

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-511-MA of 2014(O&M)
Date of decision: January 20, 2016

Man Singh

...Applicant

Versus

Mewa Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Saini, Advocate for
Mr.Sunny K. Singla, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Man Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Mewa Singh and other respondents, challenging the judgment dated 11.12.2013 passed by learned Judicial Magistrate Ist Class, Kurukshetra, whereby accused-respondents were acquitted of the charges.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that if the special leave to appeal is not granted, then it will amount to miscarriage of justice. It is, therefore, prayed that leave to file the appeal be granted.

As per the record, the complainant Man Singh filed a complaint against Mewa Singh and thirteen other accused under Sections, 452, 427, 440, 363, 506, 120-B, 148 and 149 IPC. As per

complainant's version, on 20.07.2006, all the accused entered into his house and dismantled the northern and eastern wall of the house and caused loss of approximately ₹20,000/- and further threatened to demolish personal gurudwara of the complainant. At that time, Pritam Kaur, wife of the complainant and son Amandeep were also present in the house. The complainant ran away from the spot and reported the matter to S.P. Kurukshetra. When the complainant returned back, he found that his wife and son were missing from the house. Complainant searched for them but in vain. On 08.08.2006, the complainant received a registered letter of his son, in which it is written that he and his mother were kidnapped by accused on 20.07.2006. They took them in a jeep and left them on road at Pounta Sahib. It is also written in the letter that if they returned to their house, then they would be murdered. After receiving the information, the complainant brought his wife and son to village Kishangarh from Pounta Sahib.

The complainant examined himself as CW-1, Pritam Kaur as CW-2 and Pritam Singh as CW-3. In defence, accused examined DW-1 Balbir Singh, DW-2 SI Shinderpal, DW-3 Jagdamba Parshad, DW-4 Jarnail Singh and DW-5 Ishar Singh.

Learned JMIC, Kurukshetra, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 11.12.2013.

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

Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Court below. Nothing has been argued as to how the findings given by learned Court below are against the law.

From the perusal of the record, especially the impugned judgment, I find that findings are given as per evidence and law and , in no way, the findings can be held as perverse. In this case, firstly, Pritam Singh is not named in the complaint nor his name was given in the list of witnesses. Secondly, CW-3 Pritam Kaur has not named any accused in her evidence. She stated that accused took them away at 4.30 to 5.00 P.M. whereas CW-2 Pritam Singh has stated that he saw the complainant's wife and his son sitting in the jeep of the accused in front of their house at about 6.00-7.00 P.M. The complainant has not seen the occurrence as he stated that when the accused entered his house, he rushed to the SP Kurukshetra, so he has not seen the kidnapping of his wife and son.

The Court below also discussed that presence of Amandeep on 20.07.2006 from 9.00-10.00 A.M. to 1.00-2.00 P.M. at his house is also suspicious. As per Ex.D15, he was present in the school. CW-2 also stated that the time of the school of her son is from 8.00 A.M. to 2.00 P.M. The Court also discussed that as per the revenue record, the Gurduwara being deity is owner of the property and priest of Gurudwara is Joginder Singh. The suit filed by the complainant was dismissed. The complainant was not proved to be owner in possession of the property.

The Court further held that the application which was given by the complainant to the police and received by the police on 25.06.2007, it did not contain any allegation of kidnapping. It also looks unnatural that wife and son of the complainant were kidnapped and the complainant came to know on the same day that accused kidnapped them and if they were left on the road at Pounta Sahib, then why they did not return or why they have not immediately contacted the complainant. The letter was received by the complainant on 08.08.2006 from Amandeep, son of the complainant. As per the evidence, the complainant went to take them after 3-4 days of receiving the letter.

The Court also discussed the discrepancies in the statements of the witnesses and also considered the fact that FIR had already been registered against the complainant regarding stealing wires etc. from the Gurudwara.

In view of the above discussion, I find that the finding given by learned JMIC, Kurukshetra, are as per evidence. The judgment dated 11.12.2013 passed by learned JMIC, Kurukshetra, is correct, as per law and evidence and does not require any interference from this Court.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

January 20, 2016
Vgulati

(INDERJIT SINGH)
JUDGE