

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

**CRM No.A-1917-MA of 2016 (O&M)**

**Date of decision: October 23, 2017**

Ajit Kumar

...Applicant

Versus

Jaku and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.H.S.Deol, Advocate  
for the applicant.

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**INDERJIT SINGH, J.**

Applicant-Ajit Kumar has filed this application under Section 372 read with Section 378(3) Cr.P.C. seeking permission for leave to appeal against respondents Jaku and State of Haryana, challenging the judgment dated 06.09.2016 passed by learned Addl. Sessions Judge, Rewari, vide which the accused-respondent was acquitted of the charges framed against him.

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, challan was presented against accused-respondent in case FIR No.438 dated 05.08.2015 under Sections 308, 325 and 506 IPC. The brief facts of the case as noted down in the judgment passed by learned Addl. Sessions Judge, Rewari, are as under:-

*“2. Briefly stated the prosecution case is that on 04.08.2015, a telephonic information was received regarding admission of Ajit son of Kanwar Singh in General Hospital and HC Amit went to hospital, where concerned doctor stated that injured had left the hospital against medical advise (LAMA) and thereafter, information was received regarding admission of injured Ajit in Artemis Hospital. Amit Kumar HC reached Artemis Hospital, Gurgaon on 05.08.2015 and after obtaining the medical opinion of the doctor regarding the fitness of Ajit Kumar injured, recorded his statement.*

*3. To put it shortly, statement Ex.PF of Ajit Kumar before HC Amit Kumar, which formed the basis of registration of FIR Ex.PK, can be summarized in the following manner:-*

*It is complainant Ajit Kumar, who reported to the police on 04.08.2015, alleging that on 01.08.2015, an altercation took place between his wife with one Ravi son of Suresh Kumar and the accused over the election issue. On 04.08.2015, at about 11.00/11.30 a.m., the accused Jaku along with his co-accused hurled abuses while standing in front of his house and they had also a scuffle with his wife. His wife made a phone call to the police and a PCR came at the spot. He also reached his house and convened a panchayat to sort out the matter, however, after parking his motorcycle the complainant went inside in the house of Gaje Singh and thereafter when he came out, then in the meanwhile, the accused drove his Scorpio vehicle at a fast speed and deliberately with intention to kill the complainant, he gave a hit to his motorcycle and dragged him for a considerable distance and thereafter, he repeated the said act of running over him, as a result of which, he received injuries. Upon raising the alarm, the accused fled away and at that time Parveen, the accused's brother (found innocent by the Police Investigating Agency), intimidated him (complainant) with dire consequences. After registration of the case vide FIR Ex.PK, investigation was set in motion. The accused was arrested. After completion of usual formalities of investigation, police report as per the provisions of Section 173(2) of the Code of Criminal Procedure was prepared and presented in the court of Illaqa Magistrate.”*

The prosecution examined 11 PWs in this case and at the close of the prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded. Accused pleaded that he has been falsely implicated and is innocent.

Learned Addl. Sessions Judge, Rewari, after appreciating the

evidence, acquitted accused-respondent as stated above, vide impugned judgment dated 06.09.2016.

Aggrieved from the above-said judgment dated 06.09.2016, present appeal along with application for grant of leave to appeal has been filed.

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

The perusal of the judgment passed by learned lower Appellate Court shows that the findings have been given correctly by re-appreciating the evidence in right perspective. In no way, the impugned judgment can be held as 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 learned Addl. Sessions Judge, Rewari.

Further, from the perusal of the record, I find that as per PW-4 Dr.Lokesh Yadav, only one injury has been found on the person of complainant i.e. “swelling with abrasion over swelling 2 x 3 cms. reddish bleeding with deformity left leg. Advised X-ray left leg with ankle joint”. PW-11 Dr.Pankaj Saini proved the X-ray films and X-ray report. The perusal of the record shows that there was election rivalry between the parties. There is only one statement of complainant-injured Ajit in the present case. PW-6 Harish, real brother of the complainant has not supported the prosecution version, who is alleged to be eye witness.

As per prosecution version, there is delay in recording the FIR. The FIR has been registered on 05.08.2005 and the occurrence took place on 04.08.2005 and there is unexplained delay of 24 hours in recording the

FIR. Further, as per prosecution version, the accused was driving the

Scorpio vehicle and deliberately with an intention to kill the complainant, hit his motorcycle and dragged him for a considerable distance and he repeated the said act of running over him, as a result of which, the complainant received injuries. But, there is only one injury on the person of the complainant, which falsifies version regarding dragging of the complainant by the vehicle and further repeating the said act. This ocular version is not supported or corroborated by the medical evidence as only one injury has been found. Otherwise also, it looks unnatural that if a person has been dragged upto a long distance, then he might have suffered abrasions and other injuries on various parts of the body, which shows that the occurrence has not taken place as it is stated by the complainant. Furthermore, brother of the accused namely Parveen was also implicated in this case, who has been found innocent by the police, which also creates doubt in the prosecution version.

In view of the above discussion, I find that the impugned judgment dated 06.09.2016 passed by learned Addl. Sessions Judge, Rewari, 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.

**October 23, 2017**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**