

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

**Crl. Misc. No. A-1074-MA of 2015
Date of decision : 03.02.2017**

Rajinder Kumar

....Applicant

versus

Rinku and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Arora, Advocate
for the applicant

RITU BAHRI, J.

CRM. No. 20767 of 2015

For the reasons mentioned in the application, delay of 72 days in filing of the present appeal is condoned.

The application stands disposed of.

CRM No. A-1074-MA of 2015

The present appeal is against the judgment dated 20.12.2014 vide which the respondents were acquitted of the charges framed against them.

Heard.

The complainant/petitioner filed a complaint alleging therein that the father of the complainant had purchased the portion of the house i.e EN 124, Rasta Mohalla, Jalandhar from Lajya Devi up to the extent of ½ share of Lajya Devi through registered sale deed and the petitioner took the possession of the portion on same day when the house was purchased. On 21.02.2007, the complainant and his mother were present in the house and all the accused person came to the house of the complainant armed with dang and lathis and started abusing the complainant and his mother and thereafter started giving

beatings. The matter was reported to the police and the accused admitted their guilt and DDR was registered in this regard but police did not lodge the F.I.R.

After recording preliminary evidence, accused were ordered to be summoned to face trial under Sections 323/354/452/506/148/149 IPC vide order dated 25.08.2009. After appearance they were released on bail and were supplied copies of complaint under Section 207 Cr.P.C.

In pre-charge evidence, complainant himself examined as CW1 and further examined Ashok Kumar as CW2, Sunita as CW3 and HC Nirmal Singh as CW4. The complainant closed his pre-charge evidence on 22.10.2012.

Prima facie a case under Section 323/354/452/506/148/149 IPC was made out against the accused and they were served with charge punishable under Sections 323/354/452/506/148/149 IPC , vide charge sheet dated 04.02.2014. The accused pleaded not guilty and claimed trial.

Statements of the accused under Section 313 Cr.P.C were recorded in which the incriminating prosecution evidence was put to the accused, to which they defied and the accused pleaded for their innocence and preferred to lead defence evidence.

The Court below after going through the entire evidence led by the parties acquitted the accused, as the complainant has failed to prove its case beyond shadow of doubt. It has been urged by the mother of the complainant that her clothes were torn but the said clothes were not produced even before the police and the Court. The mother of the complainant in her deposition before the Court had stated that all the accused had torn her clothes, however, on the hand the complainant had stated that it was only accused Shalu, Kamla and Sangeeta who had torn the clothes of his mother. Further no lathis and gandasi were produced before the police nor they have been produced before

the Court. No eye witness was examined by the complainant for the reasons best known to him. Further as per judgment Ex D5, a categorical observation had come that the complainant had failed to prove his possession over the suit property in the said suit.

The judgment passed by the Court below has been passed by appreciating the evidence in the correct prospective and does not require any interference by this Court.

The appeal stands dismissed.

03.02.2017

G Arora

(RITU BAHRI)
JUDGE