

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

CRM No.A-923-MA of 2014 (O&M)

Date of decision: July 29, 2016

Mange Ram

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.A.Sheoran, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Mange Ram has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Haryana and other respondents, challenging the impugned judgment dated 05.07.2013 passed by learned Sub Divisional Judicial Magistrate, Charkhi Dadri, vide which the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Mange Ram filed a complaint against Satbir and other accused for offences under Sections 148, 445, 446, 379 and 506 IPC read with Section 149 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Charkhi Dadri

“2. The brief facts of the case of complainant are that on 14.01.2007, at about 12.00 (in the night), the accused persons had demolished the wall of his house and forcibly trespassed into his house and removed the tin shed and stolen iron pipes. It is alleged that aforesaid tin shed and iron pipes had been sold to Satpal son of Kapoor Singh. He requested the police many times to take action against the accused persons, but they refused to do so. Hence, the complaint has been filed.”

Learned SDJM, Charkhi Dadri, after appreciating the evidence, acquitted the accused under Section 448, 379 and 506 IPC read with Section 149 IPC.

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

At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed as to how the findings are perverse and what illegality has been committed by the Court below.

As per the case of the complainant, on 14.01.2007, at about 12.00 (in the night), the accused persons had demolished the wall of his house and forcibly trespassed into his house and removed the tin shed and stole iron pipes. The Court below from the evidence held that firstly the complainant has failed to prove on record the location of his alleged house. No site plan of the property has been produced. No document has been produced to show the ownership of the property, upon which offence has been committed. At the time of arguments before lower Court, it is argued that property is located in khasra No.475, which fact is not mentioned in the complaint and the Court held that complainant is improving his version.

Learned Magistrate further held that even no document has been produced

on record to show the ownership of khasra No.475. Rather, in cross-examination, the complainant admitted that suit property is joint one between him and other co-sharers including accused persons. The Court below held that identity of the property is not proved and the property looks to be joint of the parties.

The Court further held that no cogent evidence has been produced that ever the house was constructed including tin sheds. The complainant has not examined any mason and has not produced any electricity tax or house tax or water tax receipts. The Court also held that Ajesh Kumar, who is alleged eye witness and nephew of complainant, has not been mentioned as witness in the complaint.

Learned Magistrate further held that testimony of PW-3 Ashok Kumar also does not inspire trust and confidence of this Court on careful perusal of testimony of this witness.

Keeping in view the above discussion, I find that findings have been given after appreciating the evidence in right perspective. In no way, the findings can be held as perverse. The impugned judgment dated 05.07.2013 passed by learned SDJM, Charkhi Dadri, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

July 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No