

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

CRM No.A-1113-MA of 2016 (O&M)

Date of decision: July 13, 2017

Nazar Singh

...Applicant

Versus

Gurnam Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Applicant-in-person.

INDERJIT SINGH, J.

Applicant-Nazar Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Gurnam Singh and other respondents, challenging the impugned judgment dated 29.11.2014 passed by learned Judicial Magistrate Ist Class, Batala, 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 Nazar Singh filed a complaint against Hardial Singh and 12 other accused under Sections 379, 427, 447, 506, 148 and 149 IPC. The brief averments of the complaint as noted in the judgment passed by learned JMJC, Batala, are as under:-

preliminary evidence, accused persons were ordered to be summoned to face trial under sections 379, 427, 447, 506, 148, 149 IPC, by my learned predecessor vide order dated 10.4.2008 with the version that complainant is owner in possession of 14 kanal 11 marlas and case regarding that land is pending in the court of Sh.Raman Kumar, Civil Judge, Batala, in which the Hon'ble Court had granted stay vide order dated 07.11.2007. On 10.10.2007 at about 12.30 P.M., complainant, his nephew Makhan Singh had gone to their fields. In the meanwhile Hardial Singh armed with dang, Gurnam Singh, Satnam Singh, Gurmit Singh armed with Dangs, Narinder Singh armed with kirpan, Bhupinder Singh armed with dang, Satpal Singh, Malkiat Singh empty hand, Sulakhan Singh and Sarwan Singh armed with datar, Harjit Singh empty hand and Balwinder Singh armed with kirpan were present there and Joga Singh with combine came there and entered the land of complainant. Hardial Singh raised lalkara to harvest the crop and to kill the person who will come forward to stop them. Complainant also showed the copy of stay order to accused, but accused Narinjan Singh told that these types of papers are easily available on shops. Thereafter, accused had harvested 25 quintal of rice crops, which amounts to ₹17,500/- and loaded the same in tractor, which was being driven by Sarwan Singh. The matter was reported to the police but no action was taken. Hence, this complaint.”

Learned JMIC, Batala, after appreciating the evidence, dismissed the complaint and acquitted the accused-respondents vide impugned judgment dated 29.11.2014.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

I have heard the applicant-in-person and have gone through the record.

The perusal of the findings given by learned Magistrate shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. 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 out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below.

The Court has duly discussed the evidence on record and held that the complainant himself has admitted in the civil proceedings that the accused are in illegal possession and cultivating the land in question. The Court held that since the complainant admitted the fact of possession of the accused over the property in question and further suit has been filed on 11.10.2005 and decided on 22.05.2010, so, in this way, plaintiff himself admitted the possession of the accused on the land in question. The Court below further held that the contempt application filed by the complainant has also been dismissed by holding the fact that complainant is not in actual physical possession over the land in question and learned Magistrate further held that from the perusal of the order of Financial Commissioner dated 26.12.2007 Ex.D2, it is clear that partition proceedings so filed by the complainant have also been set aside.

At the time of arguments, this Court also enquired from the complainant, who was arguing in person and refused to take legal aid despite asking of the Court, that as to who cultivates the land but the complainant replied that though he has been provided gunmen, he has never visited the land and didn't even see towards the land, which also supports the findings given by learned Court below on the basis of the evidence.

From the perusal of the judgment passed by the Court below, I find that the findings have been given by correctly appreciating the evidence in right perspective. In no way, the judgment can be held as perverse or against the evidence.

In view of the above discussion, I find that the impugned

judgment dated 29.11.2014 passed by learned JMIC, Batala, 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 13, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No