

THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRM-A-1219-MA of 2014

Date of Decision: August 03, 2017

Surjeet Kaur

.....Applicant

Versus

Rajinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.D.S.Gurna, Advocate for the applicant
Mr. D.D.Randhawa, Advocate for respondent No.4
Mr. Rajender Kumar, Advocate for
Mr. R.S.Baziyan, Advocate
for respondent No.9.

ARVIND SINGH SANGWAN, J.

The respondents had faced trial in FIR No. 281 of 2000 under Sections 323, 452, 364, 506. 148, 149 of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Sadar Ludhiana. The trial Court vide judgment dated 11.4.2014 ordered the acquittal of the respondents of the charges framed against them. Hence, the present application for grant of leave to appeal under Section 378(4) of the Code of Criminal Procedure, 1973 has been filed by the applicant-complainant.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Prosecution story, in brief, was that on 26.8.2000 at

about 9.00 p.m., the accused persons armed with deadly weapons illegally trespassed into the house of the complainant and caused injuries to the complainant-Surjit Kaur, Sharanjit Kaur, daughter and Darbara Singh, the husband of the complainant. It was further alleged that the husband of the complainant was abducted and was illegally detained in the property owned by Rajinder Singh. This occurrence was witnessed by Gurdip Singh, Nirbhay Singh, Sardara Singh, Mehar Singh.

Since the police did not register any FIR relating to incident, the complaint was filed and the trial Court, after recording preliminary evidence, summoned the accused under Sections 323, 452, 364, 506, 148, 149 IPC. Since the offence punishable under Section 364 IPC was triable by the Court of Sessions, the trial of accused was, thereafter, committed to the Sessions Judge, Ludhiana.

In order to prove the prosecution version, complainant examined five witness i.e. PW1 Dr.U.S.Sood, PW2 Dr. Jasbir Singh, PW3 Surjit Kaur-complainant, PW4 Sharanjit Kaur, daughter of the complainant and PW5 Darbara Singh, husband of the complainant.

Statements of respondents-accused were recorded under Section 313 Cr.P.C. in which they denied the allegations and set up a defence that Parminder Kaur, wife of accused-Rajinder Singh, during the period 1997-2002 was Sarpanch of village Ranian. Darbara Singh, husband of the complainant-Surjit Kaur and his other family members were having a suspicion that Karam Singh had murdered their son Kashmira Singh, and, therefore, Darbara Singh wanted help from Rajinder Singh against Karam Singh and having failed to get support, on this account, complainant party

was having a personal grudge against the accused persons. It was further set up in the defence that on 26.8.2000, the complainant party attacked the accused persons and caused injuries. Thereafter, FIR No. 281 of 2000 was registered against the complainant under Sections 307, 452, 323, 324 read with Section 34 IPC.

Since the respondents-accused suffered injuries, in support of their defence, they examined DW1 Rajinder Singh, and DW2 Dr. Sanjeev Singh to prove the MLRs of Charanjit Singh, Rajinder Singh and Manjit Kaur (respondents herein).

Similarly, DW3-Dr. Jasbir Singh was also examined regarding the information given to him that Darbara Singh was threatened while wrongfully in confinement.

It is alleged on behalf of the applicant that the complainant, her daughter-Sharanjit Kaur and her husband-Darbara Singh had supported the case of the prosecution and also proved injuries caused to them by producing PW1 Dr. U.S. Sooch. It is, thus, argued that the acquittal of the respondents is not justified as the prosecution proved the case against them.

On, the other hand, learned counsel appearing for the respondents-accused have submitted that, in fact, on 26.8.2000, the applicant-complainant- Surjit Kaur, her husband-Darbara Singh, her daughter-Sharanjit Kaur along with other daughters-Shindo and Soma forcibly entered into the house of respondents-accused and attacked them and caused injuries on the person of Rajinder Singh, Charanjit Singh and Manjit Kaur and, therefore, the aforesaid FIR was registered against them. It

is further submitted that the allegation with regard to causing injuries to the accused person was due to the personal grudge in order to pressurize Rajinder Singh to compromise the matter regarding an earlier incident. It is also argued by the counsel for the respondents that, in fact, all the five persons named in the complaint as eye witness i.e. Gurdip Singh, Nirbhay Singh, Sardara Singh, Mehar Singh were not examined by the complainant which makes the prosecution version doubtful. The learned counsel further argued that there is a delay of about two and a half month in lodging the complaint as the incident relates to 26.8.2000 and the complaint was filed in the Court on 6.11.2000. Learned counsel has further referred to the statement of PW1 Surjit Kaur, who has stated that she had submitted complaint to the police after the incident but no action was taken. However, no such complaint has been produced on file and, therefore, the delay of two and a half month remained unexplained. It is argued by the learned counsel for the respondents that, in fact, it is the complainant party, who has caused injuries by illegally trespassing in their house and the FIR was registered against the complainant.

During the course of arguments, learned counsel for the respondents have submitted that the applicant-complainant and other accused have been acquitted in the aforesaid FIR No. 281 of 2000 and the respondents-accused have been acquitted in the present complaint.

After hearing learned counsel for the respondents, I find no substance in the present application as it was a case of version and cross version and the complaint was filed after a delay of two and a half month without there being any explanation, especially, when the accused persons

have already registered FIR No. 281 of 2000 regarding the cross version on 26.08.2000 itself. Moreover, since none of five eye witnesses mentioned in the complaint were examined by the applicant in support of her case, the prosecution version became doubtful. Injuries sustained by the accused persons, which are proved from medical evidence, are not explained by the applicant-complainant. Therefore, the prosecution version is highly doubtful and the reasons given by the trial Court, while ordering the acquittal of the respondents, are sound reasons.

Their Lordships of the Supreme Court in **Allarakha K.Mansuri vs. State of Gujarat** 2002(1)RCR(Criminal) 748, held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

A Division Bench of this Court in **State of Punjab v. Hansa Singh** 2001(1) RCR (Criminal) 775, while dealing with an appeal against acquittal, has opined as under:-

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in **Ashok Kumar vs. State of Rajasthan, 1991 (1)scc 166**, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.”

In the facts and circumstances, the reasons recorded by the

learned trial Court in acquitting the accused are just and proper and there is no merit in the criminal miscellaneous application seeking leave to appeal in terms of Section 378(4) of the Code Criminal Procedure, 1973. Accordingly, the criminal misc. application seeking leave to appeal is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

August 03, 2017
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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No