.
6. It is an admitted position that the complainant party established

that there exists acute animosity between the complainant party and the accused party due to civil litigation over a property. A case in FIR No.78 dated 20.7.2012, Police Station Bassi Pathana under Section 452, 323, 427, 447, 511, 120-B, 149 IPC was also registered against the accused party at the instance of the complainant party. In other words, the complainant party had been inimically disposed towards the accused party. The trial Court has found that the complainant had made improvement from that of her original version. Never had the complainant referred to the fact that she was pregnant and aborted due to the attack launched by the accused. There is no evidence to establish that the accused party were very well aware of the pregnancy when the alleged occurrence took place. Under such circumstances, the penal provision under Section 313 IPC is not attracted.

7. PW1 Dr.Avinash Kaur who conducted medical examination of the complainant deposed that the complainant had not received any injury except the laceration on her wrist joint. Laceration cannot be caused by fist blows. PW8 Dr.Chiranjiv Kaur has also clarified during her evidence that there was no injury on the abdomen of complainant Sandeep Kaur at the time when she examined her. There was also possibility that her abortion was spontaneous one due to infection or other abnormality in foetus, it was opined by PW8.

8. For all these reasons, we are of the considered view that the trial Court has rightly come to the conclusion that the case of the prosecution was not established beyond reasonable doubt.

9. Therefore, we find that there is no merit in the application

seeking special leave to appeal. Accordingly, leave sought for is declined and the application is dismissed.

(M. JEYAPPAUL)
JUDGE

August 11, 2016
Gulati

(SNEH PRASHAR)
JUDGE

Whether Speaking/Reasoned **Yes**

Whether Reportable **No**