

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

CRM-A-640-MA-2014 (O&M).
Decided on:-16.05.2016.

Narinder Kaur.

.....Applicant-Appellant.

Versus

Davinder Kaur and others

.....Respondents.

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

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

Present:- Mr. Ravi Malhotra, Advocate for the applicant-appellant.

HARI PAL VERMA, J.

CRM-12946-2016

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 36 days in filing the present application under Section 378(4) Cr.P.C. for grant of leave to file appeal.

For the reasons stated in the application, the same is allowed and delay of 36 days in filing the present application under Section 378(4) Cr.P.C. for grant of leave to file appeal is condoned.

CRM-A-640-MA-2014

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 18.12.2013 passed by learned Chief Judicial Magistrate, Amritsar.

Briefly stated, the applicant-complainant has filed a complaint

under Sections 323, 380, 452, 427, 148, 149 and 506 IPC against the respondents-accused. As per the allegations levelled in the complaint, accused No.1 Davinder Kaur is carrying on the business of committee in her house and is running various group of committees. The complainant is also member of two groups of committee of Rs.50,000/- each and two groups of Rs.30,000/- each and one group of Rs.20,000/- each. The complainant was paying the contribution of the committee regularly to the accused No.1. She also introduced accused No.1 in the group of committees carried on by Davinder Singh Bajwa of Rs.1,60,000/- and in one group of Rs.40,000/- in which accused No.1 was having there committees in the house of Rajinder Kumar @ Billa and one group with Vinod Kumar of Rs.20,000/-. These three groups were started in the year 2004.

While the complainant was paying his contribution of committee regularly, accused Davinder Kaur did not pay the amount of Rs.50,000/- of one group of committee to the complainant. The applicant-complainant visited her house many times for the receipt of the amount of committees of Rs.50,000/-, but accused No.1 misbehaved and hurled abuses upon her many times and, rather, refused to pay the amount. On 6.1.2016, the complainant along with her son Japji Singh visited the house of accused Davinder Kaur in order to receive the amount of committees and after staying in her house for some time, she and her son came to the Court Complex, Amritsar for issuance of driving licence for Japji Singh. However, the complainant forgot her plastic bag containing two cheque books of Punjab and Sind Bank, sale deed of plot, photographs of her son and some other papers as well as cash of

Rs.700/-. On reaching the court complex, the complainant started searching for the photographs and papers of her son for the purpose of issuance of driving licence and then, she came to know that she had forgotten her plastic bag in the house of accused No.1 Davinder Kaur. As such, she along with her son went back to the house of Davinder Kaur immediately and demanded the plastic bag from her and Harpreet Singh son of accused No.1. However, accused No.1 refused to return the same and said that the bag had not been left in her house. The complainant gave publication in the local newspaper and also reported the matter to the police.

It has further been alleged by the applicant-complainant that on 11.11.2007 at about 7.30 p.m. all the accused forcibly and illegally entered into her house and accused Davinder Kaur raised a Lalkara. While accused Gurmukh Singh raised his pistol towards her and said that if she did not withdraw the complaint, she will be killed, accused Narinder Kaur caught hold her from her hair and made her to fall on the ground. Accused Joginder Kaur, Kaushalaya Rani, Kuldeep Singh, Mohinder Singh, Nishan Singh and Manpreet Singh also gave slaps, fist blows and leg blows to the complainant. Then all the accused had broken table, crockery, utensils and window panes of her house which caused financial loss of Rs.6,000/- to her. Accused Davinder Kaur forcibly snatched the gold chain from neck of the complainant and accused Narinder Kaur removed one gold ring from her hand. The husband of complainant along with Manjit Kaur and Narinder Kaur wife of Naranjan Singh saw the occurrence and on raising the hue and cry, they saved her from the hands of accused persons otherwise they would

have killed her.

In her preliminary evidence, the complainant examined herself as CW1, Salwinder Singh as CW2 and Manjit Kaur as CW3 and on the basis of evidence so adduced by the complainant, the accused were summoned to face trial under Sections 323, 380, 452, 427, 506, 148 and 149 IPC vide order dated 8.3.2008 passed by the trial Court.

In her pre-charge evidence, the complainant examined herself as CW1, Manjit Kaur as CW2 and Salwinder Singh as CW3. Accordingly, finding a prima-facie case against the accused under Sections 452, 323, 380, 427 and 149 IPC, all the accused were charge-sheeted for the said offences to which they did not plead guilty and claimed trial.

In the post-charge evidence, the complainant, Manjit Kaur and Salwinder Singh appeared and were further cross-examined by the accused.

Statements of the 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. However, no evidence in defence was led by the accused.

The trial Court vide impugned judgment dated 18.12.2013 acquitted the respondents-accused, namely, Davinder Kaur, Narinder Kaur, Gurmukh Singh, Kuldeep Singh, Joginder Kaur @ Nikki and Kaushalya Rani of the charge levelled against them. However, since accused, namely, Hardeep Singh, Nishan Singh, Manpreet Singh and Mohinder Singh were declared proclaimed offenders, their case was ordered to be taken up as and when they are arrested by the police and produced in the Court.

Learned counsel for the applicant-complainant has argued that the trial Court has acquitted the respondents-accused on the ground that there are certain material discrepancies going to the root of the case causing serious doubt. He has further contended that the trial Court did not take into consideration the fact that the alleged occurrence had taken place in the year 2007 but statements of witnesses of the complainant were recorded on 23.4.2013 i.e. after 6 years of the occurrence. In these circumstances, even material discrepancies would come due to lapse of time and the accused cannot be acquitted on this ground.

Learned counsel for the applicant-complainant has further argued that the observations of the trial Court that presence of witness Manjit Kaur is doubtful at the time of occurrence, is not correct particularly when she has testified in the Court and in her cross-examination, has stated that her house is at the distance of few steps from the house of the complainant.

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

It is the case of the complainant that accused Davinder Kaur used to run certain group committee. The complainant was also member of that group committee and also introduced accused Davinder Kaur to another person running the committee. However, the evidence led by the complainant does not inspire confidence that the alleged occurrence had actually taken place as there are certain material discrepancies going to the root of the case.

Firstly, presence of Manjit Kaur at the spot on the day of alleged occurrence is doubtful. In her cross-examination, she has stated that her

house is at a distance of 8 Kms from the house of the complainant. She has not explained as to why she was present in the house of the complainant at the time of alleged incident. While testifying in the Court, she has named all the accused, but in her cross-examination, she has stated that she did not know the name of the accused and it is the complainant who disclosed their names to her. She has also stated that at the time of incident, husband and son of the complainant were also present at the spot. However, the complainant in her complaint has mentioned that the incident was witnessed by her husband, Manjit Kaur and one Narinder Kaur wife of Naranjan Singh. It has not been mentioned by the complainant that her son had also witnessed the incident.

Further more, as per allegations made in the complaint, accused Davinder Kaur raised a Lalkara, accused Narinder Kaur caught hold the complainant from her hair and made her to fall on the ground. Accused Davinder Kaur forcibly snatched the gold chain from neck of the complainant and accused Narinder Kaur removed one gold ring from her hand. However, CW Manjit Kaur testified in the Court that it was accused Davinder Kaur who caught hold the complainant from her hair and fell her on the ground and even snatched her gold ear ring and gold chain. As per the allegations, the accused had broken table, chair, crockery and window panes of the house of complainant, but CW Manjit Kaur did not deposed as such. Thus, certainly there are material discrepancies in the statements of witnesses of the complainant.

The complainant has also alleged in her complaint that accused

Joginder Kaur, Kaushalaya Rani, Kuldeep Singh, Mohinder Singh, Nishan Singh and Manpreet Singh also gave slaps, fist blows and leg blows to her. However, no medical evidence has been produced by the complainant in support of her version which causes serious doubt about her case. No photographs regarding damage of articles of the house of complainant were produced on record. Therefore, the respondents-accused have rightly been acquitted by learned trial Court as the complainant has failed to prove her case against them beyond doubt.

In view of the above, this Court finds no merit in the present application as there is no illegality in the impugned judgment dated 18.12.2013 passed by learned Chief Judicial Magistrate, Amritsar. Accordingly, the impugned judgment is upheld and the present application is dismissed.

May 16, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE