

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

CRM A-1695-MA of 2016

Date of Decision : November 01, 2017

Baljinder Singh

.....Applicant

VERSUS

State of Punjab and others

.....Respondent

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present : Mr. Bhanu Pratap Singh, Advocate
for the applicant.

T.P.S. MANN, J.

The instant application under Section 378 Cr.P.C. has been filed by injured-Baljinder Singh seeking leave of the Court to appeal against the judgment dated 20.1.2015.

Vide impugned judgment, learned Additional Sessions Judge, Hoshiarpur while accepting the appeal of respondents No.2 to 6 acquitted them of the charges against them.

Respondents No.2 to 6 alongwith Daljit Singh and Jaspreet Singh @ Sonu were tried for committing offences punishable under Sections 148, 323, 324, 326 and 149 IPC. The trial Court after going through the evidence available on the record, acquitted all of them of the charge under Section 326 IPC. However, they were convicted for the offences under Sections 323, 324, 148 and 149 IPC and released on probation.

Aggrieved of their conviction and sentence, respondents No. 2 to 6 preferred an appeal. The lower Appellate Court, after holding that the injuries suffered by the applicant/complainant clearly appeared to be fabricated one, accepted their appeal and set-aside their conviction and sentence.

According to the prosecution, the applicant is doing the work of agriculture. He is having two brothers and one sister. The Panchayat of the village had moved the authorities regarding their being in illegal possession of its land. The applicant's father moved application before the Tehsildar for demarcation. The Naib Tehsildar ordered the Girdawar and Patwari to conduct demarcation. On 11.12.2006, at about 2.15 p.m., Ashok Kumar, Girdawar and Surinder Kumar, Patwari reached the spot. The demarcation was started from the southern side and at that time both the parties were present. When the demarcation was partly done then the accused in order to interfere in the measurement, turned back the Zarib. This was objected to by Jasbir Singh. Chanchal Singh raised a *lalkara*. At that time, Rajinder Singh was armed with datari whereas Parminder Singh armed with datar. One car was also parked near them. Daljit Singh, Jaspreet Singh and Harjinder Singh came out from the car and were carrying hockey and dandas. Parminder Singh gave 3/4 datar blows on

the person of the applicant hitting him on his abdomen, little finger, index finger and below eyelid. Jaspreet Singh, Daljit Singh and Rajinder Singh while armed with hockey, danda and datari launched an attack on the applicant hitting him on his right eye, on the back and almost all parts of his body. The applicant was rescued by Malkiat Singh and others. The accused fled away from the spot while carrying their respective weapons.

On going through the records and perusing the impugned judgment of acquittal, this Court finds that the demarcation was being conducted on the day of the occurrence as the Gram Panchayat had filed a case against the applicant and his family members for encroaching upon the area of the public passage. Further, Parminder Singh-accused was previously a Sarpanch and it was during his tenure that the ejectment proceedings were launched by the Panchayat. Further, after the present occurrence, demarcation was conducted again and the applicant and his family were found in illegal possession over the passage. It is also made out that after the registration of the FIR, an enquiry was conducted by the Superintendent of Police of Crime Branch during which it was found that the grievous injuries on the person of the applicant were fabricated and not suffered at the time of the occurrence. Also, the prosecution failed to examine independent eye-witnesses, who

were public servants, namely, Ashok Kumar, Kanungo and Surinder Kumar, Patwari, who were directed to conduct the demarcation of the passage. Said Ashok Kumar and Surinder Kumar while appearing as DW3 and DW4 respectively, have deposed that at the time of the occurrence, no injury with any sharp edged weapon was caused to the applicant. DW6 Dr.G.P.Singh has also deposed that X-ray films did not reveal any evidence of fracture over the index finger of the applicant. PW2 Dr.Kewal Singh and PW5 Dr. H.S.Aneja have testified that possibility of injuries No. 3 and 7 being suffered from a friendly hand could not be ruled out.

In view of the aforementioned, no fault can be found with the impugned judgment of acquittal passed by the learned Additional Sessions Judge, Hoshiarpur.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

**(T.P.S. MANN)
JUDGE**

November 01, 2017
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**(MAHABIR SINGH SINDHU)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No