

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

**AT CHANDIGARH**

**Criminal Misc. No.A-2064-MA of 2016 (O&M)**

**Date of Decision: 13.12.2017**

Surjeet Singh @ Rimpay

...Applicant (s)

Versus

Harpreet Singh & others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. Akshit Aggarwal, Advocate for  
Mr. Sherry K. Singla, Advocate  
for the applicant.  
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**HARI PAL VERMA, J.**

**CRM-36772-2016:**

For the reasons mentioned in the application, the same is allowed. Delay of 5 days in filing the present application for leave to appeal is condoned.

**Criminal Misc. No.A-2064-MA of 2016:**

This is an application filed under Section 378(4) CrPC seeking leave to appeal against the judgment of acquittal dated 12.09.2016 passed by Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, whereby the respondents-accused have been acquitted of the charges framed against them under Sections 148, 149, 323, 324, 506 IPC in a complaint case.

Briefly stated, on 30.06.2010 at about 1-30 p.m, the complainant was present at his tubewell along with one Tarsem Singh and electricity officials, who restored the transformer at the premises of the complainant. When the complainant was about to go back with his tractor-trolley, the respondents –accused came there with the respective weapons and started using abusive and filthy language against complainant. When the complainant objected to that, they gave a blow on his head and *gandasi* blow on index finger. They also gave slaps, fist and *danda* blows to the complainant, due to which, he suffered severe injuries. While leaving the spot, the respondents-accused also threatened to kill him. The complainant was admitted in hospital where his treatment was conducted. However, the police did not take any action against the respondents-accused. In the FIR, which was registered on the direction of the Court, cancellation report was filed by the police. Hence, the instant protest petition/complaint was filed.

The trial Court after hearing both the parties and appreciating the evidence on record, held that the complainant has failed to prove his case beyond shadow of all reasonable doubts and while extending the benefit of doubt, acquitted the respondents-accused of the charges framed against them.

Aggrieved against the aforesaid judgment of acquittal, the applicant-complainant has filed the present application for leave to appeal.

Learned counsel for the applicant has argued that the trial Court has gravely erred in law while not appreciating the evidence on record and injuries caused to the complainant. CW-5 Tarsem Singh, who is an independent witness, has fully supported the case of the complainant.

CW-1 Dr. Manisha Singh has also proved the MLR of the complainant as Ex.CW-3/B and nothing unfavourable has come out in her cross-examination, but the trial Court has failed to appreciate the evidence on record in its true perspective and thereby, acquitted the respondents-accused of the charges framed against them.

I have heard learned counsel for the applicant.

The trial Court has acquitted the respondent-accused for the reason that the applicant has failed to prove his case, as projected in the complaint. There are material contradictions in the evidence of the complainant, the alleged eye witness and the medical evidence. It has been alleged by the complainant that the respondents-accused have given *gandasi* and *danda* blow on his index finger, however, when the doctor appeared in the witness box to prove the said injury, it was found that the injury is on the little finger in the shape of lacerated wound. The complainant as well as eyewitness had specifically deposed that on receiving injury on the finger, blood was oozed out from it. However, as per the version of the doctor, no blood present at the hand of the complainant. Moreover, it has also come on record that another FIR of same incident was lodged against the complainant and the eyewitness under Section 307 IPC, wherein they were also acquitted and therefore, it can be said that the present complaint is a counter-blast to the FIR against the complainant and the eyewitness.

Thus, no interference is warranted in the impugned order dated 12.09.2016 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri. Accordingly, finding no merit in the contentions raised

by learned counsel for the applicant, the prayer made in the present application under Section 378 (4) Cr.P.C. for leave to appeal is declined.

The application is dismissed.

December 13, 2017  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No