

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-200-MA-2016

Date of decision: 15.11.2017

Daya Ram

..... Applicant

Versus

Narain Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Vikas Kumar, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

1. Applicant-Daya Ram, has filed the instant application under Section 378(4) Cr.P.C., seeking special leave to file accompanying appeal against the judgment of dated 05.10.2015, passed by the learned Judicial Magistrate Ist Class, Faridabad, acquitting respondents in a Complaint Case No. 196 dated 29.11.2007/22.04.2015, under Sections 147, 148, 149, 323, 325, 452 and 506 IPC.

2. Put pithily, on 09.07.2007, when applicant-complainant was talking with the tenants, the respondents having conspired with each other, with a common object, armed with deadly weapons, forcibly and illegally trespassed into his house and exhorted to teach a lesson to him and his family members for purchasing the house measuring 256 Sq. Yards from one Zile Singh. The respondents caused various injuries with their respective weapons like iron rod and gave kick blows to the applicant-

complainant. When son of the complainant namely, Vinod came to his

rescue, the accused caught hold of him from back side and gave beatings to him too. In the incident, the respondents-accused have also received injuries from the public gathering.

3. The applicant, in support of his case, has examined himself as CW-1 followed by four more witnesses.

4. Statements of the respondents under Section 313 Cr.P.C., were recorded, putting the entire incriminating evidence brought on record against them to which they pleaded innocence and false implication.

5. In defence, the respondents examined HC Parvesh Kumar as DW-1, Dr. Ram Bhagat (again examined) as DW-1, ASI Karambir as DW-2 and Devender as DW-3.

6. On appraisal of evidence brought on record by the complainant and hearing learned counsel for both the sides, the learned trial Court acquitted the respondent vide impugned judgment dated 05.10.2015.

7. Learned counsel for the applicant contends that the impugned judgment of the trial Court is based on surmises and conjectures. There was full proof evidence on the record to convict the respondents. Complainant-Daya Ram as CW-1 had categorically deposed that the respondents thrashed him and gave beatings. The deposition of complainant was fully supported by witnesses, namely; CW-2 Vikram, CW-3 Vinod S/o Mahipal, CW-4 Vinod son of the complainant and CW-5 Dr. Bhagat Singh, despite that the learned trial Court wrongly and illegally acquitted the respondents.

8. After giving thoughtful consideration to the submissions made by the learned counsel for the applicant, I find that the instant application is completely devoid of any merit for the reasons to follow:

9. Applicant-Daya Ram in his examination-in-chief as CW-1 testified that around 500 tenants have gathered at the spot at the time of occurrence, but in cross-examination demolished his case, testifying that no tenant was present at that time. The trial Court finding major contradictions in the statements of the complainant and other witnesses examined by him, did not rely upon their testimony.

10. Respondent No. 3-Devender appearing as DW-3 deposed that the complainant and his sons were the aggressors.

11. The complainant could not prove on the record that who was the aggressor at the time of occurrence.

12. I have gone through the impugned judgment carefully and find no illegality or perversity in the same.

13. Therefore, the instant application, being completely devoid of any merit is dismissed. Leave to appeal is declined.

November 15, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No