

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.16682 of 2015
and
Criminal Misc. No.A-859-MA of 2015

.....

Date of decision:19.2.2016

Jarnail Singh

...Applicant

v.

Sukhdev Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. S.K. Arora, Advocate for the applicant.

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Inderjit Singh, J.

Criminal Misc. No.16682 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay 694 days in filing the application for leave to appeal and appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-859-MA of 2015:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Sukhdev Singh etc.- respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 5.4.2013 passed by learned Chief Judicial Magistrate, Faridkot, whereby the complaint filed for the offences under

Sections 379, 447, 148 and 149 IPC against the accused has been dismissed.

It is mainly submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It has been further stated that the judgment of acquittal is based on irrelevant grounds and has been passed by totally ignoring the acceptable evidence on record. It has been prayed that the application may be allowed and in the interest of justice leave to file appeal may be granted against the judgment of acquittal passed by learned Chief Judicial Magistrate, Faridkot.

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

From the record, I find that Jarnail Singh-complainant filed complaint against Gurbux Singh, Sukhdev Singh, Jaswinder Singh, Kulwinder Singh, Paramjit Kaur and Amanpreet Kaur for the offences under Sections 379, 447, 148 and 149 IPC. It is stated in the complaint that there was dispute regarding the possession of land. On 16.10.2007, all the accused armed with sharp edged weapons took away the cotton crop sown in an area of 3½ acres and caused damage of about ₹30,000/- to the complainant. Iqbal Singh and Mangal Singh witnessed the accused picking-up the cotton crop and taking away the same after criminally trespassing in the land in possession of the complainant. The complainant informed the Police, but in vain. On 26.10.2007, when the complainant along with his son Ravinder Singh was harvesting the paddy crop, all the accused armed with deadly sharp-edged weapons criminally trespassed the complainant's

land and harvested the paddy crop sown in 2¼ acres of land by threatening the complainant and his son. This incident was also witnessed by Iqbal Singh. The Police was informed, but no action was taken by the Police. Hence, the complaint was filed.

The learned Chief Judicial Magistrate, Faridkot, while discussing the evidence in detail acquitted the accused. A perusal of the judgment passed by the learned Chief Judicial Magistrate, Faridkot, is correct as per evidence and law. The evidence has been appreciated in right perspective. In no way, the findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered in right perspective. First of all, a perusal of the record shows that no Khasra numbers regarding the land had been given. Secondly, the version of the complainant that on 16.10.2007, the accused took away the cotton crop sown in an area of 3½ acres also looks improbable. The cotton crop cannot be plucked by 6-7 persons within a short time. Further more, the occurrence is stated to have taken place on 16.10.2007 and 26.10.2007, but this complaint is stated to have been filed on 27.5.2008. Further more, the learned Chief Judicial Magistrate, Faridkot, discussed the statement made during the cross-examination of CW-3 Jarnail Singh-complainant who stated that he did not remember that he had earlier filed a complaint regarding the paddy crop forcibly harvested by the accused. He did not know whether the Khasra Girdawri regarding Khasra Nos.694 to 697 was entered in favour of accused Gurbux Singh w.e.f. 1997. He did not

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remember whether he had filed an appeal before the Financial Commissioner Revenue regarding the correction of Khasra Girdawri. He also stated that he did not remember about the suit for injunction filed by him against Gurbux Singh. CW-2 Ravinder Singh during his cross-examination stated that at the time of incident on 16.10.2007, he along with his father Jarnail Singh, Iqbal Singh and Mangal Singh were present. No one else had witnessed that incident. He also stated that he did not notice the number of the tractor. He also stated that the accused did not inflict injuries on their persons though they raised 'Lalkaras' and threatened to kill them.

The Court below after discussing the evidence also held that there is a report of 'Roznamcha Wakayati' regarding delivery of possession in favour of Gurbux Singh. The complainant filed copies of judgment of some civil case etc., but it is admitted that RSA is pending before this Court and stay had been granted and the operation of the judgment and decree passed by the learned Additional District Judge has been stayed. The complainant and CW-2 Ravinder Singh had been examined only. As per the complainant, Mangal Singh and Iqbal Singh were present on 16.10.2007 but CW-2 Ravinder Singh stated that he had also witnessed the occurrence on that day which is contradictory version also.

From the record, I find that the findings given by the learned Chief Judicial Magistrate, Faridkot, are correct as per evidence and law which do not require any interference from this Court. Nothing has been argued at the time of arguments as to how the findings given by the trial

Court are perverse.

Therefore, I do not find any ground to grant leave to file appeal.

Consequently, finding no merit, the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal is dismissed.

February 19, 2016.

(Inderjit Singh)
Judge

hsp