

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

CRM-A-425-MA of 2013 (O&M)

Date of Decision: 31.01.2017.

Dr. Dhan Singh Jatasara

... Appellant

Versus

Dharamvir Singh Sidhu and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Raman Chawal , Advocate,
for the appellant.

Mr. Jitender Dhanda, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

This is an application under Section 378(4) Cr.P.C for grant of leave to appeal against the judgment dated 11.2.2013 passed by Judicial Magistrate First Class, Hisar vide which the respondents were acquitted of the offence punishable under Sections 323, 324, 325, 452, 506, 279 and 337 IPC in a complaint case.

The non-payment of rent appears to be the bone of contention between the parties i.e. the complainant/landlord, a retired Chief Scientist from HAU and the respondents who had been running a school from the premises in question. As per the allegations on 03.05.2005, at about 1.30 pm respondents came to the complainant on

the third floor and started abusing the labourers working on the site. When the complainant intervened and raised objection the accused gave fist and kick blows to the complainant. The complainant was rescued by his younger son, Sunit. Again on 18.05.2005 at about 7.45 am, accused No.2 hit her car against the scooter of the complainant with an intention to kill the complainant. As a result of impact, the complainant fell on the road. Again both the respondents gave fist blows to the complainant. Respondent No.1 also allegedly gave danda blows on the person of the complainant. The complainant was rescued by his nephew Rajesh and his son Sarveksh.

Heard.

The learned trial Court after evaluating the evidence came to the conclusion that the accused deserved acquittal as none of the labourer present on the spot at the time of incident on 03.02.2005 was cited as witnesses nor were they examined. The presence of the son of the complainant on the spot was also found to be highly improbable by the learned trial Court as the incident took place on the third floor of the house while he was stated to be in the neighbourhood. Further, no medical report of the complainant was produced on record. Since the building was in possession of the accused so, no offence under Section 452 IPC was made out. None of the witnesses from the locality was examined qua the second incident. Not only that, in the complaint,

Ex.P-3 moved by the complainant himself to SHO Police Station Civil Line, Hisar he has nowhere stated that upon hearing the noise, his son Sarveksh and nephew Rajesh came to the spot. During medical examination, no external mark of injury was noticed. The hit by the car was found to be false as the registration number given by the complainant was that of the scooter and not that of a car.

It is a settled law as has been held in *C. Antony Vs. K.G. Raghavan Nair, 2002(4) R.C.R. (Criminal) 750* that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption of innocence; and secondly, the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

This Court does not find any reason to interfere in the well reasoned judgment passed by the trial Court. The complainant has miserably failed to prove that the accused caused injuries to him. The statement of the complainant remained mere a bald one sans any corroboration either from medical evidence or any other independent witnesses. There is contradiction between the version recorded in the complaint moved by the complainant himself and his version recorded in the Court. No explanation has come on record as to why the labourer present on the spot at the time of first incident on 03.02.2005 were not

cited as witnesses by the complainant. Leave alone the statement, there is nothing to point out the culpability of the accused.

Dismissed.

31.01.2017.
SN/vanita

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No