

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-436-MA of 2016 (O&M)

DATE OF DECISION: MARCH 6, 2017

BALWINDER SINGH

...APPLICANT

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI.

PRESENT: MR. VIVEK SALATHIA, ADVOCATE FOR THE APPLICANT.

M. JEYAPPAUL, J.

CRM-7284-2016

1. There is a delay of 98 days in filing the appeal. We are convinced with the reasons assigned for the delay. Therefore, the application stands allowed.

CRM-A-436-MA of 2016

2. Aggrieved by the acquittal of the accused-respondents Faquir Singh and Gurmit Singh who were acquitted of the charges under Sections 324, 326 and 506 IPC by the learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, the present application has been filed under Section 378(4) Cr.P.C. by complainant Balwinder Singh seeking special leave to prefer an appeal.

3. The fact remains that learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar convicted accused Inderjit Singh under Sections 326 and 447 IPC.

4. It is the case of the prosecution that on 9.4.2008, all the accused

threatened to take forcible possession of the land of the complainant who got an order of injunction from the Civil Court at Baba Bakala Sahib on 11.4.2008. On 13.6.2008 at about 3.30 p.m., Smt. Inderjit @ Inderjit Kaur wife of Palwinder Singh was present in her fields. Accused Inderjit Singh came in a Maruti car in which accused Rano @ Gurpreet Kaur, Kuldeep Kaur and Balwinder Kaur were sitting. 20 unknown persons arrived on 10 motorcycles and forcibly entered into the land owned by the father of the complainant and made a threat to demolish the boundary line between the fields of accused and the father of the complainant in spite of showing the copy of injunction order to them by the complainant and Inderjit Kaur. Accused Rajinder Singh attacked Inderjit Kaur with kirpan on the ladyfinger of her left hand. Accused Inderjit Singh gave a kirpan blow on her left leg. Accused Rano @ Gurpreet Kaur, Kuldeep and Balwinder Kaur raised lalkara to kill her. Accused Jaspal Singh gave a gandasi blow from its reverse side on the head of Inderjit Kaur. Unidentified persons caused blunt injuries on her chest. Thereafter, respondent Faquir Singh and Gurmit Singh along with Rajinder Singh and some unidentified persons ran after the complainant and caused injuries with their respective dangs which hit on his left hand, left side chest, right hand and right leg.

5. We are not concerned with the injuries sustained by Inderjit Kaur as the accused who allegedly caused injuries to her had been dealt with by the trial Court and the same was not under challenge before this Court.

6. The following injuries were sustained by Balwinder Singh as per the medico-legal examination conducted by CW4 Dr. Sahibjit Singh,

Medical Officer, Civil Hospital, Baba Bakala Sahib:-

- “1. Bruise 2 cm x 2 cm on left cheek, Postero-inferior to left eye, reddish brown in colour.
2. Bruise 6cm x 5cm on the lateral side of left scapular region, reddish brown in colour.
3. Bruise 12 cm x 3 cm on the left side of back of chest just lateral to spine.
4. Bruise 4cm x 3cm on lower thoracic region in mid line; adjacent to injury No.3.
5. Reddish brown bruise 8cm x 3cm on medial border of right scapula.
6. Reddish brown bruise 10cm x 3cm lower chest on posterior surface, 3 cm below injury No.5.
7. Abrasion reddish brown in colour on back in the upper lumbar region.
8. Abrasions reddish brown in colour 4cm x 3cm in the infero lateral surface of right scapula.
9. Reddish brown bruise 3cm x 2cm on antero-lateral surface of chest on right side just above costal margin.
10. Abrasion reddish brown in colour on posterior surface of left leg in lower 1/3rd part.
11. Complaint of pain and tenderness on posterior surface of right hand.”

7. The trial Court having appreciated the evidence on record, came

to the conclusion that charge against respondents No.2 and 3 did not inspire confidence and as a result of which, they were acquitted of the charges framed against them.

8. Learned counsel appearing for the applicant vehemently submitted that the trial Court completely ignored the ocular testimony of the injured witnesses. The medical evidence corroborates the testimony of the injured eye witnesses, it was submitted.

9. It is the case of the prosecution that respondents No.2 and 3 along with unidentified persons attacked complainant Balwinder Singh with dang. Had resistance not been put up by the complainant party, the accused party would have definitely attacked the complainant party with all vehemence at their command. Eye witnesses deposed that respondents No.2 and 3 along with unidentified persons attacked Balwinder Singh with dang and caused bruises and abrasions on various parts of his body .

10. As rightly pointed out by learned trial Court, if dang had been used with force, it would have caused lacerated wound on the person of the complainant. There was no lacerated wound found on the person of the complainant on account of the vehement attack launched by the accused party with dang. Further, a generic statement had been made by the eye witnesses that respondents No.2 and 3 along with unidentified persons caused injuries to the complainant. These two respondents had not been attributed with specific injuries found on the person of the complainant. Not even a swelling was noted by CW3 Dr. Sahibjit Singh who medico-legally examined complainant Balwinder Singh. Therefore, it is highly doubtful

that dang had caused abrasions without causing even swelling. Further, it is the admitted case that there had been a civil dispute between the parties. Therefore, there is every possibility for the complainant party to rope in as many accused persons as possible to keep them at bay from the disputed property.

11. For all these reasons, we are of the view that the trial Court rightly recorded acquittal of the accused-respondents for the charges under Sections 324, 326 and 506 IPC framed as against respondents No.2 and 3.

12. We do not find any merit in the application seeking special leave to prefer an appeal. Therefore, special leave to appeal as sought for is declined and the application stands dismissed.

(M. JEYAPPAUL)
JUDGE

March 6, 2017
Gulati

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether Speaking/Reasoned : Yes

Whether Reportable : No