

CRM-A-913-MA-2015

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

**CRM-A-913-MA-2015 (O & M)
Date of Decision: 12.08.2016**

Rameshwar

... Applicant-appellant

Versus

Ram Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Pankaj Mehta, Advocate,
for the applicant-appellant.

INDERJIT SINGH, J.

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Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 738 days in filing the application seeking leave to appeal, is condoned.

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Applicant-Rameshwar has filed this application under Section 378 (4) of the Code of Criminal Procedure, 1973 seeking permission for leave to appeal against respondents, Ram Kumar, Pochi and Roshni, challenging the impugned judgment dated 12.03.2013 passed by learned Chief Judicial Magistrate, Jhajjar, in criminal complaint titled 'Rameshwar vs. Ram Kumar and others', filed under Sections 323, 324, 506, 148 and 149 of the Indian Penal Code (for

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brevity, 'IPC') vide which the respondents-accused were acquitted for the commission of offence under Section 506 IPC.

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 further stated that the impugned judgment passed by learned Chief Judicial Magistrate, Jhajjar, acquitting the respondents under Section 506 IPC, suffers from illegality and irregularity and thus the same deserves to be set aside. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant-Rameshwar filed a complaint against accused, namely, Ram Kumar, Pochi, Roshni, Chando, Hukam Singh and Jag Ram, under Sections 323, 324, 506, 148 and 149 IPC. The brief facts of the case as noted down in the impugned judgment dated 12.03.2013 passed by learned Chief Judicial Magistrate, Jhajjar are as under:

“The complainant Rameshwar son of Sh. Maman Singh has filed the instant complaint on the averments that he is resident of village Girawar and is a peace living citizen belonging to a respectable family, however, he is a daily wage labourer. On 11.05.2016, at about 5.30 P.M, he along with his wife Indrawati, daughters namely, Anju, Renu and Raj Rani had gone to the school to fetch water. Accused No.1, namely Ram Kumar threatened him that he would not let him fill the water. Accused started abusing him and when he requested the accused to not to abuse him, accused picked up a hockey lying near by and hit him on his head. On hearing their noise, accused no.2, namely, Pochi,

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accused no.4, namely, Chando wife of Daya Chand and accused no.3 namely, Roshni wife of Ram Kumar, also came on the spot. Accused no.2 namely, Pochi, then hit him with a hockey stick on his head and accused no.1, namely Ram Kumar, assaulted his wife Indrawati with a stick on his left hand and thigh. Thereafter, accused no.3, namely, Roshni, picked up a stone and hit his daughter Renu on his left hand and accused no.4, namely Chando wife of Sh. Daya Chand, slapped and gave fists blows to his daughter Rentu. Pochi son of Sh. Ram Kumar (accused no.2) then picked up another stone and hit his daughter Anju on the left side of her face, thereafter, Hukam Singh (accused no.5) slapped his daughter Raj Rani. On hearing their cries for help, Pondi son of Ramphal and Manohar Lal son of Maman Singh came there and rescued them from the clutches of the accused, who went away, intimidating to kill on finding another opportunity. The motive behind the assault was that accused do not want the complainant to fill the water in the school. As they were going to the police station to lodge the complaint, accused no.6 namely Jag Ram son of Sh. Hukam Singh, caught him by the neck and threatened him with dire consequences. On the very same day, he lodged the complaint in the police station and got themselves, medico-legally examined but the police did not take action. Hence, this complaint.”

After appreciating the preliminary evidence on record, learned trial Court summoned respondents, namely, Ram Kumar, Pochi and Roshni, vide order dated 03.07.2009, to face trial under Sections 323 and 506 IPC.

The respondents were charge-sheeted under Sections 323

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and 506 read with Section 34 IPC.

Learned Chief Judicial Magistrate, after appreciating the evidence on record, convicted the respondents-accused for the commission of offence punishable under Section 323 read with Section 34 IPC and released them on probation, however, acquitted them under Section 506 IPC.

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

I have gone through the judgment passed by learned Court below, which is correct, as per evidence and law. At the time of arguments, nothing has been pointed out as to how the findings given by learned Chief Judicial Magistrate are perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the learned Court below. Nothing has been pointed out as to how the findings given are perverse or against the evidence and law. From the perusal of the judgment passed by the learned Court below, I find that the findings have been given by appreciating the evidence in right perspective.

Perusal of the facts of the complaint, itself shows that there is no averment constituting the offence under Section 506 IPC except the averment that on hearing the cries of the complainant and others for help, Pondi son of Ramphal and Manohar Lal son of Maman Singh came there and rescued them from the clutches of the accused, who went

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away, intimidating to kill on finding another opportunity. The said averment and statements of witnesses to this effect, itself, will not constitute the offence under Section 506 IPC. The respondents-accused had caused simple injuries which attract Section 323 IPC only. If the respondents-accused would have the intention to kill or give threat to kill the complainant, then they might have come with dangerous weapons and caused some serious injuries.

From the evidence on record, I find that the learned Court below has rightly acquitted the respondents-accused under Section 506 IPC and no illegality has been committed by the learned Court below. In no way, the impugned judgment can be held as perverse or against the evidence qua acquittal under Section 506 IPC.

Keeping in view the above discussion, I find that impugned judgment dated 12.03.2013 passed by learned Chief Judicial Magistrate, Jhajjar 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.

12.08.2016

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No