

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-764-MA of 2015 (O&M)
DATE OF DECISION: January 28, 2016

Balbir Kaur ...Applicant

Versus

Inderjit Singh ...Respondent

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Mohd. Yousaf, Advocate for the applicant.

RAMENDRA JAIN, J.

Balbir Kaur, complainant, has filed this application under Section 378 (4) of the Code of Criminal Procedure seeking leave to file appeal against the judgment dated 17.3.2015 passed by Additional Sessions Judge, Jalandhar, accepting the appeal of the respondent and acquitting him of the charge under Section 326 IPC by setting aside the judgment of his conviction passed by JMIC, Jalandhar.

The criminal law was set in motion on the statement of applicant Balbir Kaur alleging that upon death of her father-in-law two tubewell connections were partitioned between her and respondent-Inderjit Singh by way of compromise. The

tubewell connection of village Mangeki fell to her share and the tubewell connection of village Momanpur came to the share of the respondent. It was further alleged that after the transfer of tubewell connections, the respondent along with his family members used to harass the applicant. The further allegation was that on 21.11.2010 at about 12.00 noon the complainant along with her daughter Kuljit Kaur was irrigating their fields. The accused came to her tubewell. Accused Inderjit Singh was armed with a Dattar, while accused Charanjit Kaur and Manoj were armed with *Kahis*. Accused Charanjit Kaur exhorted that complainant should not be spared for not allowing them to run the motor. Thereafter, the respondent aimed Dattar blow towards the head of complainant. She raised her right arm to save herself. The *dattar* blow hit the ring and little finger of right hand of the complainant. Accused Manoj tried to hit the complainant with Kahi, but the same was snatched by Kuljit Kaur, daughter of complainant. Accused Manoj then picked a stick and inflicted its blow on right forearm of Kuljit Kaur. It was also alleged that respondent tore the clothes of complainant. On raising hue and cry, the accused fled away with their weapons. The brother of the complainant took her and her daughter to hospital.

The complainant led the preliminary evidence based on which the accused were summoned by the trial Court. After pre-charge evidence, charges punishable under Sections

326,323,354,34 IPC were framed against the accused. The complainant examined as many as seven witnesses to prove the aforesaid charges. Statements of the accused were recorded under Section 313 Cr.P.C. putting the entire incriminating evidence brought on record against them to which they denied and pleaded innocence. They did not lead any evidence in the their defence.

The trial court vide its judgment dated 30.8.2014 held the respondent guilty of offence under Section 326 IPC and sentenced him to undergo rigorous imprisonment for three years with fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. However, the learned trial Court acquitted the co-accused Charanjit Kaur by giving her the benefit of doubt. Accused Manoj was declared a proclaimed offender.

In appeal by the respondent, the learned Sessions Court acquitted him of the above charge.

Learned counsel for the applicant contended that applicant is an old widow. She was given grievous injuries by the respondent and others. The learned Appellate Court has wrongly ignored the well convincing evidence on the record in this respect. All the prosecution witnesses had fully corroborated the applicant's deposition. There was no contradiction or discrepancies in the statements of the witnesses. The order of

the Sessions Court is based on surmises and conjectures and, thus, the same may kindly be set aside.

After going through the entire evidence, we are of the view that the story put forward by the applicant does not appeal to reason. It is case of cross-version. There was no independent witness to the occurrence. As regards the present complaint, there is no reasonable explanation for the delay. The incident, as per complainant, occurred at about 12.00 P.M. on 21.11.2010. While the opposite party managed to reach hospital at about 12.55 P.M., the complainant party reached there at about 4.30 P.M. with no explanation for the delay in approaching the hospital. Similarly, the complainant reported the matter to the police after a delay of about 10 days, on coming to know that a cross case has been registered against her, prior in time by the opposite party, though as per doctor and her own admission, she was fit to make statement. The medical evidence also did not support the applicant's story, because both the injuries suffered by her were not possible by a single dattar blow as per statement of Dr.Chanchal Sood. Even the complaint was filed after a gap of about two months

In view of above, we do not find any infirmity in the judgment passed by the learned Sessions Court which may necessitate any interference by this Court. The prosecution, in the present case, has not been able to show that the findings of the Sessions Court in the judgment under appeal are perverse

or based on any misreading of evidence. Accordingly, there is no merit in the application and the same is hereby dismissed. Special leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

January 28, 2016
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