

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

**CRM NO.A-132-MA OF 2016(O&M)  
DECIDED ON : 04.09.2017**

**Rajiv**

**...Appellant**

**versus**

**Ram Pal and others**

**...Respondents**

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present : Mr. Naveen Kumar, Advocate,  
for the appellant.

**CRM NO. 2488 OF 2016**

This is an application for condonation of delay of 22 days in filing the application for leave to appeal.

For the reasons mentioned in the application, same is allowed and delay of 22 days in filing the application for leave to appeal is hereby condoned.

**MAIN CASE**

This is an application for leave to appeal against the judgment dated 29.10.2015 passed by Judicial Magistrate Ist Class, Kaithal, whereby in the complaint preferred by the complainant/appellant herein under Sections 323/325/452/506/34 IPC, the accused had been acquitted.

It was stated in the complaint that on 20.05.2011 at about 6.30 AM, the appellant herein/complainant Rajiv and Brij

Bhushan were sitting in the house of complainant and taking tea. When they heard noise in the street, they saw that Ram Pal-accused No.1 and one Ram Nath were abusing each other. Ram Nath was requesting the accused Ram Pal for vacation of his land (Barra) for his personal use. The complainant also requested Ram Pal to vacate the said Barra as Ram Nath needs the same for his own use. The accused No.1 objected to it and raised lalkara and called other accused No.2 to 5 who were sitting in the house. Thereafter, all the accused, armed with lathies and dandas, forcibly entered the house of complainant. They were stated to have given several blows to the complainant, who raised alarm upon which his son namely Yogesh also came there and when he tried to intervene in the fight, he also sustained injuries. Thereafter, cousin of Ram Nath, namely Brij Bhushan, arrived at the spot and all the accused ran away with their respective weapons. The complaint was filed by the appellant on 10.08.2011.

The accused were summoned to face trial and after recording evidence, they were acquitted by the trial Court vide the impugned order.

The trial Court has held that there is a delay of approximately three months in filing the complaint which has not been explained by the complainant. It has also been held that the presence of alleged eye witness namely Brij Bhushan was highly doubtful at the place of occurrence as he did not receive any

injuries even though the accused were stated to be more than five in number and were armed with lathies and dandas. No independent witnesses had been examined. Injuries No.1 and 3 sustained by the complainant could have been due to fall on hard surface as stated by the doctor in his cross-examination. The other injuries were stated to be bruises and abrasions. A cross complaint was also filed by the accused titled as "**Ram Pal v. Rajiv**". In view of the cross version and both the parties having sustained injuries, the trial Court opined that it would be difficult to hold that as to which party is aggressor and as both the parties had sustained minor injuries in the occurrence, the accused in both the complaints were acquitted.

Heard.

I am of the considered view that view taken by the trial Court is plausible in the facts and circumstances of the case. There is delay of three months in preferring the complaint which has not been explained. The injuries which were sustained by both the parties are simple in nature and a cross complaint was also filed. The occurrence had taken place over the vacation of land (Barra) which was owned by Ram Nath, who was accused in a cross-case. The trial Court has observed that in the absence of any cogent evidence, it would be difficult to conclude as to which of the parties was an aggressor.

It is well settled that interference in an appeal against acquittal would be called for only in the event there is manifest

illegality or perversity in the order. The presumption of innocence of the accused is further reinforced with an order of acquittal. Reference can be made to the judgment of the Supreme Court in the case of "***Murugesan v. State***" 2012 (10) SCC 383.

Consequently, the application for leave to appeal stands dismissed.

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

**SEPTEMBER 04, 2017**

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|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned : | YES/NO |
| 2. | Whether reportable :        | YES/NO |