

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

CRM-A-1907-MA-2014.

Decided on:-16.05.2016.

Balwinder Singh.

.....Applicant-Appellant.

Versus

Surjit Kaur and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Ms. Maninder Arora, Advocate
for the applicant-appellant.

HARI PAL VERMA, J.

This application has been moved under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 1.9.2014 passed by the Court of learned Judicial Magistrate 1st Class, Tarn Taran.

Briefly stated, the applicant-complainant has filed a complaint under Sections 307, 452, 324, 323 and 506 read with Section 34 IPC against the respondents-accused. As per the complaint, on 19.9.2006 at about 8.30 p.m. the complainant along with his wife and mother was sitting in the courtyard of his house. His brother-in-law Harjinder Singh and his friend Jassa Singh were also sitting inside the house. When they all were present in the house, accused Surjit Kaur empty handed, accused Manmohan Singh armed with Kulhari and accused Amritpal Singh @ Raju armed with Dang

forcibly entered into his house. While accused Surjit Kaur raised a Lalkara that the complainant be taught a lesson for not providing land in the village and threatened to kill him, accused Manmohan Singh gave a Kulhari blow on the complainant with motive to kill him which hit on his forehead. Then accused Amritpal Singh gave Dang blow on the complainant which hit on his back. On hearing noise of the complainant, his wife, mother, brother-in-law and friend came at the spot. All the accused ran away from there with their respective weapons. After arranging a vehicle, the complainant was admitted in civil hospital where he got treatment till 27.9.2006. The motive behind the occurrence was that accused No.1 and 2, namely, Surjit Kaur and Manmohan Singh @ Sonu were demanding vacant property from the complainant to which he refused and out of this grudge, the accused caused injuries to the complainant.

On the basis of preliminary evidence adduced by the complainant, the accused were summoned to face trial under Sections 452, 324 and 506 IPC vide order dated 24.9.2008 passed by the trial Court. Accordingly, the accused put in appearance and were ordered to be released on bail. On the basis of pre-charge evidence, the Court found sufficient ground for presuming that the accused have committed offence under Sections 323, 324, 452 and 506 read with Section 34 IPC. Accordingly, the accused were charge-sheeted for the said offences to which they did not plead guilty and claimed trial.

In after-charge evidence, the complainant examined Dr. Jaspal

Singh as CW1 and himself as CW2. Thereafter, his evidence was closed vide order dated 4.2.2013.

Statements of accused as provided under Section 313 Cr.PC were recorded wherein all the incriminating evidence was put to them to which they denied and pleaded false implication. In their defence, they examined five witnesses and closed their evidence after producing certain documentary evidence.

The trial Court vide impugned judgment dated 1.9.2014 acquitted all the respondents-accused by extending them the benefit of doubt as the applicant-complainant failed to prove the charge against them.

Learned counsel for the applicant-complainant has argued that the trial Court has failed to appreciate the evidence and documents relied upon by the complainant which were proved on file. The record reveals that the respondents were liable to be convicted. However, the trial Court has not appreciated the evidence of Dr. Jaspal Singh as CW1 and the complainant as CW2.

I have heard learned counsel for the applicant-complainant and perused the paper book.

It is a conceded fact that at the time of alleged occurrence, the wife, mother and brother-in-law and his friend were present at the house of the complainant. Though the complainant has examined his mother Piya Kaur in his pre-charge evidence, but except her statement in pre-charge evidence, none of these witnesses have been examined by the complainant

either in his pre-charge evidence or after-charge evidence. Therefore, the complainant has failed to produce any corroboratory evidence in support of his case. Though the only witness Dr. Jaspal Singh as CW2 has proved two injuries on the complainant but in the absence of any corroboration to the statement of the complainant, it is not proved beyond reasonable doubt that the respondents-accused have caused those injuries.

Perusal of the paper book further reveals that the occurrence has allegedly taken place on 19.9.2006 but the complaint was filed by the complainant on 12.12.2006 i.e. after a delay of about 3 months. The complainant has pleaded that two persons, namely, Gurmukh Singh and Pargat Singh tried to effect compromise between the parties due to which the delay occurred. However, the complainant has not examined any of them either during his pre-charge evidence or in his after-charge evidence. As such, the trial Court has rightly acquitted the respondents-accused by giving them the benefit of doubt.

In view of the above, there is no illegality in the impugned judgment dated 1.9.2014 passed by learned Magistrate which may warrant interference of this Court. Accordingly, affirming the same, the present application, being devoid of any merit, is dismissed.

May 16, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE