

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

CRM-A-2182-MA of 2016 (O&M)

Date of decision: 03.03.2017

Mehar Chand

...Applicants

Versus

Mam Chand and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ravi Malik, Advocate for
Mr. S.K. Panwar, Advocate for the applicant.

Jitendra Chauhan, J. (Oral)

CRM-39058-2016

There is a delay of 65 days in filing the present leave to appeal. No cogent reason has come to condone the delay, therefore, the same is hereby dismissed.

Main Case

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed judgment dated 04.07.2016, passed by Judicial Magistrate 1st Class, Palwal, dismissing the complaint and acquitting the accused/respondent Nos. 1 to 5 herein of the charges framed against them under Sections 148, 285, 379, 323, 452, 506 read with Section 149 of the Indian Penal Code (for short 'IPC').

It is contended that the learned trial Court erred in dismissing the complaint without appreciating the fact that the applicants had fully proved their case beyond reasonable doubt by leading cogent and convincing evidence. The applicant had received injuries at the hands of the private respondents and the same has been duly proved by CW-2 Chet Ram. Further, the accused persons have encroached upon the land of the applicant which has been duly proved by way of judgment and decree dated 29.09.2014 and the appeal against the same was also dismissed.

Heard the learned counsel and perused the record carefully.

The applicant has alleged that respondents No.1 to 5 had given injuries to them as the applicant stopped them to take the kikar trees standing in the fields of the applicant due to which the accused had attacked upon the applicant in his house. The brother of applicant Chet Ram and sisters Maya and Harbati rescued him at the hands of private respondents. The applicant has alleged that he has filed a complaint in the concerned police station against the accused persons, however, the same has not been brought before the trial Court. As per the applicant, his sisters Maya and Harbati rescued him, however, they have not been examined to prove the case. Further, as per the version of applicant, accused persons gave injuries to him in his house, however, there is no medical evidence on record to support his assertion. In the absence of any strong and convincing evidence, it is

highly improbable that the applicant had actually received injuries at the hands of the respondent Nos. 1 to 5.

In the circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondents. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the special leave to appeal stands declined.

Dismissed being devoid of merit as well as on account of delay.

03.03.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No