

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

**CRM No.18405 of 2016 in/and
CRM No.A-1875-MA of 2015 (O&M)
Date of decision: August 26, 2016**

Bhagwanti Devi

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.S.Sidhu, Advocate
for the applicant.

INDERJIT SINGH, J.

CRM No.18405 of 2016

Heard.

For the reasons mentioned in the application, the same is allowed. The application seeking leave to appeal is restored to its original number and the same is taken up for hearing today itself.

CRM No.37404 of 2015

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 19 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-1875-MA of 2015

Applicant-Bhagwanti Devi has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents State of Punjab, Makhan Singh and Iqbal Singh @ Binda

challenging the impugned judgment dated 31.07.2015 passed by learned

Judicial Magistrate Ist Class, Talwandi Sabo, 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 of acquittal of the accused-respondents has caused grave miscarriage of justice. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Bhagwanti Devi filed a complaint against accused Makhan Singh and Iqbal Singh @ Binda under Sections 452, 323, 325, 506 and 34 IPC. The brief facts of the complaint as noted down in the judgment passed by learned JMIC, Talwandi Sabo are as under:-

“2. Complainant through her complaint has submitted that she is resident of Village Kot Bhaktu and is a peace living citizen of India. The accused namely Makhan Singh son of Chotta Singh and Iqbal Singh @ Binda son of Darshan Singh used to spread bad rumors against her daughter in law Charanjit Kaur and her son Ram Singh complained about the same to the family members of accused persons. Due to above said reason accused were having grudge against her son Ram Singh. On 19.12.2011 her son Ram Singh went to a shop for bringing house hold goods and at about 8.00 AM his son returned home afraid and at that time she, her daughter in law Charanjit Kaur, her son Buta Singh and their relative Sohan Singh were present at home. At that time accused Makhan Singh who was having Gandasa and accused Iqbal Singh who was having dang also entered in their house and threw her son Ram Singh on the floor and both of them caused injuries on the right leg and arm of her son with their respective weapons. Thereafter they rescued her son from the clutches of accused persons. The accused were threatening that they will again teach a lesson to Ram Singh if he would complain against them. Due to the injuries caused upon Ram Singh his leg and arm got fractured. Thereafter, the complainant went to PS Raman but no action was taken by the police as the accused are influential persons. So the complainant filed the present complaint on 13.06.2012.”

Learned JMIC, Talwandi Sabo, after appreciating the evidence,

acquitted the accused-respondents.

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

First of all, I find that 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 given by learned Court below are perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by the Court below and how the findings are against the law.

From the perusal of the impugned judgment, I find that the occurrence took place on 19.12.2011 at about 8.00 A.M. and the complaint was filed on 13.06.2012. There is no cogent explanation to explain the delay. Secondly, as per the complainant's version, Makhan Singh armed with *gandasa* and Iqbal Singh armed with *dang*, entered into her house and threw her son Ram Singh on the floor and both the them, caused injuries on his right leg and arm with their respective weapons. It is the case of the complainant that due to the injuries caused to Ram Singh, his leg and arm were got fractured.

There is no documentary evidence on the record to show that police was informed immediately. There is no DDR or any application filed by the complainant immediately after the occurrence. Rather, the injured has not got himself medico legally examined in this case and went to the doctor only on 22.01.2012 i.e. after one month of the occurrence. The Doctor has stated that this fracture of right forearm was about one month

earlier to the examination. An application was filed before the police on

14.03.2012 as per Ex.DA. Again, there is no explanation as to why the police was informed after about three months of the occurrence.

Learned Magistrate also considered the contradiction in the application given to the police and version given in the complaint. In the said application, it was stated that on 23.01.2012 when her son went to the shop for bringing some house hold goods ,then accused Makhan Singh and Iqbal Singh abducted him and took him to village Kaile Wander in their Jeep and the accused gave beatings to her son Ram Singh and had broken his right leg and right arm. Thereafter, they gave intoxicant injection to her son and took him to Natha Singh who gives bone treatment but these are not the facts in the complaint. Rather, in the complaint, the occurrence is stated to be on 19.12.2011 and not of 23.01.2012.

Learned Magistrate, after discussing all these facts, acquitted the accused-respondents. The perusal of the findings given by learned Magistrate shows that these have been given as per evidence and law. The evidence has been appreciated in right perspective. In no way, the impugned judgment can be held as perverse.

Keeping in view the above discussion, I find that impugned judgment dated 31.07.2015 passed by learned JMIC, Talwandi Sabo, 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.

August 26, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No